

# **Updated Resettlement and Ethnic Group Development Plan**

**Democratic Republic of Timor-Leste  
Water Supply and Sanitation Investment Project  
Lospalos Subproject**

**Asian Development Bank  
Loan number: 53395-001**

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## Currency Equivalents

The currency of Timor-Leste is the United States dollar.

## Abbreviations

ADB	-	Asian Development Bank
AP/AH	-	affected person/affected household
BTL	-	Bee Timor Leste
COI	-	corridor of impact
DGAS	-	Directorate General for Water and Sanitation
DMS	-	detailed measurement survey
EA	-	executing agency
EM	-	external monitor
GoTL	-	Government of Timor Leste
GRC	-	Grievance Redress Committee
GRM	-	grievance redress mechanism
IOL	-	Inventory of Loss
PCU	-	Project Coordination Unit
PIB	-	project information booklet
PIC	-	Project Implementation Consultants
PMS	-	primarily measurement survey
RCS	-	replacement cost study
ROW	-	right-of-way
RP	-	resettlement plan
SAH	-	Severely Affected Households
SES	-	Socio-economic survey
SPS	-	Safeguard Policy Statement
WSSIP	-	Water and Sanitation Supply Investment Project

## Weights and Measures

ha	-	hectare
km	-	kilometer
m	-	meter
m <sup>2</sup>	-	square meter

## Definition of Terms

Affected person (AP) / Affected Household (AH)	-	<p>Refers to any person or persons, household, firm, private or public institution that, on account of changes resulting from the project, will have its (i) standard of living adversely affected; (ii) right, title or interest in any house, land (including residential, commercial, agricultural, forest and/or grazing land), water resources or any other moveable or fixed assets acquired, possessed, restricted or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence or habitat adversely affected, with or without displacement.</p> <p>In the case of affected household (AH), it includes all members residing under one roof and operating as a single economic unit, who are adversely affected by the project or any of its components.</p>
Compensation	-	<p>It is payment in cash or in-kind at replacement cost for an asset acquired by the Project.</p>
Cut-off date	-	<p>This refers to the date prior to which the occupation or use of the project area (i.e., within the COI) makes residents/users of the project area eligible to be categorized as AHs. Persons who occupy government land inside the ROW subsequent to the cut-off-date are not eligible for compensation and other entitlements.</p>
Detailed Measurement Survey (DMS)	-	<p>With the aid of approved detailed engineering drawings, this activity involves updating the results of the IOL, severity of impacts, and list of APs that was done earlier during the preparation of the feasibility study resettlement (RP).</p>
Entitlements	-	<p>This refers to a range of measures comprising compensation, income restoration support, transfer assistance, income substitution, relocation support, etc. that are provided to the APs/AHs, depending on the type and severity of their losses, to restore their economic and social base.</p>
Land acquisition	-	<p>Refers to the process whereby an AP/AH is compelled by the government through the project's executing agency to alienate all or part of the land it owns or possesses to the ownership and possession of that agency for public purpose in return for compensation at replacement cost.</p>
Rehabilitation and income restoration	-	<p>This refers to additional cash or in-kind support provided to APs/AHs losing productive assets, incomes, employment or sources of living, to supplement compensation for assets acquired by the project, in order to achieve full restoration of living standards and quality of life.</p>
Relocation	-	<p>This is the physical transfer of an AP/AH from his/her pre-project place of residence and/or business.</p>
Replacement cost	-	<p>This refers to the amount in cash or in-kind, inclusive of transaction costs and taxes, needed to replace an asset and is the value determined as compensation for:</p> <ol style="list-style-type: none"><li>i) Agricultural land and pond based on market prices that reflect recent land sales prior to the commencement of the Project or displacement, and in the absence of such recent sales, based on productive value;</li><li>ii) Residential land based on market prices that reflect recent land sales prior to the commencement of the Project or displacement, and in the absence of such recent land sales, based on similar location attributes;</li><li>iii) Houses and other related structures based on current market prices of materials and labor without depreciation nor deductions for salvaged building materials;</li><li>iv) Annual crops equivalent to the highest production of crop over last</li></ol>

- three years multiplied by the current market value of crops;
- v) Perennial crops and trees based on current market value per the type, age, diameter at breast height and productive capacity; and
  - vi) Other assets (i.e., cultural, aesthetic) based on current market value for repairing and/or replacing assets or the cost of mitigating measures.
- Replacement Cost Study - This involves the conduct of empirical research to determine the amount of compensation needed for an AP/AH to be able to buy a replacement of an asset lost to the project and/or to recoup lost income.
- Resettlement - This refers to all measures taken by Project authorities to mitigate any and all adverse social impacts on the AHs, including compensation for lost assets and incomes, and the provision of income restoration relocation assistance as needed.
- Resettlement Plan - Also referred to as land acquisition and compensation plan (LACP), this is a time-bound action plan with budget setting out resettlement strategy, objectives, entitlement, actions, responsibilities, monitoring and evaluation.
- Severely affected households - This refers to APs/AHs that will (i) lose 10% or more of their productive landholdings and income sources, and/or (ii) have to relocate.
- Significant Project Impact - This occurs if the subproject has 200 or more severely affected persons (i.e. at an average household size of 5.4 among the AHs, this is equivalent to 37 severely affected households or SAHs).
- Vulnerable groups - These are distinct groups of people who might suffer disproportionately or face the risk of further marginalization due to displacement from assets and sources of incomes and they specifically include: (i) female headed households without support, (ii) disabled and/or elderly household heads, (iii) households falling under the generally accepted indicator for poverty, (v) landless households, (vi) indigenous people or ethnic groups.

### Note

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## EXECUTIVE SUMMARY

### Background

The project will support the Government of Timor-Leste to provide safe, reliable, and affordable water supply to the 15,000 urban households in participating cities. It will (i) finance the construction of new, and the expansion of existing, facilities for water supply and sanitation (ii) strengthen the regulatory and institutional capacity of both the new public water utility BTL (Bee Timor Leste), in project implementation and operations and maintenance (O&M). The project is in line with the government's Strategic Development Plan Strategy (2011–2030)

The project will improve the population's access to water supply and sanitation infrastructure through: (i) rehabilitation and improvement of existing water supply storage and treatment facilities; (ii) rehabilitation and expansion of the water supply distribution network forming district metered areas (DMAs); (iii) and installation of meters for all existing and new household connections; (iv) improvement of sanitation for low-income communities; (v) rehabilitation of school and public toilet facilities; and (vi) construction of septage treatment facilities.

### Scope of Impacts

There are five affected households in Lospalos. There will be loss of access to 4,462 M<sup>2</sup> of grazing land and 142 trees. There are no severely affected households.

The safeguard category for involuntary resettlement is B. The project aims to maintain most infrastructure on unencumbered state public land. Pipelaying will occur within state-owned roads with minimal impact corridors. The safeguard category for Indigenous Peoples is B and therefore this UREGDP has been developed for Los Palos and was updated in October 2023 based on the DED and verification from Department of Land and Property, Ministry of Agriculture and the Building Department.

### Vulnerability and Ethnic Groups

The vast majority of the population of Timor-Leste are Indigenous People in that they are the original inhabitants of the area well before pre-colonial times and the continuation of customary laws and traditions. The terminology linked to Indigenous People is problematic as the label of indigenous was used in colonial times to negatively categorise people and attaining government positions or an education could therefore mean losing that label. People do not therefore, generally 'self-identify' as Indigenous People despite having characteristics which led to the SPS being triggered.

According to the ADB criteria, in Lospalos, there is one vulnerable HH whose reported income is below the poverty line.

### Resettlement Costs

The estimated cost of implementation of this plan, including compensation and allowances is **\$8,424.90 USD**. and all compensation and allowances will be paid prior to construction impacts. Voluntary donation of land or assets will not be permitted.



## I. INTRODUCTION

### A. Background

1. The Government of Timor-Leste proposes to address both water supply and sanitation service levels in three selected municipal capitals through a project to upgrade and provide new facilities and improve operation and maintenance capacity.

2. The project will ensure that more people enjoy an improved supply of drinking water and sanitation facilities in Timor-Leste contributing to reducing the high incidence of water and poor sanitation related diseases, particularly in children under five. By the end of the project safe and reliable water supply will be provided to the municipal towns of Lospalos, Same and Viqueque. Finally, septic tank sludge will be safely transported and disposed of in purpose built treatment facilities in each of the three cities.

### B. Expected project outputs

3. **Output 1: Regulatory environment improved.** The project will support BTL and the participating cities in developing and approving an Institutional Development Roadmap that will guide the transition of service providers to one autonomous institution. At the sector-level, it will support BTL in establishing planning and service delivery guidelines on water supply and sanitation. As part of improving the regulatory environment, women's participation in the sector will be encouraged, including engagement with local universities to promote education for women in water engineering and/or relevant disciplines.

4. **Output 2: Urban infrastructure improved.** The project will improve the population's access to water supply and sanitation infrastructure in the three project cities through: (i) construction of new water supply storage and treatment facilities; (ii) rehabilitation and expansion of the water supply distribution network forming district metered areas (DMAs); (iii) installation of meters for all the household connections; and (iv) construction of public toilets and septage treatment facilities.

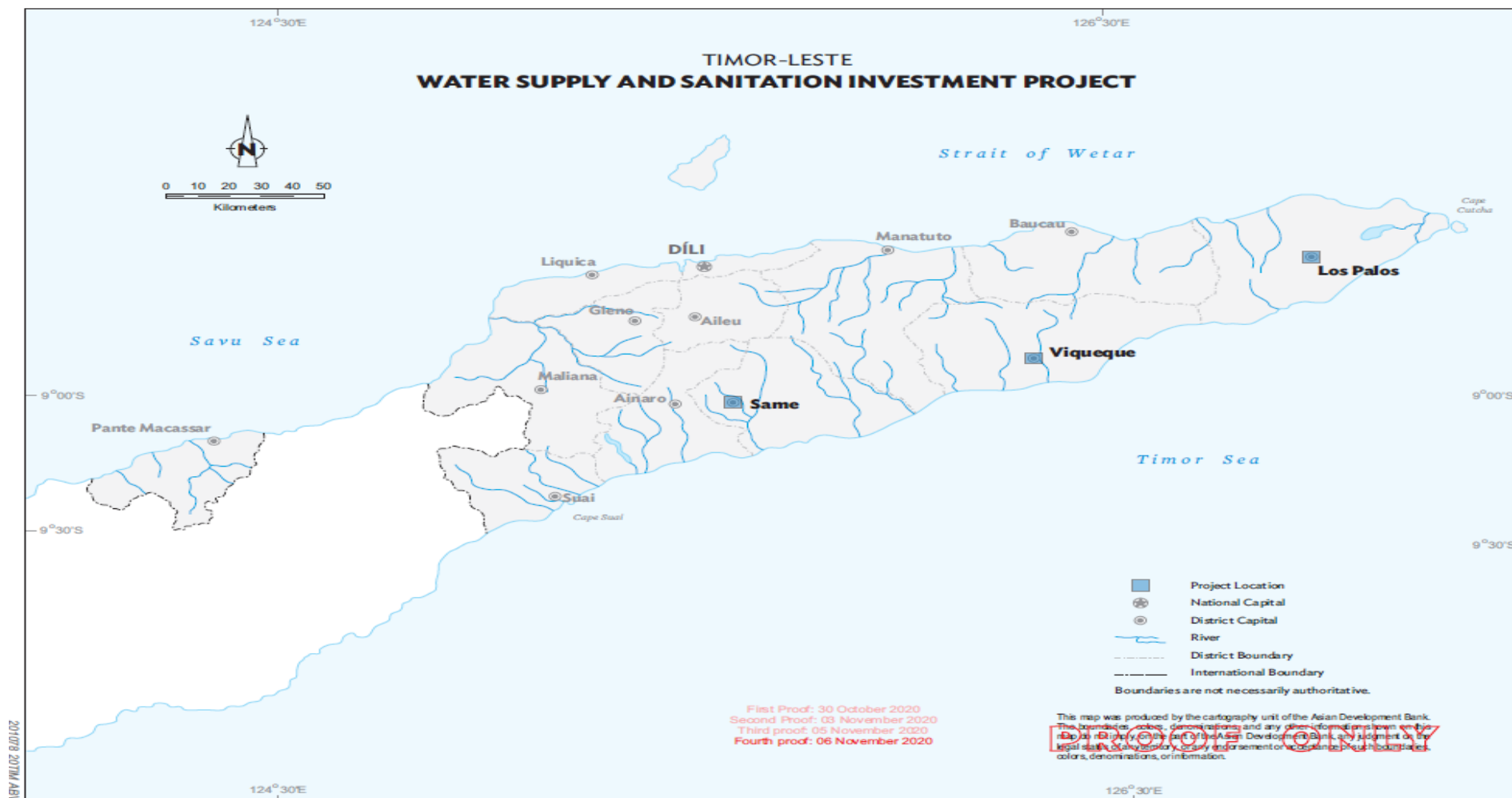
5. **Output 3: Institutional effectiveness improved.** To ensure that infrastructure created can deliver services efficiently, the project will enhance BTLs capacity to plan, deliver, operate, and maintain water supply and sanitation infrastructure over a long-term period. The project will support delivery of an Institutional Development Roadmap, which will also consider information and communication technology components appropriate to the environment and implement digital solutions to improve efficiencies in public service management.

### C. Focus of the Updated REGDP

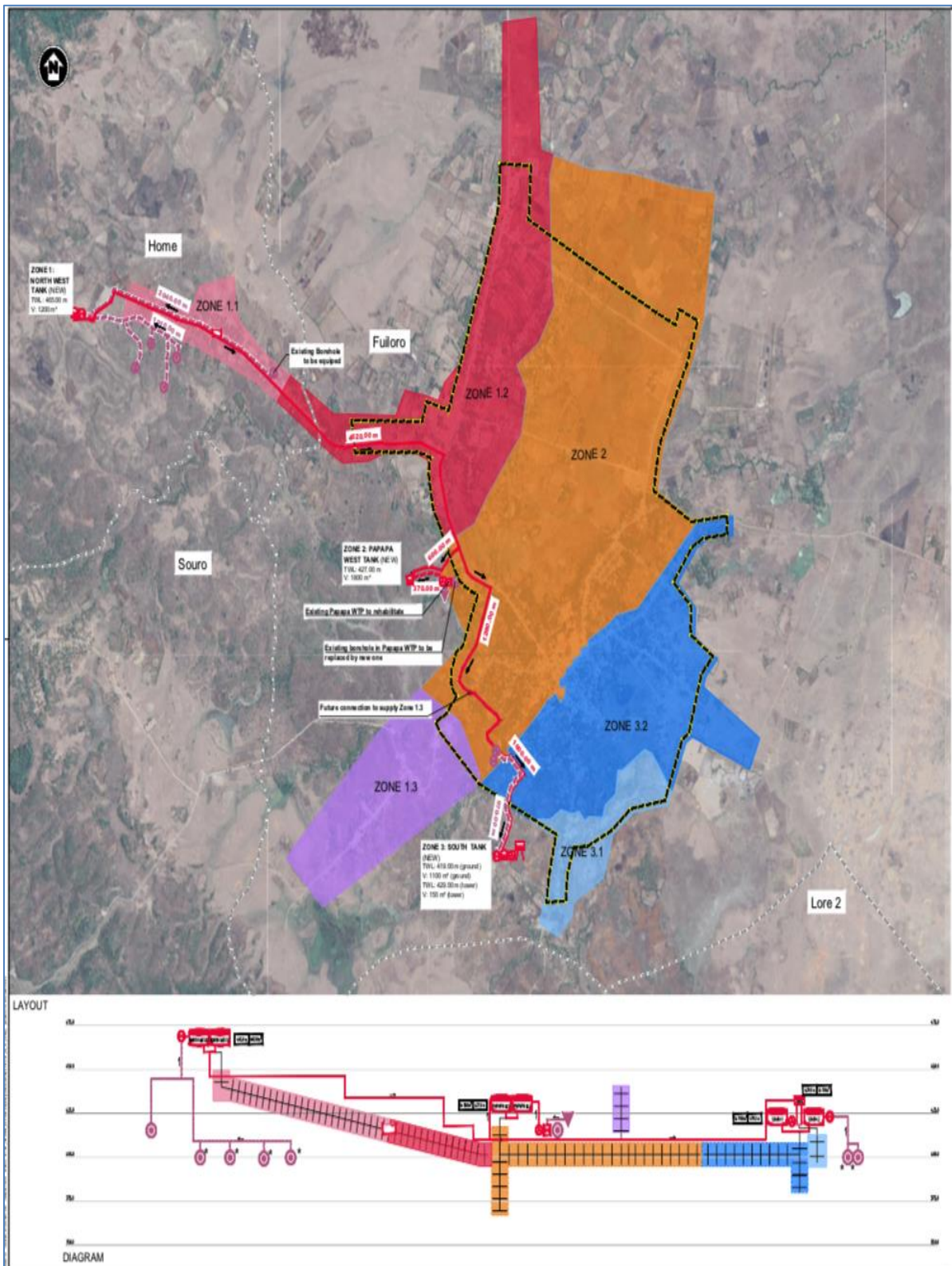
6. This Updated REGDP will focus on the results of the socioeconomic profile of the AHs in Lospalos, including the scope and description of resettlement impacts and the entitlements due to these AHs, public consultations held, and the amount needed to pay AHs their compensation and allowances. This was updated following approval of the final Detailed Engineering Design in March 2023 and verification from Department of Land and Property, Ministry of Agriculture and the Building Department that was conducted in September 2023.

7. This document also sets out the impacts on communities, describing their customary management of land, water and conflict resolution. The acknowledgement of these systems is vital to ensure that development efforts do not further compound the loss of cultural heritage and identity experienced during colonialization and occupation.

Figure 1 Project Location Map



### D. Schematic Diagram of the Water Supply Transmission System



### E. Measures to Minimize Adverse Social Impacts

8. Efforts have been made to reduce the resettlement impacts by the following actions;
- (i) Alignment of project components along existing structures such as road and existing water system infrastructure
  - (ii) Public consultations and due diligence to ensure minimal impact on private land and structures

### F. Land ownership due diligence results

9. Project impacts were assessed using a field survey of all planned project infrastructure, transect walks within affected areas and information of use and ownership was confirmed by local communities. This is necessary as land ownership is managed by customary law and so land titles or other documents normally used to verify ownership are not available in rural Timor-Leste. All land was clear of encroachers and the use of land documented. Photographs of key locations can be found in the appendices.

10. Transect walks were conducted along the alignment of the existing pipes near the location of the Papapa Spring. Community members reported that the existing pipe systems were constructed through funding support from JICA.

11. All impacts are as stated by detailed engineering design preparation consultants. They were verified by a due diligence mission in March 2023 and by DMS in September 2023.

**Table 1 - Project Components Due Diligence**

Project Components	Physical site		Site ownership	Comments
	Area ('000 m2)	Date Visited	State Private / Customary	
<b>Intakes</b>				
<b>Northwest Borefield</b>				
Bore 1	0.00125	07-12-20	Customary land	Members of the community who were present during the visit reported that the land is communally owned as customary land. Trees do belong to individual HH
Bore 2	0.00125	07-12-20	Customary land	
Bore 3	0.00125	07-12-20	Customary land	
Bore 4	0.00125	07-12-20	Customary land	
<b>South Bore field</b>				
Bore 1	0.00125	07-12-20	Customary land	Members of the community who were present during the visit reported that the land is communally owned as customary land. Trees do belong to individual HH
Bore 2	0.00125	07-12-20	Customary land	
<b>Raw Water Transmission (Length x 0.6m-width)</b>				
Transmission lines			√	Transmission pipes will run along the road corridor – temporary impacts only.
<b>WTP</b>	2.2365	08-12-20	√	Members of the community who were present during the visit reported that the land is communally owned as customary land. There are no individual land use linked to the land.
<b>Reservoirs (including pump)</b>				

Project Components	Physical site		Site ownership	Comments
	Area ('000 m2)	Date Visited	State Private / Customary	
<b>stations)</b>				
Northwest tank	0.9000	07-12-20	√	Members of the community who were present during the visit reported that the AH are actual users and claimant of the land (please refer to Plate 4).
Papapa West Tank	0.9000	08-12-20	√	There is an existing ground tank The location is public land based on public knowledge. Members of the community, reported that the land has no claimant or active users (please refer to Plate 5).
South Tank & Pump station	0.9000	08-12-20	√	The location is public land based on public knowledge. Members of the community, confirm that the land has no claimant or active users. (please refer to Plate 6).
<b>Treated Water Transmission Mains (Length x 0.6m-width)</b>				
Northwest tank to bifurcation to Papapa West Tank	2.8122		√	Transmission pipes will run along the road corridor
<b>Distribution network (Length x 0.6m-width)</b>	35.7804		√	Distribution pipes will run along the road corridor
<b>FSTP</b>	10.9812	08-12-20	√	The location is a public land based on public knowledge. Members of the community, reported that the land has no claimants or active users (please refer to Plate 7).
<b>Toilets</b>				
Toilet 1		07-12-20	√	Location is public land within the perimeter of the Lospalos Market (please refer to Plate 8)
Toilet 2		07-12-20	√	Location is public land within the perimeter of the Cultural Center in Lospalos (please refer to Plate 9)
Toilet 3		08-12-20	√	Location is public land in the future government site in Lospalos (please refer to Plate 10)
Toilet 4		08-12-20	√	Location is public land within the perimeter of the health center in Suco Home (please refer to Plate 11)

## II. PROJECT IMPACTS

12. There are 5 affected households in Lospalos, with one household whose income is below the poverty line.

13. No households are considered severely affected as the land is customarily held, a small amount of available land and used for grazing will be impacted with some trees impacted. The land will be used to build bore wells and a storage tank and adequate space remains in order that there will be no livelihood impacts. Photos of the locations are shown in the appendices.

### A. Affected Land Use

Table 2 - Summary of Impacts - Los Palos

ID	HH Head Name	Area Affected	Total area under Use	% Impact	Trees impacted
L1	Francisco da Costa	2,120	26,900	8	8
L2	Ventura da Costa / Luciana da Costa	353	12,300	3	39
L3	Venancio D. X.	0	-	0	7
L4	Horacio Monteiro	0	-	0	52
L5	Angelo Trindade	0	-	0	36

### B. Affected Main Structures

14. There are no anticipated impacts on primary structures

### C. Affected Secondary Structures

15. There is anticipated impact on one secondary structure (a fence) belonging to one HH (L5)

### D. Affected Fruit and Timber Trees

16. There are 142 trees impacted as shown in table 3 below.

### E. Risk of Economic Displacement

17. There may be some temporary disturbance to activities along main roads where the replacement pipe network will be laid. Current road ways are wide enough that works will not impact on businesses or access as trenches can be cut and covered within the space of a day. Therefore there is no anticipated economic displacement.

### F. Unforeseen Impacts

18. New AHs/APs that will emerge in the course of project implementation (for example, due to changes in project scope or impact will be provided the same entitlements as the AHs/APs identified in this Updated REGDP.

19. Should any unanticipated impacts or scope change occur ADB must be informed immediately for advice about how to proceed. This may require an update to this Updated REGDP.



**Table 3 Tree affected per HH**

HH ID	Banana	Orange	Avocado	Beatlenut	Guava	Coconut (b)	Chili	Cassava	Teakwood (b)	Teakwood (s)	Gemelina (s)	Soursop	Kami'i	Moringa	Total
L1											8				8
L2			1		3	4			3	25		1	2		39
L3		1			2		1					2		1	7
L4	12			9		9		22							52
L5								36							36
	<b>12</b>	<b>1</b>	<b>1</b>	<b>9</b>	<b>5</b>	<b>13</b>	<b>1</b>	<b>58</b>	<b>3</b>	<b>25</b>	<b>8</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>142</b>

## G. Summary of Impacts

20. The table below gives a summary of the assets that AHs will lose on account of the project.

**Table 4 - Summary of Impacts Lospalos**

No	Particulars	Unit	Total
1	Land	ha	0
2	Wooden Fence	m	135
3	Fishponds	sq.m	0
4	Crops	sq.m	0
5	Fruit trees	no	22
6	Timber trees	no	38
7	Palm trees	no	13
8	Horticultural Plants	no	69

21. All impacts are as stated by project preparation consultants. These were verified in March 2023 and again in August 2023 along with the Department for Land and Property and Ministry of Agriculture and resulted in this Updated REGDP. All affected Households will lose trees, some of which are timber trees, fruit trees, chilli plants and beetlenut plants are also expected to be impacted.

22. All impacts are as stated by project preparation consultants. This Updated REGDP has been updated based on the final DED and DMS that was carried out in April 2023.

## H. Categorisation

23. The safeguard category for involuntary resettlement is B. There are impacts on five HHs. The project aims to maintain most infrastructure on unencumbered state public land. Pipelaying will occur within state-owned roads with minimal impact corridors.

24. The legal recognition of Indigenous Peoples in Timor-Leste is complicated by a long history of colonization, the widespread adoption of Christianity and occupation. The terminology linked to Indigenous People is problematic for the Timorese. The label of 'indigenous' was used in colonial times to categorise people as 'uncivilized' and attaining government positions or an education could therefore mean losing that label. There remains significant stigma around that terminology and field work indicated that people did not self-identify as being from any ethnic grouping aside from being Timorese.

25. In this situation, it is not appropriate to distinguish and categorize between different groups. Indigenous People in Timor-Leste, in common with Indigenous and First Nations peoples all over the world, share a deep, spiritual connection to their land and natural resources.

26. Despite wide adoption of Christianity, a review of literature reveals that the vast majority of the population share indigenous values and spiritual beliefs which are reflected in strong local institutions, customary justice and land management.

27. ADB SPS for Indigenous Peoples safeguards are triggered where a project is anticipated to have either a positive or negative affect, directly or indirectly on IP;

(i) dignity, human rights, livelihood systems or culture

(ii) territories or natural or cultural resources (the tangible aspects of their identity).<sup>1</sup>

28. The safeguards apply when a distinct, vulnerable, social and cultural group is present whom can be described as having the following four characteristics which may be in present in varying degrees. The description of the characteristics and justification can be found in the table below. It is therefore determined that this project is categorized as a B for IP.

<sup>1</sup> ADB SPS (2009)

**Table 5 - ADB SPS Criteria for IP Categorisation**

ADB SPS Criteria	Project Status
Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;	The issue of self-identity is complex due to the negative stigma of self-identifying or being identified as an IP.
Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;	This is a key issue as land ownership is understood to be customary and linked to each clan's origin story, believing land to be given to them by a mythical first settler. There is a strong and highly significant spiritual link to water and land use which must be respected in project plans. Not recognizing this attachment would further compound the losses experienced by the communities in the project areas.
Customary, cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and	Land ownership in Timor-Leste still follows customary practices which are widely recognized and respected.
A distinct language, often different from the official language of the country or region.	There are 16 languages recognized however language is an academic categorization, the origin story of each clan / family group is the most critical to be recognized.

29. While a review of the criteria requires that people need to be both distinct and vulnerable to trigger application of the term IP for the purposes of ADB projects. Despite not being in a minority, the IP groups in Timor-Leste are distinct and are vulnerable due to a lack of recognition of their unique identity and their customary land and legal systems. This, in the context of development projects, risks compounding further the loss of identity and recognition of ownership created by colonization and a turbulent recent history. It is not yet known, for the purposes of this project, if there are disadvantaged or marginalized groups.

30. The key relevance of IP issues for this project are related to

- (i) Development of an appropriate GRM which takes into account local conflict resolution mechanisms
- (ii) Consultations and stakeholder engagement that are detailed and respect clan and family relationships
- (iii) Participatory Project design – to ensure that livelihoods, cultural activities and O&M plans are culturally appropriate
- (iv) Customary land use to be correctly negotiated in line with community expectations

31. These topics are explored in this UREGDP and will inform the interface between the project and the communities.

32. As the majority of the population is indigenous and there is a sensitivity to terminology, the use of the word 'Indigenous' will not be used to describe the affected groups, communities or people. Reference to affected people or communities is intended to be inclusive of the indigenous peoples impacted by the project activities.

### III. SOCIOECONOMIC PROFILE OF AHS

33. The DMS<sup>2</sup> and a survey (SESAH<sup>3</sup>) covering the five AHs in Lospalos was conducted between December 7 to 9, 2020. The survey was updated in September and October 2023 based on the final DMS and verification of the IOL. This led to some changes in AHs and their status as the original data was collected during the pandemic and economic conditions are more stable when compared to 2020.

34. Two enumerators carried out the SESA, asset registration and DMS on the same day. AHs signed to show their acceptance of the asset registration, DMS and SESA details. A copy of this was left with the household.

#### A. Basic Information on the AH Heads

35. The average household size is 6.4. Many of the household heads reported that their children were working either in Dili or overseas for better livelihood opportunities. No regular remittances were reported during the survey.

**Table 6 – Households Information**

ID	Project Component	HH Head Name	No of APs
L1	Reservoir	Francisco da Costa	5
L2	Pumping station	Ventura da Costa / Luciana da Costa	6
L3	Reservoir	Venancio D. X.	7
L4	Pumping station	Horacio Monteiro	7
L5	Pumping station	Angelo Trindade	7
			<b>32</b>

**Table 7 - Educational Attainment**

No	HH ID	HH head Name	Educational Attainment
1	L.1	Francisco da Costa	Completed primary
2	L.2	Ventura da Costa / Luciana da Costa	Higher/ post-secondary
3	L.3	Venancio D. X.	Completed primary
4	L.4	Horacio Monteiro	Completed primary
5	L.5	Angelo Trindade	Completed primary

#### B. Occupation and Income

36. Local government was the largest employer within the HHs. A range of other activities are also contributing to overall income.

#### C. Income of the AHs

37. The poverty line was set in 2014 at \$46.37 per person per month. This will form the basis for calculations of allowances and identification of the one vulnerable household.

<sup>2</sup> DMS Form Is Shown In Appendix 2

<sup>3</sup> SESA Questionnaire Is Shown In Appendix 3

<sup>4</sup> TIMOR-LESTE SURVEY OF LIVING STANDARDS-3

38. All households reported holding livestock for sale or for cultural activities.

**Table 8 - Household Income**

ID	HH head Name	Total Monthly Income	Per Capita Income
L1	Francisco da Costa		
L2	Ventura da Costa / Luciana da Costa		
<b>L3</b>	<b>Venancio D. X.</b>		
L4	Horacio Monteiro		
L5	Angelo Trindade		

**D. Primary Income Source**

**Table 9 - Primary Income Source**

HH ID	Household primary income source (Monthly)											
	Salary or wage			Farming			Trading			Pension from gov.		
	M	F	Amount	M	F	Amount	M	F	Amount	M	F	Amount
L1	1						1					
L2				1								
<b>L3</b>	1											
L4	1											
L5							1					

**Table 10 - Secondary Income Source**

HH ID	Household Secondary Income Source (Monthly)											
	Salary or wage			Farming			Trading			Allowance from gov.		
	M	F	Amount	M	F	Amount	M	F	Amount	M	F	Amount
L1					1							
L2					1			1		1		
<b>L3</b>				1								
L4				1						1		
L5				1						1		
	<b>0</b>	<b>0</b>		<b>3</b>	<b>2</b>	<b>\$ 80.00</b>	<b>0</b>	<b>1</b>	<b>\$ 120.00</b>	<b>3</b>	<b>0</b>	<b>\$ 35.00</b>

**E. Land Ownership**

39. Land ownership and use in rural TL is governed by customary systems with parallel emerging legislative frameworks. Customary land is widely accepted and acknowledged and whilst there are efforts to formalize this in the project areas, documents are lacking. Therefore claims on land that are confirmed during community and household consultations will be accepted as valid claims on land. The issue of customary land is further explored in section IV

## **F. Water Supply and Sanitation**

40. All HHs reported having pour flush toilets. All HHs reported using bottled drinking water with other water coming from standpipes or a tube well.

## **G. Vulnerable Households**

41. According to the agreed criteria there is one vulnerable HHs affected by project activities in Lospalos.

# **IV. LEGAL FRAMEWORK**

## **A. Legal and Institutional Framework of Timor-Leste**

42. The constitution of the Democratic Republic of Timor-Leste was created in (2002) with the formation of Timor-Leste as an independent nation on the 20th of May 2002.

43. Provisions and principles adopted in the project resettlement policy will supplement the provisions of relevant decrees currently in force in Timor-Leste.

44. A comparison between ADB SPS 2009 and GoTL regulations on involuntary resettlement and the relevant applicable to the WSSIP project are presented in Appendix 5. Where there are gaps the higher standard will apply.

45. The UN General Assembly adopted a non-legally binding UN Declaration on the Rights of Indigenous Peoples in 2007 of which Timor-Leste is a signatory. There are also three key conventions on cultural heritage, particularly relevant to projects that require broad community support. The Convention Concerning the Protection of the World Cultural and Natural Heritage, also known as the World Heritage Convention (1972), has been widely adopted by almost all DMCs. The two more recent conventions relate to indigenous cultures and traditional knowledge have been ratified by the majority of the United Nations Educational, Scientific and Cultural Organization's member states: The Convention for the Safeguarding of Intangible Cultural Heritage (2003), ratified by 143 of 190 member states, and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), ratified by 117 member states.

46. Apart from the above conventions, there is no specific legislation regarding the identification of IPs in Timor-Leste as they are the majority and therefore do not require special recognition within the population.

47. The main criteria for the identification of different groups of IPs in an academic sense is tied to language. The census in 2015 recorded 32 different languages spoken as well as Portuguese. Academic studies reviewed indicated between 16 and 18 distinct languages. The origin of these can be traced back to two broad language groups - Austronesian (Malayo-Polynesian) and Papuan (Melanesian).

48. Tetum is spoken by the majority of people in Timor-Leste and is an indigenous language, now heavily influenced by Portuguese. The constitution Section 13(1) of the 2002 constitution designates Portuguese and Tetum as Timor-Leste's two official languages. The same section also provides that "Tetum and the other national languages shall be valued and developed by the State." English and Indonesian are sometimes used and section 159 of the constitution provides that these languages serve as "working languages within civil service side by side with official languages as long as deemed necessary".

## **B. Customary Law**

49. Customary Law and practices play a central role in resolving disputes and negotiating sharing of natural resources between individuals and communities. These systems have been resilient through a turbulent history and the project must gain a clear understanding of these and how they relate to the planned project and the development of the new water utility (Fitzpatrick et. al. 2008).

50. Despite shared beliefs, the origin of a clan is more relevant than origin of a language or different group. With clans believing land to be given to them by a mythical first settler. That land is passed down within generations do not always align with the boundaries put in place by formal government systems but is generally understood and known by the communities themselves.

51. Elders in the community play an integral role in conflict resolution in the customary justice system at the hamlet (aldeia) or village (suco) level. Tara bandu are recognized as a traditional framework of laws of communities in Timor-Leste. They regulate the relationships between people and the environment, promoting traditional environmental protection and management, through the control of, access to and use of natural resources. Tara bandu passes traditional knowledge, laws and respect for the environment down through generations, and these vary from community to community. It has been seen by the state as a means to facilitate decision making and conflict resolution on the use of natural resources (Palmer 2015)

52. Any conflict or Issues and especially those related to land use are presided over by local Elders (Lia Nain) based on traditional practices (Lulik) which for many centuries have regulated community relationships linked to kinship in sacred houses (Uma Lulik).

53. This coupled with a post-conflict environment requires very detailed community engagement to ensure that the development of natural resources such as water consider the customary practices which are an integral part of everyday life.

54. There is a risk that not properly engaging with the communities will result in conflict and vandalism of structures that are not agreed to. There is a strong desire for water systems within communities, but the need to examine not just the environmental impacts of changing flow, but the social impacts cannot be overstated. Evaluations of past projects also identify this as an area for improvement.

55. Gender is a key concept for the provision of water as many of the tasks identified during the socio-economic survey were carried out by women and represent a significant burden of time. Further work is needed to understand the implications of customary justice systems for women and access to water and sanitation. It is not a question of following all customary practices, it is to understand the implications and then negotiating within the communities. This may include how the project and its associated activities can empower women and ensure equal access to project benefits and have their perspectives taken into account.

## **A. ADB's Safeguard Policy**

56. The ADB's Safeguard Policy Statement (SPS) combines three of its key safeguard policies; environment, involuntary resettlement (IR) and indigenous peoples (IP). It aims to promote sustainability by managing potential environmental and social risks. The project is considered category B as less than 200 persons will experience significant impact as per ADB SPS.

57. The objectives of the involuntary resettlement safeguards are to avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project and design alternatives; to enhance or at least restore the livelihoods of all displaced persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups. There are 12 policy principles related to involuntary resettlement which are found on page 17 of the Safeguards Policy Statement (2009) of ADB. Details on each policy principle are found within the SPS.

58. The ADB policy on gender and development adopts gender mainstreaming as a key strategy for promoting gender equity, and for ensuring participation of women and that their needs are explicitly addressed in the decision-making process for development activities.

59. Other policies of ADB that have a bearing on resettlement planning and implementation are: (i) Public Communications Policy (2011) and the Operations Manual Section L3/BP (2012); and (ii) Accountability Mechanism (Operations Manual Section L1/BP, dated 29 October, 2012). Following these requirements, the Project is required to share and disclose project information with AP, stakeholders and the general public including concerning the Grievance Redress Mechanism (GRM).

60. According to ADB's 2009 Safeguard Policy Statement, the objectives are to design and implement projects in a way that fosters full respect for Indigenous Peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the Indigenous Peoples themselves so that they:

- Receive culturally appropriate social and economic benefits;
- do not suffer adverse impacts as a result of projects; and
- can participate actively in projects that affect them.

61. ADB indigenous peoples' policy as presented in the SPS includes the following principles:

- (i) Screen early on to determine whether Indigenous Peoples are present in, or have collective attachment to, the project area; and whether project impacts on Indigenous Peoples are likely.
- (ii) Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on indigenous Peoples. Give full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures. Identify social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and inter-generationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.
- (iii) Undertake meaningful consultations with affected Indigenous Peoples communities and concerned Indigenous Peoples organizations to solicit their participation (i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner. To enhance Indigenous Peoples' active participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development. Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.
- (iv) Ascertain the consent of affected Indigenous Peoples communities to the following project activities: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. For the purposes of policy application, the consent of affected Indigenous Peoples communities refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for such project activities. Broad community support may exist even if some individuals or groups object to the project activities. (v) Avoid, to the maximum extent possible any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected Indigenous Peoples communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and that their benefits are equitably shared.
- (v) Produce an Indigenous Peoples Plan which is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous knowledge and



participation by the affected Indigenous Peoples communities. The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation; specifies measures to ensure that Indigenous Peoples receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.

- (vi) Disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected Indigenous Peoples communities and other stakeholders. The final REGDP and its updates will also be disclosed to the affected Indigenous Peoples communities and other stakeholders.
- (vii) Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.
- (viii) Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPP's objective and desired outcome have been achieved, taking into account the baseline conditions and the results of IPP monitoring. Disclose monitoring reports.

62. Consistent with the principle of social equity and environmental justice, the subproject design will be carried out with the support of those affected by project activities. BTL will ensure participation of the communities in all subproject activities and their equal participation in training programs (e.g. sanitation, hygiene, financial literacy and operation and maintenance. Due to watershed degradation and emerging water issues in urban areas, this engagement and local knowledge is critical to ensure sustainable development of water resources.

63. Broad Community Support will be documented through the minutes of the consultations attended by the relevant communities and will be integral to the Community Water Management Plans that will be developed. Initial consultations indicate a strong desire for improved water and sanitation.

64. In this case a combined RP and IPP has been produced and updated resulting in this UREGDP which contains the CWMP.

### C. Project Principles

65. The table below highlights the project's resettlement principles.

**Table 11 - Project Principles**

No.	Topic	Key Principles
1	Owners / Users of Affected Assets	Owners and/or users of affected assets and loss of resources or access to resources shall be entitled for compensation and rehabilitation measures.
2		Lack of legal rights to the assets lost would not bar the project-affected people from entitlement to such compensation and rehabilitation measures.
3		Customary Land and cultural aspects will be acknowledged and respected
4	Resettlement Planning	If possible, involuntary resettlement and loss of land, structures and other assets and incomes shall be avoided and minimized by exploring all viable options

No.	Topic	Key Principles
5		Preparation of resettlement plans and their implementation shall be carried out with participation and consultation of project-affected people.
6		Schedule of budget for resettlement planning (including socio-economic surveys and/or census) and implementation shall be incorporated in project planning and financing.
7		Project affected people shall be provided with compensation for their lost assets, incomes and businesses. The provision with rehabilitation measures shall be sufficient to assist project-affected people in improving or at least maintaining their pre-project living standards, income levels and productive capacity.
8	Compensation for Affected Persons (APs) / Affected Households (AHs)	Replacement of affected assets shall be provided following the principle of replacement costs, without deduction for the value of salvaged materials, taxes, transaction costs and depreciation.
9		Payment of compensation or replacement of affected assets and any resettlement to new locations all concerning project affected people shall be completed prior to the award of civil works contract. Rehabilitation measures must also be in place, but not necessarily completed, as these may be ongoing activities
10		Compensation and rehabilitation assistance to vulnerable households such as households headed by women, the disabled and elderly, the landless and poor would be carried out with respect for their cultural values and specific needs.
11		The GRM will address affected people's concerns and complaints promptly, using an understandable and transparent process that is gender responsive, culturally appropriate, and readily accessible to all affected people.
12	Meaningful Consultations	Will be carried out throughout the project cycle with full respect to local customary traditions, conflict resolution systems and beliefs

#### D. Customary Water Management Plan

66. The concept of Community Water Management Plans were therefore included in the original REGDP and envisaged to cover;

- Refining of the current proposed GRM to take into account local conflict resolution mechanisms
- Further consultations and stakeholder engagement that is detailed and respect clan and family relationships
- Adaptations to project design – to ensure that livelihoods and O&M activities are culturally appropriate and offer opportunities for women
- Customary land use to be correctly negotiated in line with community expectations
- Appropriate cultural practices, chosen by the communities are funded by the project to ensure that spiritual concerns acknowledged.

67. Elders in the community also play an integral role in conflict resolution in the customary justice system at the hamlet (aldeia) or village (suco) level. Tara bandu are recognized as a traditional framework of laws of communities in Timor-Leste. They regulate the relationships between people and

the environment, promoting traditional environmental protection and management, through the control of, access to and use of natural resources.

68. Tara bandu passes traditional knowledge, laws and respect for the environment down through generations, and these vary from community to community. It has been seen by the state as a means to facilitate decision making and conflict resolution on the use of natural resources (Palmer 2015)

69. Any conflict or Issues and especially those related to land use are presided over by local Elders (Lia Nain) based on traditional practices (Lulik) which for many centuries have regulated community relationships linked to kinship in sacred houses (Uma Lulik).

70. Gender is a key concept for the provision of water as many of the tasks identified during the socio-economic survey were carried out by women and represent a significant burden of time. Further work is needed to understand the implications of customary justice systems for women and access to water and sanitation. It is not a question of following all customary practices, it is to understand the implications and then negotiating within the communities. This may include how the project and its associated activities can empower women and ensure equal access to project benefits and have their perspectives taken into account.

71. In March 2023 further consultations were held with community leaders, spiritual leaders and clan elders. This was facilitated by a National expert on Indigenous Peoples land policy and issues who provided the following background on the belief systems of Timorese people

72. Before the arrival of Europeans to the island of Timor, local people already had a sophisticated belief system which centered around the idea of fertility. The prominent figure of that system is a female-fertility goddess called “Maromak’ (the mother of the enlightened one). All things that have fertility values to support or give life centered around Maromak, such as land, water, lakes, rivers, forest, trees, hills, rocks, etc. For this reason, Timorese still treat natural resources as a living entities which must be respected.

73. Timorese attribute ‘lulik’ – meaning sacred, holy or forbidden to all important natural resources. This is the reason why land is considered rai-lulik (sacred land), bee lulik (sacred water, ai-lulik (sacred tree), foho-lulik (sacred hill), etc.

74. For the above reasons, natural resources must be respected and permission though animal sacrifices in ceremonies is required when accessing these resources. The objectives of the ceremonies are four fold. First, to show respect to the resources itself, such as land, tree, water, hills, etc. Secondly, to seek forgiveness for disturbing the life of micro-organisms that live on these resources. Thirdly, to respect the spirits of the ancestors who now reside in the unseen world. Fourthly, to show gratitude to Maromak who provided to humans her fertility values.

75. Timorese believe that there are consequences for disrespecting natural resources. Disregarding resources will upset the creator or fertility goddess. Because the belief system is centered around the idea of fertility, the sanctions for disregarding the fertility goddess will cause infertility to human in the form of sickness, death, natural disaster, war and conflicts, failed harvest, long dry season, dry spring, illness or death of livestock, etc.

76. These are the reasons why Timorese conduct ceremonies when accessing natural resources such as land, springs, rivers, lake, etc. Even to harvest corn and rice, ceremonies must be conducted to show gratitude to nature and Maromak. Spings and water soruces often have recognized customary owners who are an important stakeholder and spiritual spokesperson for the clan (Extended family group) that have the customary rights to the water source.

77. The strength of connection of Timorese to these natural resources requires contractors and especially outsiders to be respectful of the customary rules and traditions at all times. Building social capital and cccc round the new water utility and grant public support for the new systems must include this facet.

## V. INFORMATION DISCLOSURE, CONSULTATION AND PARTICIPATION

78. The first round of public consultations were held in August 2020 in the affected Sucos in Lospalos. This introduced the project and was a general briefing. This was followed by focus group discussions in November. A second round of consultations was held in December 2020. During these consultations, residents were informed about the (i) the next phase of the design of the subprojects; (ii) planned DMS and socioeconomic survey (SES) in the area; (iii) land acquisition and compensation process; (iv) policy on cut-off-date for eligibility to project entitlements; (v) grievance redress mechanism; and (vi) role of the asset registration. Individual household consultations were also held at this time for all affected HHs.

79. The public consultations indicated that there was broad community support for the installation of water supplies and demand is high. The current water system is inadequate for household use.

80. Minutes for the meetings can be found in Appendix 7. Further consultations with individual households, village elders and community leaders were held in March 2023 and again in September 2023 with the verification of the DMS.

81. Further public consultations will be held in the lead up to construction activities. This will include schedule of construction, access to the GRM and detailed plans regarding the benefits that the new water supply will bring. Closer to commissioning of the new water supply work will need to be done to assist the community in understanding billing cycles, complaint mechanisms for operations and how to properly manage the new water supply.

**Table 12 Public Participation Key dates**

No.	Date/Time	Venue	Activity	Locations
1	October 5, 2020	Lospalos	City Level Consultations	City Hall
2	November 9, 2020	Lospalos	Focus Group Discussions	Suco Fuiluro and Home Level FGDs
3	December 7, 2020	Lospalos	Suco level Consultations	Suco Fuiluro Public Consultation
4	December 8, 2020	Lospalos	Suco level Consultations	Suco Home Public Consultation

### A. Consultation Results

82. During the consultations with clan elders, water source customary owners and member of the community the following themes emerged.

- The ownership of the source was well understood by all stakeholders. In the case of Los Palos, the water supplies are from bore holes with very minimal impact. An area for tank storage will be reached by an access road through a pastoral area and there is sufficient space that this will not have a livelihood impact.
- There has been no conflict around the use of water and all stakeholders indicated strong support for the project as a lack of water has been a significant hardship for all families in the city.
- Communities requested that labour be drawn locally in order that local customs are respected and that the project further benefits economic opportunities in the city.
- Appropriate cultural practices, chosen by the communities have already been funded by BTL and will continue to be to the project to ensure that spiritual customs are closely followed.

## VI. GRIEVANCE REDRESSAL

83. The MPW through its PMU will established a Project Level Grievance Redress Mechanism (GRM) to receive, evaluate, and address project related complaints including construction and labor issues, from any affected individual. The purpose of the GRM is to provide a way for PAPs and other stakeholders to provide feedback and/or express complaints related to the subproject activities and for these concerns to be resolved in a timely manner.

84. The GRM must be accessible and reliable, triaged through the PSC team leader so that any systematic issues can be identified and addressed in a coordinated and timely fashion The PSC team leader will identify the most appropriate focal point to address the issue and ensure that the GRM register is maintained.

### A. Grievance Redress Committee (GRC)

85. A Grievance Redress Committee (GRC) will be set up for the project once the PSC is mobilized. The GRC would be the tool to ensure proper presentation of grievances, impartial hearings and transparent decisions and shall be established through a gazette notification from the MPW. The female members of the GRC must participate in every hearing if the aggrieved person or PAP is female. The composition of the GRC is as below;

- GRM Administrator
- PSC Leader/Manager
- GRM focal points (Social & Gender, Environmental, GBV service provider & Engineer)
- Representatives of Contractor;
- Local authority (Suco chief)
- At least three female members if representatives are all males.
- Project Management Unit (ESU)

### B. Grievance Redress Mechanism

86. The table below sets out the mechanism which is compliant with the mechanism devised in the original REGDP and the Land Law and Expropriation Law.

**Table 13 - Grievance Redress Mechanism**

Step	Process	Duration
1	<b>Grievance reception/acceptance</b>  PAPs submits his/her grievance in person, via phone call, or via complaint box to the GRM operator and will proceed to data base recording.	1 day
2	<b>Acknowledgment and record</b>  The complainant receives confirmation that his/her grievance has been received. The grievance is entered in the database using a grievance registry form, and the PSC team leader is notified to allocate the issue to the most appropriate person / focal point	2 days
3	<b>Assessment</b>  Appropriate investigation is decided at the assessment stage. If deemed necessary, the investigation can include a risk assessment. The investigation may	5 days

Step	Process	Duration
	include follow-up meetings between stakeholders and the complainant, where an impartial party (Suco chief) is present. Minutes are recorded and added to the grievance database	
4	<p><b>Resolution &amp; Complainant Satisfaction</b></p> <p>a. <u>Project Level Resolution</u></p> <p>Grievance focal points and its related department will provide solution to the grievance and discussed it with the PSC Manager for final approval.</p> <p>If resolution is agreed <b>(Yes)</b>; The process concludes with a written agreement signed by the complainant(s) and PSC manager</p> <p>If unresolved <b>(No)</b>; or at any stage if PAP is not satisfied the grievance will be elevated to next level</p> <p>b. <u>Management Level Resolution:</u></p> <p>The technical unit within the PMU will provide proposed solutions in relation to the grievance and discuss it with the PMU manager for final approval.</p> <p>If resolution is agreed <b>(Yes)</b>; The process concludes with a written agreement signed by the complainant(s) and PMU manager</p> <p>If unresolved <b>(No)</b>; or at any stage if PAP is not satisfied the grievance will be elevated to next level</p> <p>c. <u>Ministry Level Resolution</u></p> <p>PMU and the MPW coordinator refers the matter to the designated government offices (DGPW, Land Dept., Agriculture Dept., Housing Dept. &amp; MoF – Loan Unit)</p> <p>If resolution is agreed <b>(Yes)</b>; The process concludes with a written agreement signed by the complainant(s) and Minister of MPW</p> <p>If unresolved <b>(No)</b>; or at any stage if PAP is not satisfied the grievance will be elevated to next level</p>	<p>14 days max</p> <p>14 days max</p> <p>30 days max</p>
5	<p>d. <u>Litigation</u></p> <p>PAPs can take the matter to appropriate court</p>	As per judicial system

### C. GRC Record Keeping

87. The PSC team leader, in partnership with PMU, will keep a record of grievances received, including names and pertinent information about the PAPs, nature of the complaints, dates the complaints are lodged, and resolution of the same. Grievances not resolved will also be recorded,

detailing negotiations and proposals which could not be agreed on, and the dates these negotiations took place.

88. At any stage in the GRM, the complainant may have the option to elevate the complaint to authorized local courts for litigation following the rules of court. During the litigation of the case, the Government will request from the court that the subproject proceed without disruption while the case is being heard. If any party is dissatisfied with the ruling of the civil court, that party can elevate the case to a higher court. The Government shall implement the decision of the court. The project-level GRM should not impede access to the country's jurisdiction or administrative remedies. There are no charges or fees levied to the PAPs for the lodgment and processing of complaints.

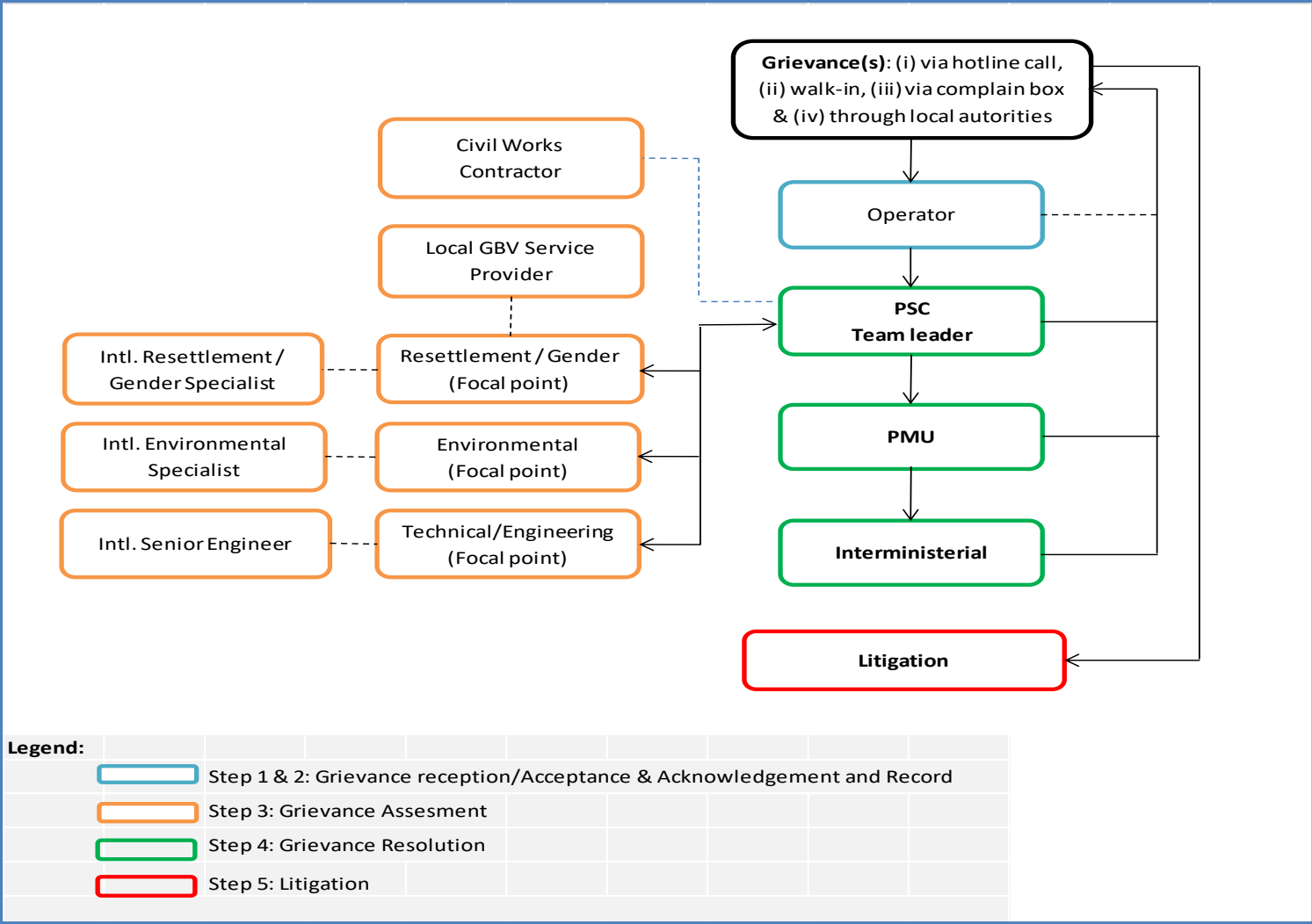
89. All complaints should be recorded in a database. The Following information will be recorded.

- Location of grievance
- Name of contractor
- Name of the complainant
- Spouse name
- Address and phone
- Occupation
- Date of birth
- Date and time of receipt of complaint
- Recording date of complaint
- Name of person recording the grievance
- Scope of complaint
- Category of complaint
- Type of action
- Status of grievance process (delegate, fact finding, appeals, settlement, close, unable to complete)
- Delegated units (and responsible staff) as necessary
- Status of final report
- Status of providing information to the complaining party
- Feedback status of a person who is complaining

90. A summary of this information will be included in the quarterly / Semi-annual monitoring reports which will be submitted to ADB. A further refinement of this process was conducted in 2023 as part of this update.

91. An aggrieved AH may also bring its complaint directly to the ADB Timor-Leste Resident Mission, or to the ADB Office of the Special Project Facilitator. The PCU will keep a record of grievances received, including names and pertinent information about the AHs, nature of the complaints, dates the complaints are lodged, and resolution of the same. Grievances not resolved will also be recorded, detailing negotiations and proposals which could not be agreed on, and the dates these negotiations took place.

Figure 2 Project GRM





## VII. PROJECT ENTITLEMENTS

92. Only persons and organizations with fixed assets and sources of income in subproject COI at the time of the cut-off date are eligible to receive project entitlements. The cutoff date for Lospalos was disseminated on the 4th of December 2020 (Appendix 8). Notice of cutoff date was also included in DMS forms given to AHs.

93. There are three types of APs (i) legal owners and holders of title; (ii) those who do not currently possess legal titles but have legal rights to the land, including customary rights; and (iii) those who do not have any recognizable rights to land.

94. Following further consultations in March 2023, the concept of customary land was explored with clan representatives, community leaders and department of land and property. It was agreed that where customary land was required for development of water sources or storage the land would not be compensated for as it has no identifiable individual owner. Any production, crops, trees or livelihood impacts based on an individual's use, this would be compensated as per the matrix with a new location for any agricultural activities identified by the clan. In all cases visited during the mission adequate, comparable locations were available for resumption of activities.

95. This matrix outlines the entitlements of APs/AHs based on the type and severity of their losses. It was updated for clarity following further community consultations in March 2023.

**Table 14 - Entitlement Matrix**

No	TYPE OF LOSS	APPLICATION	DEFINITION OF ENTITLED PERSON	ENTITLEMENT POLICY
1	Loss of use of customary Land	Loss of land with remaining land sufficient to reorganize crops / access	Customary <b>user with a loss of crop / trees or access</b>	User will be able to choose equivalent area of land to resume activities. Full cash compensation for any livelihood impacts as set out in section 5 and 6.
2	Loss of Productive Agricultural Land  (Income generating land)	Less than 10% of total productive agricultural land holding lost (therefore, marginal impact on household income and living standards).	a) Legal user with valid title or usufruct rights. AHs would be within the corridor of impact	AHs will be entitled to: <ul style="list-style-type: none"> <li>- Equivalent area of land or</li> <li>- Cash compensation for acquired land at replacement value.</li> <li>- Cash compensation for land preparation.</li> </ul>
			b) Tenant, leaseholder and sharecropper	AHs will be entitled to: <ul style="list-style-type: none"> <li>- Support to locate equivalent leased land or</li> <li>- Reimbursement for un-expired lease</li> <li>- Compensation for land improvement</li> </ul>

No	TYPE OF LOSS	APPLICATION	DEFINITION OF ENTITLED PERSON	ENTITLEMENT POLICY
			c) AHs without valid title (encroachers, squatters)	AHs will be entitled to: <ul style="list-style-type: none"> <li>- Cash compensation for loss of land preparation</li> <li>- Squatters / Encroachers will not be entitled to land compensation.</li> </ul>
		More than 10% of productive land holding lost, or where <10% lost but the remaining land becomes economically unviable. (severe impact on household income and living standards)	Legal user with valid title or usufruct rights. AHs would be within the corridor of impact	AHs will be entitled to: <ul style="list-style-type: none"> <li>- Equivalent area of land with equivalent productive potential. Or</li> <li>- Cash compensation for acquired land at replacement value.</li> <li>- Cash compensation for land preparation.</li> </ul>
			b) Tenant, leaseholder and sharecropper	AHs will be entitled to: <ul style="list-style-type: none"> <li>- Support to locate equivalent leased land or</li> <li>- Reimbursement for un-expired lease</li> <li>- Compensation for land improvement</li> <li>- Transitional allowance until equivalent new lease opportunity located.</li> </ul>
			c) AHs without valid title (encroachers, squatters)	AHs will be entitled to: <ul style="list-style-type: none"> <li>- Cash compensation for loss of land preparation</li> <li>- Squatters / Encroachers will not be entitled to land compensation.</li> </ul>
3	Loss of residential, commercial, industrial or institutional land	Loss of residential, commercial, industrial or institutional land with remaining land sufficient to reorganize	a) AHs with valid title or usufruct right.	AHs will be entitled to the following: <ul style="list-style-type: none"> <li>- Cash compensation for affected portion of the land at replacement value.</li> </ul>
			b) AHs such as tenants and leaseholders	AHs will be entitled to the following: <ul style="list-style-type: none"> <li>- Reimbursement for un-expired lease</li> <li>- Transitional allowance until equivalent new lease opportunity located.</li> </ul>

No	TYPE OF LOSS	APPLICATION	DEFINITION OF ENTITLED PERSON	ENTITLEMENT POLICY
			c) AHs without title (squatters and encroachers)	<p>AHs will be entitled to the following:</p> <ul style="list-style-type: none"> <li>– Cash compensation for affected structures at replacement value.</li> <li>– Transitional allowance until equivalent new lease opportunity located.</li> <li>– Squatters / Encroachers will not be entitled to land compensation.</li> </ul>
		Loss of residential, commercial, industrial or institutional land without sufficient remaining land. APs will be required to relocate	a) AHs with valid title or land use rights.	<p>AHs will be entitled to the following:</p> <ul style="list-style-type: none"> <li>– An equivalent area of land in an acceptable location, or</li> <li>– Cash compensation for the entire land holding at replacement value.</li> </ul>
			b) AHs such as tenants and leaseholders	<p>AHs will be entitled to the following:</p> <ul style="list-style-type: none"> <li>– An equivalent area of leased land</li> <li>– Reimbursement for un-expired lease</li> <li>– Transitional allowance e</li> </ul>
			c) PAPs without title (squatters and encroachers)	<p>AHs will be entitled to the following:</p> <ul style="list-style-type: none"> <li>– Cash compensation for any affected structures at replacement value</li> <li>– Transitional allowance equivalent to two months' income.</li> <li>– Squatters / Encroachers will not be entitled to land compensation.</li> </ul>

No	TYPE OF LOSS	APPLICATION	DEFINITION OF ENTITLED PERSON	ENTITLEMENT POLICY
<p><b>Implementation Considerations:</b>                      *This could be Classified as Agricultural, Residential, Commercial, Industrial and can be changed to be project specific</p> <ul style="list-style-type: none"> <li>• Verification of land size and use will be required as part of resettlement planning</li> <li>• In the case of land loss, if land is not available cash compensation should be based on replacement cost including transaction costs. This should be set by the appropriate agency, within the same year that compensation will be paid</li> <li>• Compensation must be fully paid prior to impact</li> <li>• All entitlements will be subject to a gap analysis of local laws and ADB SPS (2009) requirements. In the event of gaps, the higher standard will apply (Appendix 9).</li> </ul>				
4	Structures (Residential, commercial, industrial or institutional)	Partial loss of structure and the remaining structure viable for continued use.	a) Legal owner of the affected structure with valid title or customary rights.	AHs will be entitled to the following: <ul style="list-style-type: none"> <li>- Cash compensation for affected part of the structure at replacement value; and</li> <li>- Allowance to cover repair cost of the remaining structure.</li> <li>-</li> </ul>
			b) Owner of affected structure without title (squatter / encroacher)	AHs will be entitled to the following: <ul style="list-style-type: none"> <li>- Cash compensation for affected part of the structure at replacement value; and</li> <li>- Allowance to cover repair of the remaining structure.</li> <li>- OR Contractor to restore to pre-project conditions</li> <li>-</li> </ul>
		Entire loss of structures or where only partial impact, but the remaining structure is rendered unviable for continued use, and sufficient land for reorganization.	a) Legal owner of the affected structure with valid title or customary rights	AHs will be entitled to the following: <ul style="list-style-type: none"> <li>- Structure of equivalent standard in an acceptable location or</li> <li>- Cash compensation for entire structure at replacement value.</li> </ul>
			b) Owner of affected structure without title (squatter / encroacher)	AHs will be entitled to the following: <ul style="list-style-type: none"> <li>- Cash compensation for entire structure at replacement value.</li> </ul>
			c) Tenant / leaseholder in the partially affected structure	AHs, if displaced, will be entitled to the following: <ul style="list-style-type: none"> <li>- Transitional allowance until equivalent new lease opportunity located.</li> </ul>
		<p><b>Implementation Considerations:</b></p> <ul style="list-style-type: none"> <li>• At least thirty (30) days' notice is issued prior to the date of eviction or demolition. APs may be allowed to self-demolish their structures where safe to do so to enable</li> </ul>		

No	TYPE OF LOSS	APPLICATION	DEFINITION OF ENTITLED PERSON	ENTITLEMENT POLICY
them to preserve materials that still have salvage value.				
5	Loss of trade / livelihood / occupation	Agricultural / industrial / commercial or institutional wage employment impacts	Individuals	AHs will be entitled to the following: <ul style="list-style-type: none"> <li>- Employment in reconstructed enterprise or package for re-employment or starting a business and transition allowance equivalent to one year's wages in case of permanent closure.</li> <li>- In case of temporary closure, compensation will be wages equivalent to closure period.</li> <li>-</li> </ul>
6	Loss of access to common resources and facilities	Loss of access to rural common property resources and urban civic amenities	Communities / Households	AHs will be entitled to the following: <ul style="list-style-type: none"> <li>- Replacement of common property resources / amenities.</li> <li>- Access to equivalent amenities / services.</li> <li>-</li> </ul>
7	Loss of standing crops	Standing Crops located in the corridor of impact	Household who cultivates the land.	AHs will be entitled to cash compensation equivalent to market value of damaged crops as verified by Ministry of Agriculture  AHs will be entitled to \$1 USD per m2 of affected land as compensation for lost future production  Any HH (severely impacted) with more than 10% of their income lost due to impacted production will be entitled to livelihood restoration training to be determined based on HH interest
8	Loss of trees and productive plants including NTFPs, firewood herbs and forage foods	Affected Trees and Plants	Owners of the affected trees irrespective of land tenure status.  Includes women who may gather items from public ./ unused land for sale or consumption	AHs will be entitled to cash compensation equivalent to market value on the basis of type, age & productive value.  Alternative sources should be explored and discussed during community consultations
9	Loss of public infrastructure	Infrastructure (electric water supply,	Relevant agencies.	Compensation in cash at replacement cost to respective agencies.

No	TYPE OF LOSS	APPLICATION	DEFINITION OF ENTITLED PERSON	ENTITLEMENT POLICY
		sewerage & telephone lines; public health center; public water tanks)		
10	Losses during transition of displaced persons / establishment	Affected Assets	Losses during <ul style="list-style-type: none"> <li>• Shifting / transport</li> <li>• Maintenance</li> <li>• Construction</li> </ul>	The AHs will be entitled to the following: <ul style="list-style-type: none"> <li>- Provision of transport or cash equivalent for transport arrangement</li> <li>- Cash payment for 3 months</li> <li>- Lumpsum cash payment for materials and labor or provision for materials</li> </ul>
11	Temporary Losses	Affected structures or other fixed assets	Affected HHs	In cash, on the basis of replacement cost of material and labor without deduction for depreciation or salvageable materials for the damages during the period of temporary possession.
		Business Disruption	Affected HHs	compensation at market value and for loss of net income x number of days of income lost.
		Severely affected structures	Affected HHs made to shift temporarily from their present location	Entitlement will be in terms of rent allowance to cover the cost of alternate accommodation for the period of temporary displacement.
		Loss of crops and trees	Affected HHs	compensation at market value and for loss of net income from subsequent crops that cannot be planted for the duration of temporary possession
		Temporary acquisition	Affected HHs	No compensation for land if returned to the original user, but a monthly rent as per market value will be paid to PAPs. PAPs will be compensated immediately and damaged assets will be restored to its former condition.
12		Long term disruption	Affected HHs	If the disruption continues for more than one year, PAPs will have an option to: <ul style="list-style-type: none"> <li>- continue the temporary use arrangements, or</li> <li>- opt for permanent acquisition at replacement value and any other rehabilitation</li> </ul>

No	TYPE OF LOSS	APPLICATION	DEFINITION OF ENTITLED PERSON	ENTITLEMENT POLICY
				entitlements provided to other permanently affected PAPs under the same project.
<p><b>Implementation Considerations:</b> In the event of temporary disruption to access (Pipe laying with restoration of access within 3 days for example) This can be managed with effective communication and measures to mitigate this should be set out in the UREGDP</p> <ul style="list-style-type: none"> <li>▪ Contractors will be responsible for the arrangement and payment of land rent, restoration of land and compensation for non-land assets and lost income.</li> <li>▪ Temporary impacts due to construction will be monitored and reported as part of monitoring of the Environment Management Plan.</li> </ul>				
13		Support to Vulnerable HHs	Vulnerable households, as per established criteria from ADB SPS (2009)	<p>All Vulnerable households will be provided the following:</p> <ul style="list-style-type: none"> <li>- Skills training and access to income restoration activities to reach minimum national poverty standards</li> <li>- Priority in any employment opportunities</li> </ul> <p>Vulnerable households classified as economically vulnerable (poor or below the poverty line) or single headed households that lack manpower (high dependency ratio) will receive an assistance allowance of 1 month x \$46.37 per person in AH.</p> <p>Vulnerable HHs that are also severely affected will receive 3 months x 46.37 per person in AH.</p>

#### A. Unit Costs of Affected Assets

96. The compensation unit rate covers the amount in cash or in-kind, including transactions costs and taxes, needed to replace an asset and is the value determined as compensation for:

- Agricultural land and fishponds based on market prices that reflect recent land sales prior to the commencement of the Project or displacement, and in the absence of such recent sales, based on productive value;
- Constuction or residential land based on market prices that reflect recent land sales prior to the commencement of the Project or displacement, and in the absence of such recent land sales, based on similar location attributes;
- Houses and other related structures based on current market prices of materials and labor without depreciation nor deductions for salvaged building materials;
- Annual crops equivalent to the highest production of crop over last three years multiplied by the current market value of crops;

- Perennial crops and trees based on current market value per the type, age, diameter at breast height and productive capacity; and
- Other assets (i.e., cultural, aesthetic) based on current market value for repairing and/or replacing assets or the cost of mitigating measures.

97. The rates used in this Updated REGDP are calculated from the government unit rates from 2022 and were verified by the Department of Agriculture and Building Department.

98. No physical and economic displacement will occur until compensation at full replacement cost and other entitlements due to APs are paid to them in accordance with this Updated REGDP.

## **VIII. MITIGATIVE MEASURES**

### **A. Compensation Arrangements**

99. Mitigation of the impacts will be through cash compensation, allowances for vulnerable households and monitoring to ensure return to pre-project conditions and affected households are brought to minimum national poverty standards.

100. The contractor will be responsible for any rental arrangements for storage of materials or for any other use of private land.

101. The subproject does not require relocation therefore no special relocation strategies are required.

102. Support for the vulnerable household will be provided in the form of cash assistance

### **B. Gender Arrangements**

103. The project has prepared a GAP to cover all three project sites. Households headed by women are classified as a vulnerable group and will be entitled to additional cash assistance and priority for assistance.

104. All members of AP households regardless of ethnicity or gender are equally eligible to apply and, depending on their qualifications, be prioritized for employment by the contractor(s) for civil works for the Project. Women will be equally invited as unskilled workers during construction

105. Women will be invited for consultation meetings which will consider their availability and performance for income-generation activities related to their traditional gender roles. Women will have equal decision-making responsibility alongside men when giving their opinions and views concerning subproject design, and other project-related activities that will require their active involvement.

106. Women's participation during project implementation will be closely monitored through the design of the Project Performance Monitoring System (PPMS). All databases and monitoring indicators for land acquisition, compensation and resettlement activities will disaggregate data and other information by sex and ethnicity. Please see the project GAP for further details.

## **IX. RESETTLEMENT COSTS**

107. The following sections set out the compensation and assistance the project will provide the AHs/APs for their losses.



**A. Source of Funds for Resettlement**

108. The government will be responsible for providing the budget for land acquisition, allowances and compensation costs.

**B. Implementation, Administration and Contingency Costs**

109. Remain as in the original REGDP.

**C. Estimated Cost of Resettlement**

110. The estimated total cost of resettlement for the subproject, including a 10% contingency, is calculated at **\$8,424.90 USD**.

**Table 15 – Resettlement Budget**

Resettlement Budget Items		Los Palos
<b>1</b>	<b>Detailed Measurement Survey (DMS), Assisted by the Land &amp; Property Department, National Building Department and the Ministry of Agriculture &amp; Fisheries</b>	
A	Affected Households	<b>6</b>
B	Affected Land (Used)	2 (2,473m2)
C	Affected Structure (Fence)	2 (135m )
D	Affected Trees & Crops	124
<b>2</b>	<b>Replacement Cost Estimation (Government)</b>	
A	Land cost (Natl. Land & Property Dept)	\$ 0
B	Structure cost (Natl. Building Department)	\$ 270.00
C	Trees, Plants & Crops cost (MoAF)	\$ 2,443.00
<b>4</b>	<b>Income loss (IR requirements)</b>	
A	Income loss of productive land (2 years)	\$ 4,946.00
	<b>Sub Total</b>	\$ 7,659.00
<b>5</b>	<b>Contingency 10%</b>	\$ 765.90
<b>Total Budget</b>		<b>\$ 8,424.90</b>

**X. SCHEDULE OF UPDATED REGDP PREPARATION AND IMPLEMENTATION**

**Table 16 - Schedule of UREGDP Implementation**

Activities	Schedule
Verification of DMS from relevant government departments	September 2023
SESAH verification	September 2023
Submission by PMU of the updated REGDP to ADB	November 2023
ADB concurrence to Updated REGDP	November 2023
Posting of the draft Updated REGDP in relevant government offices and on the ADB website	November 2023
Individual AH meetings to disclose project impacts, entitlements, and develop compensation agreements	November 2023

Payment of compensation and allowances	March 2024
ADB to issue letter of no objection once compensation complete.	April 2024
Start of civil works	Q3 of 2024
Start of internal monitoring (with quarterly progress reports)	Q3 of 2024

## XI. INSTITUTIONAL ARRANGEMENTS

111. This remains as the original REGDP. Full details are contained in the PAM.

## XII. MONITORING AND EVALUATION

### A. Internal Monitoring

112. The PMU will provide an update on social safeguards (resettlement and indigenous peoples/ethnic groups) compliance in the quarterly progress reports. PMU will submit the semi-annual social safeguards monitoring reports every six month of each year. The report will include information on key monitoring indicators, and include and assessment against (i) compliance with the projects Updated REGDPs. (ii) the availability of personnel, material, and financial resources; and (iii) identification of any problem and the need for remedial actions to correct any problems that arise.

113. Semi-annual social safeguards monitoring reports for January-June will be submitted to ADB latest 15 July, and for July-December on 15 January of the following year.

114. Internal monitoring and evaluation will assess the implementation of the updated REGDP according to the following criteria:

- Assessing if mitigation measures and compensation are sufficient.
- Identifying methods of responding expeditiously to mitigate problems.
- Smooth transition between LAC activities and civil works.
- The grievance redress mechanism is functioning.
- Safeguard contractual obligations of the civil works contractor are complied with.
- Provisions of the loan covenant are met.

### B. References

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RMIT University (2010) , *Nation-building across the Urban and Rural in Timor-Leste CONFERENCE REPORT*

*Development Alternatives in Timor-Leste Recasting Modes of Local Engagement* Sam Carroll-Bell\*  
Research Coordinator, Centre for Global Research, rmit University, Melbourne, Australia

*Ambivalent 'Indigeneities' in an Independent Timor-Leste: between the customary and national governance of resources* Lisa Palmer and Andrew McWilliam University of Melbourne and Western Sydney University

**Appendix 1- Photographs of Key Locations**



**Plate 1- Location of one Northwest boreholes**



**Plate 2- Locations of South Bore field**



**Plate 3- Locations of WTP (Existing facility)**



**Plate 4- Location of Northwest Tank – Customary Land**



**Plate 5- Location of Papapa Tank – State Land**



**Plate 6- Location of South Tank and Pump station**



**Plate 7- Location of the FSTP**



Plate 8- Location of a Public Toilet in a Market Place in Lospalos



Plate 9- Location of a Public Toilet inside the perimeter of the Cultural Center



Plate 10- Location of a Public Toilet in the future site government offices in Lospalos



Plate 11- Location of a Public Toilet - Health Center in Suco Home



**Plate 12 -Public Consultation in Suco Fuiluro**



**Plate 13- Public Consultation in Suco Home**



Plate 14- Transect walk photo documentation



## Appendix 2- Notice of Cut-Off Date

Classification: INTERNAL



República Democrática  
de Timor-Leste



Ministério das Obras Públicas

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Ref: 357...../C50605/DGAS/XII/2020 Date: 4 December 2020

**To: Mr. José Vilanova Pires**  
**Director of SMASA Lautém**  
**Lospalos**

**CUT-OFF NOTICE**

In relation to the

**Water Supply and Sanitation Investment Project in Same**

**CUT-OFF DATE FOR PROPOSED PROJECT : 4 DECEMBER, 2020**

This notice is to inform the intention to develop a water supply and sanitation project in this area. This will be a joint project between Directorate General for Water and Sanitation (DGAS) and the Asian Development Bank (ADB).

While the design is not yet finalized, surveys are ongoing and in this phase of the project small parcels of land have been identified that **may** be required for the project. Although this is not final at this time, DGAS has issued this formal notice on this day 4 December, 2020.

Pursuant to the policies required by the ADB, the status of affected properties, inclusive of all structures (private and public/ physical and economic), crops and trees **on or before the cut-off date**, is to be inventoried and documented in accordance with national guidelines for proper compensation. All improvements or enhancements made after the cut-off date are not eligible for compensation.

Further consultations, information regarding compensation and project benefits will be disclosed during public consultations once project design is complete.

Signed by :   
**Gustavo da Cruz**  
Director General

This information is accessible to ADB Management and staff, as described in AO 4.17. It may not be shared with external parties without the permission of the information asset originator.

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**DIREÇÃO GERAL DE ÁGUA E SANEAMENTO(DGAS)**  
**Gabinete do Director Geral**  
Avenida 20 de Maio – Caicoli, Dili  
Caixa Postal No. 194, Telp. 3311539

**Appendix 3 - TL laws & ADB's SPS (2009) Gap Analysis**

Issues	ADB's SPS (2009)	Timor-Leste Laws on Land Acquisition and Resettlement	Gaps between ADB's SPS (2009) and Timor-Leste Laws	Gap Filling Measures
<b>Objective</b>	Avoid involuntary land acquisition resettlement wherever possible. Minimize involuntary resettlement by exploring protect and design alternatives.	There is no explicit reference to the need for avoidance or minimizing of resettlement impacts.	Timor-Leste Laws do not have the provision of avoiding or minimizing the involuntary resettlement impacts	The Resettlement Plan includes measures to avoid or minimize land acquisition and resettlement impacts of the Project.
<b>Project screening</b>	Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.	<ul style="list-style-type: none"> <li>• Articles 19 and 21 of Expropriation Law call for conducting a cadastral survey, social impact assessment and resettlement plan where land being expropriated involves residential households.</li> <li>• The Expropriation Law includes provisions for public consultation, which provides for early screening of the project, as well as public hearings which include publicizing the proposed public hearings in the media.</li> </ul>	There are no specific requirements for a census or cut-off date for entitlements under the Timor-Leste Laws.	The Project impacts will be identified based on early screening, survey/census, cut-off date, and assessment of impacts.
<b>Consultation</b>	Carry out meaningful consultations with APs, host communities, and concerned NGOs. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and	The Expropriation Law includes provisions of the public hearing, including requirements for publicity about the proposed public hearings in the Official Journal and in the media. A report of the consultation is to be made, including a	<p>Consultations are only required at the planning stage.</p> <p>There are no specific provisions on preparing and implementing resettlement plans based on meaningful consultations with DPs, including the poor,</p>	Consultations are conducted on an ongoing basis with stakeholders including DPs. Development of mitigation measures will take into consideration the needs and views of stakeholders and those affected.

Issues	ADB's SPS (2009)	Timor-Leste Laws on Land Acquisition and Resettlement	Gaps between ADB's SPS (2009) and Timor-Leste Laws	Gap Filling Measures
	<p>monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations.</p>	<p>description of the public hearings. The Expropriation Law provides for information to be provided to DPs before expropriation occurs. Once the report on the public consultation results is published, a social impact study and property survey of DPs is carried out.</p>	<p>landless, elderly, women and other vulnerable groups and no requirements of public consultation and public engagement during implementation under the Timor-Leste Laws.</p>	
<p><b>DPs without titles to land or any recognizable legal rights to land</b></p>	<p>Ensure that DPs without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.</p>	<p>Decree No. 06/2011 on compensation for resettlement authorizes the payments of compensation to unlawful occupants of state property to resettle elsewhere.</p>	<p>According to the Timor-Leste Laws, payment of compensation to unlawful occupants of state property is not mandatory.</p>	<p>DPs without legal or recognizable legal claims to land acquired, will be equally entitled to participate in consultations and benefit schemes and be compensated for their affected non-land assets such as dwellings and structures. However, the eligibility of the DPs without titles to land will be defined by a cut-off date. Any informal settlers who encroach on the project area after the declaration of the cut-off date are not eligible for any compensation.</p>
<p><b>Compensation at full replacement cost</b></p>	<p>The calculation of full replacement cost will be based on the following: elements: (i) fair market value; (ii) transaction</p>	<p>The Expropriation Law stipulates requisitioning and expropriation of property for public purposes shall only take</p>	<p>There is no explicit guidance provided on how to determine fair compensation and/or replacement costs and no</p>	<p>An independent and qualified replacement cost appraiser will be engaged by the PMU to assist the NDLPSC in</p>

Issues	ADB's SPS (2009)	Timor-Leste Laws on Land Acquisition and Resettlement	Gaps between ADB's SPS (2009) and Timor-Leste Laws	Gap Filling Measures
	costs; (iii) interest accrued, (iv) transitional and restoration costs; and (v) other applicable payments, if any. Depreciation of structures and assets should not be taken into account	place following fair compensation in accordance with the law. The Expropriation Law requires that land expropriation should follow principles of justice and equality on account of ensuring that expropriation must ensure that the standard of living of DPs is equal to or higher than the one prior to compensation. The Expropriation Law is also required to guarantee fair compensation based on market value. The NDLPSC has the mandate and responsibility to assess the value of land and related assets.	requirement for third party validation to appraise the replacement cost of affected land and other assets.	appraising the replacement cost of affected land and other assets.
<b>Compensation for loss of income</b>	The loss of income or livelihood sources will be compensated promptly at full replacement cost.	Legal provisions are deficient to recognize entitlements for loss of incomes and means of livelihood due to land acquisition	There is no specific provision on entitlements for loss of income and livelihoods under the Timor-Leste Laws.	Households whose income or livelihood sources will be affected by the Project are entitled to compensation for income loss. Affected business regardless of status of business registration will be compensated for the lost net income from the affected business.
<b>Assistance for physically displaced households</b>	In the case of physically displaced persons, the borrower/client will provide (i) relocation assistance, secured	The Expropriation Law allows compensation for lost assets.	Timor-Leste Laws do not provide for any specific assistance including transitional support and development	All displaced persons will be entitled to relocation assistance such as transportation assistance, transitional

Issues	ADB's SPS (2009)	Timor-Leste Laws on Land Acquisition and Resettlement	Gaps between ADB's SPS (2009) and Timor-Leste Laws	Gap Filling Measures
	tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, and civic infrastructure and community services as required; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) opportunities to derive appropriate development benefits from the project.		assistance to DPs other than offering compensation for lost assets.	assistance and other resettlement measures as necessary and eligible to participate in the Income Restoration Program of the Project.
<b>Assistance for Vulnerable People</b>	Improve the standard of living of displaced persons and other vulnerable groups, including women, to at least national minimum standards, and assist them with legal affordable land, adequate housing, and appropriate income sources.	Article 10 of the Expropriation Law obliges the government to take the necessary measures to ensure the adequate information, consultation and participation of vulnerable groups, and promote the right to equality and non-discrimination, but without elaboration on what measures required to reach these outcomes.	Timor-Leste laws do not prescribe specific measures for improvement of living standards to national minimum standards, nor for restoration of livelihoods, or access to income generating sources, and there are no specific measures to be taken for vulnerable people.	Vulnerable affected households are eligible to participate in the Income Restoration Program of the Project.
<b>Income Restoration Program</b>	Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land		The Timor-Leste Laws do not elaborate the option and implementation of assistance and livelihood restoration for the affected households.	Severely affected households who lose 10% or more of total productive land and assets and/or have to relocate and vulnerable affected households

Issues	ADB's SPS (2009)	Timor-Leste Laws on Land Acquisition and Resettlement	Gaps between ADB's SPS (2009) and Timor-Leste Laws	Gap Filling Measures
	based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.			are eligible to participate in the Income Restoration Program of the Project.
<b>Compensation payment</b>	All compensation and resettlement entitlements must be provided before any displacement or commencement of works.	Article 41 of the Expropriation Law requires that (i) takeover of expropriated land cannot occur until: a) public notice of expropriation has occurred; b) list of assets has been drawn up; c) resettlement plan has been implemented; d) replacement land as agreed by DPs has been provided free of charge; e) Fair compensation to DPs has been deposited with a banking institution; (ii) DPs are granted a reasonable period of time to vacate expropriated property, not to exceed ninety days.	There is no specific mention of works in the Expropriation Law but possession of expropriated land by the Government not permitted until Resettlement Plan and other fair compensation have been implemented.	Civil works contracts will not be awarded for a specific component or geographic area until (i) compensation and assistance have been paid in full to the affected households and communities; (ii) relocation has been completed and the Income Restoration Program for the severely affected households and vulnerable affected households is in-place; and (iii) the area is free from any encumbrances.
<b>Grievance</b>	Establish a GRM to receive and	The Expropriation Law	Under the Timor-Leste Laws,	A project level GRM will be

Issues	ADB's SPS (2009)	Timor-Leste Laws on Land Acquisition and Resettlement	Gaps between ADB's SPS (2009) and Timor-Leste Laws	Gap Filling Measures
<b>redress mechanism (GRM)</b>	facilitate resolution of the DPs' concerns and grievances regarding the project's environmental performance.	suggests disputes over expropriation process to be handled through normal administrative and court processes.	there is no specific requirement of a project-level GRM to be established, including roles and responsibilities and documentation of grievances.	established in consultation with the affected households and communities to resolve complaints regarding land acquisition, compensation, assistance and resettlement of the Project.
<b>Monitoring</b>	Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.	As regulated by the Laws, NDLPSC and project proponents have the responsibility to monitor land expropriation processes.	There is no provision on external monitoring of resettlement implementation and post-implementation evaluation to assess whether the objectives of the Resettlement Plan have been achieved under Timor-Leste Laws.	The PMU will undertake internal monitoring on land acquisition and resettlement.  Monitoring reports will be shared with relevant stakeholders and uploaded on the ADB and EDTL's websites for disclosure.
<b>Resettlement Plan Preparation</b>	Prepare a Resettlement Plan elaborating on displaced persons entitlements, income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget and time-bound implementation plan.	Article 21 of the Expropriation Law calls for a social impact study and resettlement plan to be developed to mitigate adverse effects and to compensate for the losses due to expropriation, based on social impact assessment and consultations with DPs. Resettlement plan is to include: (i) different alternatives to housing for stakeholders to choose from; (ii) mechanisms for restoration of income and	There are no specific details of how requirements of the plan are to be developed and carried out, including institutional arrangements or time-bound implementation plans under Timor-Leste Laws.	A Resettlement Plan will be prepared if there is land acquisition and resettlement by the Project covering displaced persons entitlements, income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget and time-bound implementation plan.

Issues	ADB's SPS (2009)	Timor-Leste Laws on Land Acquisition and Resettlement	Gaps between ADB's SPS (2009) and Timor-Leste Laws	Gap Filling Measures
		lost livelihoods; (iii) timetable for plan's implementation; (iv) estimation of costs of implementing different alternatives; (v) supervision mechanisms for implementation of the relocation plan.		
<b>Disclosure of Resettlement Plan</b>	The draft Resettlement Plan, including documentation of the consultation process, must be disclosed in a timely manner before project appraisal (in an accessible place, and a form and language understandable to DPs and other stakeholders.) The final Resettlement Plan must also be disclosed.	The Expropriation Law requires prior public notice of consultation phase including availability of project documents. Consultations are held in "simple and adequate" language, and minutes taken of stakeholder questions and comments, and publication of public consultation report following consultation.	There are no specific government requirements on how and where disclosures of public consultation reports and/or resettlement reports are to be made.	Requirements on information disclosure will be specified in the Resettlement Plan. Before submitting to the ADB and after acceptance of ADB on the Resettlement Plan, the document in the Timor Leste language will be posted in accessible public areas and sent to the relevant agencies and community leaders. A summary of the final Resettlement Plan will be provided to the community leaders. The final Resettlement Plan will also be uploaded to the websites of ADB



**Appendix 4 - List of the affected households with the compensation breakdown**

Tag number	Name of AHH head	Structure Cost	Trees, Plants & Crops Cost	Physical Replacement Cost	Production yield loss (2 Years)	Non-physical Replacement Cost	Total Replacement Cost
L1	Francisco da Costa						
L2	Ventura da Costa / Luciana da Costa						
L3	Venancio D. X.				\$ -	\$ -	
L4	Horacio Monteiro				\$ -	\$ -	
L5	Angelo Trindade				\$ -	\$ -	
		<b>\$ 270.00</b>	<b>\$ 2,443.00</b>	<b>\$ 2,713.00</b>	<b>\$ 4,946.00</b>	<b>\$ 4,946.00</b>	<b>\$ 7,659.00</b>