

DEPARTMENT OF RURAL ROADS, MINISTRY OF TRANSPORT

Thailand Resilient Transport Connectivity and Irrawaddy Dolphin Conservation Project
(P509460)

RESETTLEMENT POLICY FRAMEWORK

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Abbreviations and Acronyms

DRR	Department of Rural Roads
FY	Fiscal year
EIA	Environmental Impact Assessment
EHSg	Environmental health and safety guidelines
ESF	Environmental and Social Framework
ESS	Environmental and Social Standard
GN	Guidance notes
GRM	Grievance Redress Mechanism
IBRD	International Bank for Reconstruction and Development
MNRE	Ministry of Natural Resources and Environment
MOF	Ministry of Finance
MOT	Ministry of Transport
PAO	Provincial Administrative Organization
PDMO	Public Debt Management Office
PDO	Project development objective
PMU	Project management unit
PIU	Project implementation unit
ROW	Right-of-Way
RPF	Resettlement Planning Framework
USD	United States Dollar
WB	World Bank

Definitions of Terms

Term	Definition
Forced eviction	The permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or land which they occupy without the provision of, and access to, appropriate forms of legal and other protection, including all applicable procedures and principles in ESS5. The exercise of eminent domain, compulsory acquisition or similar powers by a Borrower will not be considered to be forced eviction providing it complies with the requirements of national law and the provisions of ESS5, and is conducted in a manner consistent with basic principles of due process (including provision of adequate advance notice, meaningful opportunities to lodge grievances and appeals, and avoidance of the use of unnecessary, disproportionate or excessive force).
Involuntary resettlement	Project-related land acquisition or restrictions on land use may cause physical displacement (relocation, loss of residential land or loss of shelter), economic displacement (loss of land, assets, or access to assets, including those that lead to loss of income sources or other means of livelihood), or both. The term “involuntary resettlement” refers to these impacts. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in displacement.
Land acquisition	Refers to all methods of obtaining land for project purposes, which may include outright purchase, expropriation of property and acquisition of access rights, such as easements or rights of way. Land acquisition may also include: (a) acquisition of unoccupied or unutilized land whether the landholder relies upon such land for income or livelihood purposes; (b) repossession of public land that is used or occupied by individuals or households; and (c) project impacts that result in land being submerged or otherwise rendered unusable or inaccessible. “Land” includes anything growing on or permanently affixed to land, such as crops, buildings and other improvements, and appurtenant water bodies.
Replacement cost	Method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive assets, or the undepreciated value of replacement material and labor for construction of structures or other fixed assets, plus transaction costs.
Restrictions on land use	Refers to limitations or prohibitions on the use of agricultural, residential, commercial, or other land that are directly introduced
Security of tenure	Means that resettled individuals or communities are resettled to a site that they can legally occupy, where they are protected from the risk of eviction and where the tenure rights provided to them are socially and culturally appropriate. In no event will resettled persons be provided tenure rights that are in effect weaker than the rights they had to the land or assets from which they have been displaced.
<i>uthit</i>	The gesture or act of giving something for a specific purpose, often used when making merit for the benefit of another person, or for the benefit of the community or the broader society (In the context of land donation).

Executive Summary

This Resettlement Policy Framework (RPF) is prepared for the Thailand Resilient Transport Connectivity And Irrawaddy Dolphin Conservation Project (the Project) of the Kingdom of Thailand, by the Department of Rural Roads (DRR), its Implementing Agency. This RPF governs all potential land acquisition/land use issues of Component 1, the construction of the bridges at Lanta and Songkhla Lake.

As a safeguard instrument, the RPF provides precautionary measures in the event the Project requires additional land acquisition, leads to unanticipated temporary or permanent restrictions of any person's use of lands, or requires the subsequent involuntary resettlement of any persons, beyond what has been determined and acquired under the Project's current alignment and design. As of September 2023, all private lands required under the current alignment of the bridges and associated roadworks have already been acquired. Meanwhile compliance to ESS5 of the acquisition of those lands are the subject of a separate Land Process Review. In the future, the Project is expected to require only a few small plots of privately owned land.

Land acquisition in the country is governed by national laws led by the 2017 Constitution, the 1954 Land Code, various laws covering involuntary and voluntary acquisition, land donation, the Thai Civil and Commercial Code, and the 1992 Highways Act. Gap analysis with ESS5 shows four major gaps; namely, the rigorous nature of the Thai process in land acquisition and expropriation; the non-recognition of the rights of those without legal claims; the non-viability of willing seller-willing buyer method involving the government agency's acquisition of land; and absence of a mechanism to compensate informal occupants of the land. With these policy gaps, the RPF recommends the acquisition of small private lands through land donations in a manner that abides by the voluntary land donation criteria under ESS5. Donors may also purchase land for donation to the Project in a manner that similar meets ESS5 requirements. Private lands that cannot be acquired in line with ESS5 will be avoided.

The proposed eligibility criteria cover lands affected by changes in the bridge alignment, those occupying the right-of-way at the time of the cut-off date set by the project, and those legal owners of lands affected by project activities requiring land such as workers' camps, storage, or dumpsites. The entitlement matrix will be applied on four types of losses associated with the project: permanent loss of privately owned land and immovable assets therein, temporary loss or use of access to privately owned lands, loss of productive land within the ROW, loss of shops legally leased and loss of shops within the ROW.

DRR has the responsibility to implement the RPF and its associated community relations plan and Grievance Redress Mechanism (GRM) to mitigate and minimize the environmental and social impacts caused by the Project. DRR is supported by its Project Management Unit (PMU), which facilitates coordination and execution of Project activities.

1 INTRODUCTION

1.1 Description of Project

1. This document, Resettlement Policy Framework (RPF), has been prepared within the framework of the Thailand Resilient Transport Connectivity and Irrawaddy Dolphin Conservation Project, of the Kingdom of Thailand, with the Department of Rural Roads (DRR) as its Implementing Agency.
2. The project will support the construction of two bridges: the 2.2-km Lanta Island bridge in Koh Lanta, Krabi province and the 7km-Songkhla Lake bridge connecting Songkhla and Phatthalung provinces. The project development objective (PDO) is to improve resilient transport connectivity to Lanta Island and across Songkhla Lake. The project consists of three major components.
 - a. Component 1: Lanta Island and Songkhla Bridge Construction. The 2.2km-Lanta Island bridge project connects the mainland of Krabi with Koh Lanta, an island of 35,000 people in 2022, whose only source of transportation to the mainland is by ferry. The project is expected to directly reduce travel time, expand transport services, and provide regular and reliable access to trade essential services in Krabi mainland. The 7-km Songkhla Lake bridge project, traversing the largest lake in Thailand, will directly reduce the travel time and transport costs for about 308,000 people living in the districts connected by the bridge in Songkhla and Phatthalung. Transport connectivity for both projects is deemed to enhance resilience as the proposed bridges will serve as emergency evacuation routes in the event of natural calamities and disasters. Development in the three provinces will be spurred by expected growth in tourism, agricultural production, and trade.
 - b. Component 2: Strengthening Environmental and Social Sustainability of Resilient Transport Infrastructure. One sub-component is the support for critical biodiversity management focusing on Irrawaddy dolphin conservation management and ecosystem management of Songkhla Lake. The other sub-component is capacity building in the application of the World Bank's Environmental and Social Framework (ESF) in transport infrastructure development. Key offices in the Central Government and line agencies will be involved, consisting of the Ministry of Finance (MOF), National Economic and Social Development Council (NESDC), Public Debt Management Office (PDMO), Ministry of Transport (MOT) and Ministry of Natural Resources and Environment (MNRE).
 - c. Component 3: Institutional Development and Project Management. The component will involve the DRR, providing implementation support and technical assistance in the aspects of project management, road safety assessment and awareness-raising, construction supervision, procurement, financial management and audit, environmental and social oversight, monitoring and evaluation (M&E), training, and communications.
3. The total cost of the two bridges is estimated at THB 6,678.75 million (approximately USD 195 million). The Thai Government is financing 70 percent of the project cost through

a proposed IBRD loan of USD 136.5 million. The remaining 30 percent of USD 58.5 million will be financed with the country's FY 2023 budget.

1.2 Purpose of Resettlement Policy Framework

4. This RPF is being prepared by the DRR to describe measures to be taken if the project requires any land acquisition, leads to any temporary or permanent restrictions of any person's use of lands, or requires the involuntary resettlement of any persons.
5. Although nearly all the land to be used for the project is State land, a few plots being acquired are private lands. Furthermore, in the event the alignment or design of either bridge is altered, additional lands may need to be acquired. Although workers' camps, storage sites, and other facilities required during construction have been proposed to be placed on state lands, any changes in their location or need for additional sites may require temporary use of private lands. This RPF provides guidelines for any such contingencies.
6. Civil works on the mainland side of the Lanta Bridge will require the removal of nine (9) shops, four (4) who rent shophouses from the Provincial Administrative Organization (PAO) and five (5) located within the right of way (ROW) of the road that will be used for the bridge. The RPF provides guidelines to help mitigate the impacts to these shophouses, as well as to any other persons whose lives and/or livelihoods will be affected, permanently or temporarily, by the loss of land or loss of access to lands due to this project.
7. The following Section describes the Thai legal framework for land acquisition and involuntary resettlement, and the World Bank Environmental and Social Standard 5 (ESS5) on Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement, followed by a gap analysis of the two.

2 LEGAL FRAMEWORK

2.1 National Laws

2.1.1 2017 Constitution

8. Section 37 of the 2017 Constitution of the Kingdom of Thailand grants citizens the right to property and succession, with specific conditions stipulated under which the expropriation of immovable property is allowed. It requires passage of a specific expropriation act to “specify the purpose of the expropriation and expressly prescribe a period of time for use of the immovable property.”
9. The Expropriation and Acquisition of Immovable Property Act, B.E. 2562 (2019), described in Section 2.1.3.1, was subsequently passed to expand upon the conditions and processes for expropriation stipulated in the Constitution.

2.1.2 Act Promulgating the Land Code B.E. 2497 (1954): Recognized Forms of Land Ownership

10. Under the Thai Land Code, there are two types of land ownership: private land and state land. Section 2 states “The land the ownership of which is not vested in any person shall be deemed to be the property of the State.”¹
11. Private lands can be held under title deeds or various certificates of utilization. (Definitions under Section 1). The various certificates were set forth in Ministerial Regulations detailing processes and procedures to implement the Land Code. These are a full title deed (Nor. Sor. 4), land ownership certificates (Nor.Sor.3, Nor.Sor.3Gor. and Nor.Sor.3Khor) which confirm possession but not yet delineated with a cadastral survey, usufruct certificate (Nor.Sor.2) issued by the Land Department, and a document (Sor.Khor.1) formerly issued by local offices of the Land Department that indicate land use but do not confirm ownership. Only the full title deeds and land ownership certificates are considered legal demonstrations of ownership.
12. Although several other government agencies such as the Agricultural Land Reform Office, the Forest Department, and the Department of Public Welfare provide usufruct certificates for land, legal ownership of those lands continues to reside in the state agencies that issue those certificates.
13. Thai law does not recognize community ownership of lands, nor is there legal recognition of customary tenure. Since 2010, community land deeds can be issued by the Land Department to recognize the right of communities and people to participate in the maintenance and use of state land as well as participate in the preservation of natural resources and the environment.² However, those lands remain the property of the State.

¹ 60 pī pramūan kotmāi thīdin (60 Years of the Land Code), Department of Lands, Ministry of Interior, 2015. <http://www.oic.go.th/FILEWEB/CABINFOCENTER10/DRAWER033/GENERAL/DATA0000/00000449.PDF>

² <https://data.thailand.opendevlopmentmekong.net/en/dataset/regulations-of-the-office-of-the-prime-minister-on-the-issuance-of-community-title-deeds-b-e-2553-2>

2.1.3 Acquisition of Lands

2.1.3.1 *Involuntary Acquisition: Expropriation and Acquisition of Immovable Property Act, B.E. 2562 (2019)*

14. The conditions under which involuntary acquisition of private lands is permitted and the process required for such acquisition is detailed in the Expropriation and Acquisition of Immovable Property Act, B.E. 2562 (2019).

15. Immovable property is defined as “land, a building, a structure, a perennial plant or any other thing which is permanently fixed to the land or forms the body of such land,” with the “owner” defined as “a lawful owner or possessor of immovable property.” (definitions from Section 4 of the Act).

16. A Royal Decree is enacted to enable a survey of the lands to be expropriated. Among other required information, it must provide the purposes of the expropriation, a map of the land to be expropriated, the estimated boundary of that area, and the agency (official) requiring the land. However, if all the details of the land or immovable property to be expropriated are available, including names of the owners, with a map clearly indicating the boundary of the land to be expropriated, the Royal Decree may not be necessary. The specific Act to expropriate the immovable property be enacted. At this stage, the Bureau of the Budget sets aside funds to be used for compensation. (Section 8)

17. The Royal Decree is to be posted at several designated places convenient to the potential affected parties (Section 11), and a public consultation held prior to the survey to inform affected parties and hear their views. (Section 14) If cadastral surveys are required, adequate notice is given to the landowners before the survey. (Section 15)

18. A committee is appointed to determine preliminary prices and compensation, to consist of representatives of relevant agencies, including Treasury Department, and the Department of Lands, along with heads of the district offices and local administrators of the affected areas. (Section 19)

19. The preliminary prices are set according to (1) the normal market price on the day of the Royal Decree, (2) the assessed price of land fixed for land and building taxes, (3) the assessed value for collection of fees under the Land Code, and (4) the condition and location of the land, and the purpose of the expropriation. (Section 20) These prices are disseminated in the same places where the Royal Decree was posted.

20. Owners can sell their land voluntarily to the expropriating “official”, at a rate 2% above the preliminary price. (Sections 25-27)

21. If any owners do not agree to voluntary sales, a specific Act is enacted to expropriate those lands and other immovable property. (Section 28). This Act includes information on the purpose of expropriation, duration of land use, expropriating official, details of the land and immovable property to be expropriated with a list of the names of the land owners, and a map clearly showing the boundary of the lands to be expropriated. (Section 29)

22. The Act for expropriation of immovable property is to be disseminated in the same manner as the Royal Decree.

23. If the expropriation leaves the owner with insufficient land for residence or for livelihood, the Official can expropriate additional land as compensation to the owner in full or in part in lieu of payment, given the consent of the owner. (Section 35) Compensation can be made either of the land alone or of the land along with any structures upon it, depending on the wishes of the owner. (Section 36)

24. Those considered eligible are the owners of the land, owners of buildings or other immovable property on the land, owners of perennial plants grown on the land, legal lessees or sub-lessees of the land or immovable property on the land, those deprived of the right to lay utilities through the land, and those residing in or engaging in lawful trade or business in the land or immovable property. (Section 40)

25. The law also includes an appeals process. (Sections 49-50)

2.1.3.2 Donations: Cabinet Resolution of 1 August B.E. 2550 (2007) on Guidelines in the Case of Government Officials Requesting People to Dedicate Land or in the Case of Entering into an Operation on Private Land for Mutual Use

26. Donations of private lands can be made under the Cabinet Resolution of 1 August B.E. 2550 (2007) on Guidelines in the Case of Government Officials Requesting People to Dedicate Land or in the Case of Entering into an Operation on Private Land for Mutual Use.³

27. Although translated as land “donation” in English, the Thai term *uthit* used in these guidelines has a more precise meaning of giving something for a specific purpose, often used when making merit for the benefit of another person, or for the benefit of the community or the broader society.

28. When such land donations are made, the person donating the land must be the legal owner or possessor of the property with no other encumbrances. Anyone else with rights to the land must also be informed. A record must be made of all structures and crops on the land, with a map of the location and dimensions of the land to be donated. The donor must agree to include all these immovable assets on the land as part of the donation.

29. The record providing this information is to be signed by the landowner, in the presence of a witness, along with a copy of any land deed or certificate. Four copies are to be made and signed: one for the office of the Official, one for the landowner, one for the state agency responsible for the land, and one for the local office of the Land Department.

30. If all documentation is in order and the land deeds or certificates or utilization certificates are legal and unencumbered, the transfer of the land can be made.

2.1.3.3 Voluntary Acquisition of Lands

31. In cases where only small amounts of private land are required by an agency, and the owner does not want to donate the land, it is possible for the agency to purchase the land without having to initiate the expropriation process described in Section 2.1.2 above.

32. However, this is rarely done because the regulation stipulates that the purchase price be set at the assessed value of the land, which is lower than the market value. Landowners would not be willing to sell at the lower rates.

³ The Secretariat of the Cabinet, (2007). Principles and Guidelines in the Case of Government Officials Requesting People to Dedicate Land to or in the Case of Entering into an Operation on Private Land for Mutual Use According to the Cabinet Resolution on August 1, 2007.
<http://www.oic.go.th/FILEWEB/CABINFOCENTER20/DRAWER010/GENERAL/DATA0000/00000210.PDF>

2.1.4 Legal Rights of Renters: Thai Civil and Commercial Code, Sections 537 to 571 on Specific Contracts, Title IV, Renting Property⁴

33. Thai national law covering rental agreements is the Thai Civil and Commercial Code, Sections 537 to 571, on Specific Contracts, Title IV, Renting Property.

34. It deals with general provisions, such as duration and conditions for subletting, and the requirements to register contracts; describes duties and liabilities of the person leasing out the property, including clauses describing reasons the renter) can terminate the contract; describes duties and liabilities of the renter, including responsibilities if the property is sublet; and finally describes various conditions for termination of a contract, including the period of notice for early termination.

2.1.5 Legal Standing of Assets Within the Right of Way: Highways Act B.E. 2535 (1992) and Highways Act (No. 2) 2549 (2006)⁵

35. The ROW to be used for the projects is considered property of the Department of Highways. The Department of Rural Roads will request use of those portions of the ROW required for the bridges.

36. Construction of buildings or other structures within a highway area is covered under Section 47 of the Act, which states that “No person shall construct buildings or any other thing within or intruding a highway area, unless permitted in writing by the highway director or the entrusted person.”

37. Section 37 mentions three concerns to any structures built in the ROW without permission:

As regards a way, road or any other thing constructed without permission, or the stipulated conditions of which were not complied with, the highway director or the entrusted person has the power to order the person to demolish or destroy the same within a reasonable period and, in the event of noncompliance, to demolish or destroy the same whereby the person cannot claim damages and must bear the cost therefor.

2.2 World Bank Environmental and Social Standard 5 (ESS5) on Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement

38. The objectives of the World Bank policy on land acquisition, restrictions on land use, and voluntary resettlement (ESS5) are:

- To avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring project design alternatives.

⁴ An English translation of these sections is available at <https://library.siam-legal.com/thai-law/civil-and-commercial-code-exchange-section-537-545/> ; <https://library.siam-legal.com/thai-law/civil-and-commercial-code-exchange-section-546-551/> ; <https://library.siam-legal.com/thai-law/civil-and-commercial-code-exchange-section-552-563/> ; and <https://library.siam-legal.com/thai-law/civil-and-commercial-code-exchange-section-564-571/>

⁵ An English translation of the amended law is available at http://web.krisdika.go.th/data/document/ext809/809930_0001.pdf

- To avoid forced eviction.
- To mitigate unavoidable adverse social and economic impacts from land acquisition or restrictions on land use by: (a) providing timely compensation for loss of assets at replacement cost and (b) assisting displaced persons in their efforts to improve, or at least restore, their livelihoods and living standards, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.
- To improve living conditions of poor or vulnerable persons who are physically displaced, through provision of adequate housing, access to services and facilities, and security of tenure.
- To conceive and execute resettlement activities as sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project, as the nature of the project may warrant; and
- To ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected.

39. Those eligible for support under ESS5 are persons:

- a) Who have formal legal rights to land or assets.
- b) Who do not have formal legal rights to land or assets, but have a claim to land or assets that is recognized or recognizable under national law; or
- c) Who have no recognizable legal right or claim to the land or assets they occupy or use.

40. According to ESS5, replacement cost is defined as a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive assets, or the undepreciated value of replacement material and labor for construction of structures or other fixed assets, plus transaction costs.

41. In all instances where physical displacement results in loss of shelter, replacement cost must at least be sufficient to enable purchase or construction of housing that meets acceptable minimum community standards of quality and safety. The valuation method for determining replacement cost should be documented and included in relevant resettlement planning documents. Transaction costs include administrative charges, registration or title fees, reasonable moving expenses, and any similar costs imposed on affected persons. To ensure compensation at replacement cost, planned compensation rates may require updating in project areas where inflation is high or the period between calculation of compensation rates and delivery of compensation is extensive.

42. The applicability of ESS5 is established during the environmental and social assessment stage. This ESS applies to permanent or temporary physical and economic displacement resulting from the following types of land acquisition or restrictions on land use undertaken or imposed in connection with project implementation:

- Land rights or land use rights acquired or restricted through expropriation or other compulsory procedures in accordance with national law.

- Land rights or land use rights acquired or restricted through negotiated settlements with property owners or those with legal rights to the land if failure to reach settlement would have resulted in expropriation or other compulsory procedures.
- Restrictions on land use and access to natural resources that cause a community or groups within a community to lose access to resource usage where they have traditional or customary tenure, or recognizable usage rights. This may include situations where legally designated protected areas, forests, biodiversity areas or buffer zones are established in connection with the project.
- Relocation of people without formal, traditional, or recognizable usage rights, who are occupying or utilizing land prior to a project specific cut-off date.
- Displacement of people because of project impacts that render their land unusable or inaccessible.
- Restriction on access to land or use of other resources including collective property and natural resources such as marine and aquatic resources, timber and non-timber forest products, fresh water, medicinal plants, hunting and gathering grounds and grazing and cropping areas.
- Land rights or claims to land, or resources relinquished by individuals or communities without full payment of compensation (such as donations); and
- Land acquisition or land use restrictions occurring prior to the project, but which were undertaken or initiated in anticipation of, or in preparation for, the project.

43. In case of land donations, ESS5 stipulates that such donations “may be acceptable providing the Borrower demonstrates that:

- a) The potential donor or donors have been appropriately informed and consulted about the project and the choices available to them.
- b) Potential donors are aware that refusal is an option and have confirmed in writing their willingness to proceed with the donation.
- c) The amount of land being donated is minor and will not reduce the donor’s remaining land area below that required to maintain the donor’s livelihood at current levels.
- d) No household relocation is involved.
- e) The donor is expected to benefit directly from the project; and
- f) For community or collective land, donation can only occur with the consent of individuals using or occupying the land.

Furthermore, “(t)he Borrower will maintain a transparent record of all consultations and agreements reached.”

44. It should be noted that ESS5 on land acquisition, restrictions on land use, and voluntary resettlement does not apply to voluntary, legally recorded market transactions, also known as willing buyer-willing seller, in which the seller is given a genuine opportunity to retain the land and to refuse to sell it and is fully informed about available choices and their implications. However, if such voluntary land transactions would result in the displacement of any persons, other than the seller, who occupy, use, or claim rights to the land in question, the conditions of ESS5 will apply to that land transaction as well.

2.3 Gap Analysis Between Thai Legal Framework and World Bank ESS5

45. There are four key differences between Thai law and ESS5:

1. The Thai process for acquisition and expropriation of land and other immovable assets is a rigorous process more appropriately applied to projects that require significant amounts of land acquisition. With its requirements for a Royal Decree, a specific Act of Parliament, and the establishment of a committee to set the expropriation prices, it is considered overly procedural, onerous, and time-consuming for a project such as this which needs to acquire only a few small pieces of land.
2. The legal process of land acquisition recognizes private landowners, legal owners of structures or perennial trees on those lands, legal renters, or those otherwise engaged in legal business on such lands. It does not recognize the rights of others who do not legally reside on or use such lands, nor does it provide additional assistance to those who are poor or otherwise vulnerable.
3. The willing seller-willing buyer method is not a viable option for government agencies to acquire land, as they cannot offer market prices that would be needed for such land purchases.
4. Compensation cannot be given by a government agency to informal occupants who are considered by law to be using state lands illegally. Use of government budget in support of illegal activities, including providing financial compensation to those occupants, would be considered malfeasance by the government officials, and subject them to legal action.

46. **Table 2.1** provides the key gaps between Thai law and ESS5, with suggested procedures to be followed by the project.

Table 2.1: Gap Analysis between Thai land laws and ESS5

Thai National Law	World Bank Principle	Project Policies
Eligibility: National laws on acquisition and expropriation apply to private property owners and others with legal rights to use the land or assets on the land, including renters and those given permission to use State lands (including community land titles). Those without legal rights to occupy or to use lands or assets on those lands are not entitled to compensation.	Aside from those who have formal legal rights to land or assets, ESS5 includes: <ul style="list-style-type: none"> • Those without formal legal rights to land or assets, but with a claim to land or assets that is recognized or recognizable under national law; and • Those with no recognizable legal right or claim to the land or assets they occupy or use. 	The project cannot provide financial compensation to any affected persons without legal rights to lands or assets on those lands. However, the project will negotiate with those affected persons to provide other assistance within the scope of Thai law, such as: <ul style="list-style-type: none"> • Allowing continued use of those lands or assets until required by the project, and • Working with local authorities to identify new legal sites where the APs can move.
Vulnerable Persons: Thai law does not take into consideration the economic status or other vulnerability in determining compensation.	Improve living conditions of poor or vulnerable persons who are physically displaced.	The project will avoid acquiring any lands or assets of poor or vulnerable households.
Acquisition Process:		

Thai National Law	World Bank Principle	Project Policies
<p>The formal acquisition process is highly procedural, onerous, and time-consuming for acquisition of a few, small plots of land.</p> <p>Where acquisition of only a few, small plots of land are required, land donations are preferred.</p> <p>If a landowner would want to sell their land, they can arrange to do so to a private buyer who is then willing to donate those lands to the project.</p>	<p>Voluntary land donations are allowed under ESS5, so long as the donor is adequately informed about the project, is aware that refusal to donate is an option, agrees to the donation in writing, will benefit directly from the project, the land donated is minimal and does not affect the donor's livelihood, and no household relocation is required.</p> <p>Voluntary, legally recorded market transactions, also known as willing buyer-willing seller, are acceptable so long as the seller is given a genuine opportunity to retain the land and to refuse to sell it and is informed of any other options.</p>	<p>Any land donations will adhere to the conditions of ESS5.</p> <p>Any instances of willing seller-willing buyer will adhere to the conditions of ESS5. The project will need to show that the seller was not coerced to do so, that the sale was transparent and legal, and that the sale will not adversely affect the seller's livelihood.</p>
<p>Legal Renters:</p> <p>As land acquisition under the project is being carried out without applying the Land Acquisition Act, the rights of legal renters will be applied according to the Thai Civil and Commercial Code.</p>	<p>As stated under GN12.3 of the Guidance Notes to ESS5, compensation to renters can be determined based upon the remaining period of an existing lease term.</p>	<p>For those renting shops from the PAO at Ban Hua Hin pier, the project will delay construction affecting their shops until after the lease periods have expired.</p> <p>The project will also work with local authorities to identify new sites where they can move.</p>
<p>Temporary Land Acquisition:</p> <p>Thai law does not have specific regulations for the temporary acquisition of or lack of access to lands due to project activities, such as use of lands for workers' camps, storage, or dump sites, etc.</p>	<p>ESS5 covers temporary as well as permanent physical and economic displacement from land acquisition or restrictions on land use.</p> <p>Footnote 8 of ESS5 notes that "the Borrower is encouraged to seek negotiated settlements . . . in a manner meeting the requirements of this ESS."</p>	<p>Wherever possible, workers' camps and other temporary project facilities will be placed on state lands.</p> <p>If any private lands are to be used, the contractor will negotiate rental agreements with the landowners.</p>

3 Methodology and Mitigation Measures

47. All potential land acquisition/land use issues are part of Component 1 of the project, the construction of the bridges at Lanta and Songkhla Lake. There are no plans for any land acquisition, restrictions on land use, or resettlement as part of Component 2, the dolphin conservation plan.

48. There will be some potential impacts to people's livelihoods caused by restrictions on access to marine and aquatic resources of Songkhla Lake for both Component 1, the construction of the Songkhla Lake bridge, and Component 2, the dolphin conservation plan.

The methodologies being applied and the measures to mitigate those impacts are the subject of a separate Process Framework.

3.1 Eligibility Criteria

49. All private lands required under the current alignment of the bridges and associated roadworks have already been acquired. The compliance to ESS5 of the acquisition of those lands are the subject of a separate Land Process Review

50. If the alignment of either bridge is altered, ownership of any newly affected lands will be identified, and owners of any private lands affected by the new alignment will be considered eligible.

51. For shop owners with formal leases, shop owners using the ROW, and anyone else using the ROW, all persons renting shops or using the ROW at the time of the cut-off-date (described in sections 3.2.3 and 3.2.4) will be considered eligible.

52. If the location of workers' camps, storage or dump sites, or any other facilities required during construction is located on any private lands, the owners of those lands will be considered eligible.

3.2 Procedures

53. Different procedures will be used for the different categories of eligible affected persons: private landowners whose property would be acquired; private landowners whose property would be used temporarily by the project; shop owners with formal written leases; and shop owners or any others using the ROW.

3.2.1 Private Landowners Whose Property Would Be Acquired

54. If either of the bridges or the associated roadworks is to be altered, any private lands potentially affected will be identified at the time of draft plans. This will be done through (1) review of Department of Land records for the area, (2) consultations with local leaders, and (3) consultations with residents, to determine who owns and who uses the affected lands. DRR will also determine if there are any conflicting claims to the land, or if there are other persons using the land.

55. The date of the consultation with residents will be considered the cut-off-date. Those who are shown to own or use the lands on the cut-off-date will be considered eligible to engage in further negotiations. Any potential loss of land should be minimal, without adversely affecting the landowners' income or livelihood.

56. As the only means to obtain private lands under the project is through land donations, negotiations will begin to determine if those landowners are willing to donate their affected property. If willing to do so, they will do so according to the Cabinet Resolution of 1 August B.E. 2550 (2007) described in Section 2.1.3.2, and the conditions under the World Bank ESS5.

57. If the landowner prefers to sell the land, arrangements will be made with local authorities to identify a potential buyer who would then be willing to donate to the project. Any land sale must be done willingly, transparently, at market rates, without coercion.

58. If any landowner does not wish to donate or sell the land, the DRR will need to prepare an alternative route or alignment for the bridge or associated roadworks.

3.2.2 Private Landowners Whose Property Would Be Used Temporarily

59. When potential sites for workers' camps, storage or dumping sites, cement mixing plants, or any other facilities required during construction are selected, any private lands potentially affected by those sites will need to be identified. This will be done through (1) review of Department of Land records for the area, (2) consultations with local leaders, and (3) consultations with residents, to determine who owns and who uses the affected lands. The project will also determine if there are any conflicting claims to the land, or if there are other persons using the land.

60. The date of the consultation with residents will be considered the cut-off-date. Those who are shown to own or use the lands on the cut-off-date will be considered eligible to engage in further negotiations. Any temporary loss of land should be minimal, without adversely affecting the landowners' income or livelihood.

61. The contractor will negotiate a written rental agreement with the landowner, to be witnessed and signed by a local authority chosen by the landowner and approved by the DRR. The rental agreement will include a map of the area to be rented, the monthly rental amount, payment schedule, and duration, including any other conditions required by the landowner. The rental agreement will also stipulate how the land will be returned to the owner at the end of the lease, including any additional payments to the landowner if the land is not returned as required.

62. If any landowner does not agree to the use of the land or is unable to reach a satisfactory agreement to rent the land, the project will need to find an alternative site for that facility.

3.2.3 Shop Owners with Formal Written Leases

63. A portion of the Ban Hua Hin pier in Lanta will need to be used for the bridge. This includes a building of shophouses. The pier and all its structures, including the shophouse building, are owned by the Krabi Provincial Administrative Organization (PAO).

64. Several persons are renting the shophouses in the building at the Ban Hua Hin pier, with formal written rental agreements with the PAO. The DRR will confirm the number of shop owners and the conditions of their rental agreements, including the remaining term of the leases. The date on which this is done will be declared the cut-off-date. All those renting shops by this date will be considered eligible.

65. The DRR will then discuss with the shop owners what assistance might be provided to mitigate the impact of the loss of their shops and will coordinate as needed with the PAO and other local authorities.

66. This process already was carried out by the DRR on May 1, 2023. Annex 1 shows the location of the pier and the affected shophouses.

67. The shop owners all have leases that expire in mid- to late 2025. The shop owners all expressed their willingness to move out, requesting though that they be allowed to keep operating until at least their leases expire. The DRR agreed that the portion of the bridge work that would require demolition of the shophouses would be carried out toward the end of the construction period, giving the shops at least until the end of their leases and even longer to operate if they wish. This agreement will be included in the Environmental and Social Management Plan of the contractor.

68. The DRR also consulted with the Tambol (Sub-district) Administrative Organization (TAO) about a potential site where the shop owners could move. This site is about 4.5 km

north of the pier, in an open area owned by the TAO. None of the shop owners have yet committed to a move, nor even whether or not they want to continue operating a shop after the bridge is completed, preferring instead to see what opportunities might be available in tourism or other sectors, as the bridge would enable them to commute easily to Lanta Island from their homes on the mainland side.

69. Details of the shop houses, the survey, and consultations are provided a separate report on Results of Lanta Shophouse Consultations.

3.2.4 Shop Owners and Others Using the ROW

70. Portions of the ROW leading to the Lanta bridge on the mainland side will need to be used for associated roadworks. Several shophouses have been identified within the ROW. The DRR will confirm the number of these shop owners and any other uses, such as growing crops or economic trees, within those portions of the ROW to be used by the project. The date on which this is done will be declared the cut-off-date. All those operating shops or carrying out any other economic activities within the ROW by this date will be considered eligible.

71. The DRR will then discuss with the shop owners and any others using the ROW what assistance might be provided to mitigate the impact of the loss of their shops or other activities and will coordinate as needed with the PAO and other local authorities.

72. This process already was carried out by the DRR on May 1, 2023. Annex 1 shows the location of the pier and the affected shophouses.

73. Five shops were identified within the affected portion of the ROW. No other economic activities were found. The shop owners all recognize they are operating illegally under Thai law. They expressed their willingness to move out, supportive of the proposed bridge. The DRR agreed that the portion of the bridge work covering the affected portion of the ROW will be carried out toward the end of the construction period, giving the shop owners at least 2-3 more years to operate.

74. The DRR also informed the shop owners of the potential site on TAO land where they could move. As with those who rent shops in the Ban Hua Hin pier, none of the shop owners along the ROW have yet committed to a move, nor even whether they want to continue operating a shop after the bridge is completed. They too prefer instead to see what opportunities might be available in tourism or other sectors once they can commute easily to the island.

75. DRR has also agreed to discuss with the contractor the possibility of helping the shop owners dismantle their structures, though such assistance cannot be included as a formal commitment in the construction contract, as it would be considered a misuse of state funds.

76. Details of the shop houses, the survey, and consultations are also provided in the separate report on Results of Lanta Shophouse Consultations.

3.3 Mitigation Hierarchy

77. The project is to adopt a mitigation hierarchy approach, as recommended by the World Bank Environmental and Social Framework (ESF):

- a. To anticipate and avoid risks and impacts.
- b. Where avoidance is not possible, minimize or reduce risks and impacts to acceptable levels.
- c. Once risks and impacts have been minimized or reduced, mitigate; and

- d. Where significant residual impacts remain, compensate for, or offset them, where technically and financially feasible.⁶

78. The procedures being applied and the entitlements available to the project adhere to the mitigation hierarchy approach, within certain constraints of Thai law.

3.4 Entitlement Matrix

79. The entitlement matrix describes only those impacts and entitlements that may occur under this project. The Expropriation and Acquisition of Immovable Property Act, B.E. 2562 (2019) is not being applied, given the small number of plots and area of private land that might be required for the project.

Table 3.1: Entitlement Matrix for Project

Type of Loss/Impacts	Eligible Persons	Entitlements
Permanent loss of privately owned land and immovable assets on the land	Legal owners of the land with recognized land titles or other accepted land ownership documents	<p>Project will only require few small plots of privately owned land. These lands will be obtained through donations.</p> <p>Donors must be adequately informed about the project, personally benefit from the project, be aware that refusal to donate is an option, and agree to the donation in writing. The land donated must be minimal, not affect the donor's livelihood, with no household relocation, and with no conflicting claims of ownership or use.</p> <p>APs preferring to sell their lands can do so to private buyers who will then donate to the project, under conditions covered under ESS5.</p>
Temporary loss of use of privately owned lands, to be used for project purposes	Legal owners of the land with recognized land titles or other accepted land ownership documents.	<p>Project may require temporary use of some private lands for workers' camps, storage or dump sites, and other project activities.</p> <p>The contractors will be required to lease these lands at rates acceptable to the landowner.</p> <p>Residential lands that would require any residents to vacate, even temporarily, will not be considered for use by the project.</p> <p>Any lands with conflicting claims of ownership or use will not be considered for use by the project.</p>
Temporary loss of access to lands due to project activities	Any persons, whether legal owners or not, who use lands for residential or productive purposes, whose access is temporarily restricted due to project activities. Any such disruptions are expected to be minor and for only a short duration	<p>For agricultural lands: the contractor will inform the APs in sufficient time to harvest their crops. Project activities will be carried out during a period when the lands are usually left fallow or when no work is needed in the fields.</p> <p>For residential or commercial properties: the contractor will inform the APs in sufficient time,</p>

⁶ "World Bank Environmental and Social Framework." World Bank, Washington, DC., 2016, p. 16

Type of Loss/Impacts	Eligible Persons	Entitlements
		and will provide alternative access routes while their usual routes are disrupted.
Loss of use of productive land within the ROW (if APs are cultivating unused portions of the ROW to augment their own farms outside the ROW)	Any farmer utilizing ROW land for productive use (though used without permission, and aware such use is illegal)	APs will be informed in sufficient time to harvest their crops, and no further cultivation will be allowed in the season prior to construction.
Loss of shops legally leased	Owners of shops with legal written leases	Construction of this portion of the bridgeworks will be implemented toward the end of the project, allowing the shop owners to operate until the end of their contracts. DRR will coordinate with local authorities to identify a potential and legal site where the shops could move.
Loss of shops within the ROW	Owners of shops alongside the ROW (though used without permission, and aware such use is illegal)	Construction of the roadworks in these portions of the ROW will be implemented toward the end of the project, providing the shop owners with 2-3 more years to operate. DRR will coordinate with local authorities to identify a new potential and legal site where the shops could move. Normally civil works contractors will help dismantle the shops, though such assistance cannot be included as a formal requirement, and no compensation or other assistance can be provided.

4 Institutional Arrangements

80. All potential land acquisition / land use issues are part of Component 1 of the project, the construction of the bridges at Lanta and Songkhla Lake. Institutional arrangements are therefore restricted to those established under DRR for Component 1.

81. DRR has the responsibility to implement plans, programs, and measures to mitigate and minimize the environmental and social impacts caused by the Project. DRR is supported by its Project Management Unit (PMU), which facilitates coordination and execution of Project activities. The PMU assists DRR in ensuring that the Project meets its environmental and social commitments, and in identifying and implementing appropriate mitigation measures. The organizational charts of PMU and the Project Implementation Units (PIU) are available in Annex 2.

5 Community Relations

5.1 Public Consultation

82. Public consultations will be held with the affected parties as appropriate and indicated in the Stakeholder Engagement Plan (SEP).

83. For landowners whose property may be acquired permanently, should there be any changes in alignment of either bridge, consultations must be conducted by the DRR until agreement is reached either to donate the land or sell to a third party who will donate. The project can commence activities in the area where the land is to be acquired only after those lands have been transferred to the DRR. If no agreement is reached, the project will need to revise its plans to avoid those lands.

84. For landowners whose property may be used temporarily for project activities, consultations must be conducted by the contractor until agreement is reached with the landowner to lease the land. Use of those lands can only commence after a rental agreement has been reached. If no agreement is reached, the project will need to revise its plans to avoid those lands.

85. For the shophouse renters at the Ban Hua Hin pier, individual and focus group meetings will be held when conducting survey and negotiations, with regular meetings to update them on the construction schedule and projected completion and opening of the bridge. Additional updates will be provided from the Krabi PAO on plans to provide them with a replacement site. Those updates will be coordinated by the DRR with the Krabi PAO.

86. For the shop operators along the ROW, individual and focus group meetings will be held when conducting survey and negotiations, as well as group meetings to control further encroachment in the ROW. They will also be provided with regular updates on the construction schedule and projected completion and opening of the bridge, and additional updates from the Krabi PAO on plans to provide them with a replacement site.

5.2 Grievance Redress Mechanism (GRM)

87. Several channels are available for the affected persons to lodge grievances with the project.

a) **DRR's GRM channels:** DRR will provide three levels of grievance channels, at the site or PIU level, the regional level, and the Department or PMU level.

- **Site (PIU level):**
 - Project Website (using the contact menu)
 - PIU Hotline (to be developed and disseminated)
 - Grievance Center at the construction site or the PIU Office (to be established and disseminated)
 - Grievance boxes will be placed at:
 - Project construction site office
 - DRR Provincial office
 - Local TAO Offices
- **Regional level**
 - Grievance Center at DRR Provincial office
- **Department (PMU level)**

- Website of the Department of Rural Roads: www.drr.go.th (using the complaints/appeal menu)
- DRR Hotline: 1146
- DRR Information Center, Phahonyothin Road, Anusawaree Sub-District, Bangkhen District, Bangkok 10220
- PMU at Bureau of Bridge Construction, Department of Rural Roads

b) Other Channels:

- Tambol (Sub-District) Administrative Organizations
- Provincial Administrative Organizations
- Government Contact Center: hotline: 1111, or website: www.1111.go.th
- Damrongtham Center, Ministry of Interior: hotline: 1567, or in person at Damrongtham Center in the local Provincial Hall

88. The procedures for grievances are described in detail in Section 7 of the SEP.

6 Monitoring and Reporting

89. The PMU will monitor and report on implementation of any land acquisition, restriction to land use, and resettlement matters outlined in this RPF. Reports by the PMU to the World Bank on compliance to the Environmental and Social Standards will include those concerning ESS5 as they arise.

90. The PMU will also monitor and assess the efficiency of the GRM and ensure that any grievances relating to matters outlined in this RPF are adequately documented and resolved in a timely manner.

91. The PIU will monitor compliance by the contractors to any matters outlined in the RPF, including any commitments made by the project to affected persons. The PIU will provide reports as appropriate on such compliance.

7 Budget

92. As any lands to be acquired will be through voluntary donations, there is no budget required for this activity.

93. Budget for consultations with affected shop owners in both the Ban Hua Hin pier and the ROW are included in the SEP.

94. Any budget for rental of lands for project facilities will be borne by the contractors.

Annex 1: Detailed Summary of Thai Laws Relating to Land Acquisition, Restriction of Access to Land Use, and Involuntary Resettlement

Thai Constitution

Section 37 of the 2017 Constitution of the Kingdom of Thailand grants citizens the right to property and succession, with specific conditions stipulated under which the expropriation of immovable property is allowed.

Section 37. A person shall enjoy the right to property and succession. The extent and restriction of such right shall be as provided by law.

The expropriation of immovable property shall not be permitted except by virtue of the provisions of law enacted for the purpose of public utilities, national defence or acquisition of national resources, or for other public interest, and fair compensation shall be paid in due time to the owner thereof, as well as to all persons having rights thereto, who suffer loss from such expropriation by taking into consideration the public interest and impact on the person whose property has been expropriated, including any benefit which such person may obtain from such expropriation.

The expropriation of immovable property shall be made only insofar as it is necessary for the purposes provided in paragraph three, except for an expropriation to use the expropriated immovable property to compensate and restore fairness to the owner of property expropriated as provided by law.

An immovable property expropriation law shall specify the purpose of the expropriation and expressly prescribe a period of time for use of the immovable property. If the immovable property is not used to fulfill such purpose within such period of time or there is immovable property remaining from the use, and the original owner or his or her heir wishes to have such immovable property returned, it shall be returned to the original owner or his or her heir.

The time period for requesting return of expropriated immovable property which has not been used, or of the remaining immovable property, to the original owner or his or her heir, as well as the return thereof and the reclaiming of the compensation paid, shall be as provided by law.

The Expropriation and Acquisition of Immovable Property Act, B.E. 2562 (2019), described in Section 2.1.3.1, was subsequently passed to expand upon the conditions and processes for expropriation stipulated in the constitution.

Act Promulgating the Land Code B.E. 2497 (1954): Recognized Forms of Land Ownership

Under the Thai Land Code, there are two types of land ownership: private land and state land. Section 2 states “The land the ownership of which is not vested in any person shall be deemed to be the property of the State.”⁷

Private lands can be held under title deeds or various certificates of utilization. (Definitions under Section 1) The various certificates were set forth in Ministerial Regulations detailing processes and procedures to implement the Land Code.

⁷ 60 pī pramūan kotmāi thīdin (60 Years of the Land Code), Department of Lands, Ministry of Interior, 2015. <http://www.oic.go.th/FILEWEB/CABINFOCENTER10/DRAWER033/GENERAL/DATA0000/00000449.PDF>

- 1) Nor.Sor.4, or *chanote* is a land title deed providing full certified private ownership of the property, following an accurate survey by Land Department officials, marked by numbered posts in the ground, and plotted within the national survey grid.
- 2) Nor.Sor.3, Nor.Sor.3Gor. and Nor.Sor.3Khor are land ownership certificates issued by the Land Department that indicate the person who has the right to own and use the land. Nor.Sor.3 confirms possession, with the borders defined according to neighboring properties. Nor.Sor.3Gor. and Nor.Sor.3Khor are based on aerial surveys.
- 3) Nor.Sor.2 is a land use certificate issued by the Land Department, providing usufruct rights under certain conditions. The land can be inherited but cannot otherwise be sold or transferred. It can be upgraded to a Nor.Sor.3, conferring ownership but still maintaining the prohibition on sale or transfer.
- 4) Sor.Khor.1 were forms issued by the local offices of the Land Department until 1972, indicating use of lands but without confirmation of ownership. Until 2010, Sor.Khor.1 lands could be upgraded to Nor.Sor.3 or *chanote*, following an accurate survey. Since 2010, such upgrades are only possible with the approval of a court.

Although several other government agencies such as the Agricultural Land Reform Office, the Forest Department, and the Department of Public Welfare provide usufruct certificates for land, legal ownership of the land resides in the state agencies that issue those certificates.

Thai law does not recognize community ownership of lands, nor is there legal recognition of customary tenure. Under the Regulations of the Prime Minister's Office on the Issuance of Community Title Deeds B.E.2553 (2010), community land deeds can be issued by the Land Department to recognize the right of communities and people to participate in the maintenance and use of state land as well as participate in the preservation of natural resources and the environment.⁸ However, those lands remain the property of the State. Similarly, The Community Forest Act B.E. 2562 (2019) provides the legal framework for communities to manage State lands, outside of protected forest areas, as community forests.⁹

Acquisition of Lands

Involuntary Acquisition: Expropriation and Acquisition of Immovable Property Act, B.E. 2562 (2019)

The conditions under which involuntary acquisition of private lands is permitted and the process required for such acquisition is detailed in the Expropriation and Acquisition of Immovable Property Act, B.E. 2562 (2019).

Immovable property is defined as “land, a building, a structure, a perennial plant or any other thing which is permanently fixed to the land or forms the body of such land,” with the “owner” defined as “a lawful owner or possessor of immovable property.” (definitions from Section 4 of the Act)

⁸ <https://data.thailand.opendevdevelopmentmekong.net/en/dataset/regulations-of-the-office-of-the-prime-minister-on-the-issuance-of-community-title-deeds-b-e-2553-2>

⁹ RECOFTC. *Thailand's Community Forest Act: Analysis of the legal framework and recommendations*. Bangkok, RECOFTC. 2021, p. 13

Land can be acquired “for activities necessary for public utilities, national defence or acquisition of natural resources or for other public interests.” (Section 7)

To carry out a survey of the lands to be expropriated, a Royal Decree is enacted which includes the following information:

- (1) purposes of the expropriation.
 - (2) the duration of the applicability of the Royal Decree.
 - (3) the boundary line of the land to be expropriated to the extent necessary.
 - (4) the time for commencement of the survey.
 - (5) the expropriation official.
 - (6) a map or plan indicating the boundary line of the land to be expropriated.
- (Section 8)

However, if details of the land or immovable property to be expropriated are available, including the names of the owners, with a map clearly indicating the boundary of the land to be expropriated, the Royal Decree may not be necessary and steps taken to enact the specific Act to expropriate the immovable property, as detailed in Sections 28 and 29 (Section 30).

At the same time, the Bureau of the Budget is to set aside funds to be used for compensation, which can include “non-budget money or incomes.” (Section 8)

The Royal Decree is to be posted at the office of the “expropriation official” (henceforth referred to as the Official) at the local administrative offices (District, Subdistrict, Subdistrict Chief [*kamnan*], village head offices), and local office of the Official, as well as the Provincial and District Land Offices where the land is to be expropriated. (Section 11)

Prior to conducting the survey of immovable properties, a public consultation is to be held to inform affected parties and to obtain public opinion. (Section 14)

For lands requiring a cadastral survey, the landowners are to be notified no less than 15 days prior to the survey. (Section 15)

Sections 17 and 18 describe the processes required for the transfer of various types of State lands to the expropriating agency, including reserved forest lands.

A committee is to be appointed to determine preliminary prices for the immovable property and compensation. This committee is to consist representatives of the Official, the Treasury Department, and the Department of Lands, along with heads of the district offices and local administrators of the affected areas. As necessary, representatives of other State agencies can also be appointed to the committee. (Section 19)

The preliminary prices are set according to (Section 20):

- (1) the normal market price of the land on the date of the applicability of the Royal Decree under section 8.
- (2) the assessed price of land officially fixed for the purpose of the collection of land and building tax.
- (3) the assessed value of property for the purpose of the collection of fees for registration of rights and juristic acts under the Land Code.
- (4) the conditions and location of such land.
- (5) grounds and purposes of the expropriation.

These prices are to be published and disseminated in the same places as stated in Section 11. (Section 21) Sections 22-24 describe conditions under which the preliminary prices are to be adjusted higher or lower.

Sections 25-27 describe the process of voluntary land sales by the owner to the Official, at a rate of 2 percent above the preliminary price. Ownership is transferred on the date payment is made, while the original owner still maintains the right to appeal.

If there are owners who do not agree to voluntary sales, a specific Act is to be enacted to expropriate those lands and other immovable property. (Section 28) This Act is to include the following information

- (1) the purpose of the expropriation.
 - (2) the duration for the use of land or immovable property.
 - (3) the expropriation official.
 - (4) details as to the land or immovable property to be expropriated.
 - (5) a list of names of owners of land or immovable property.
 - (6) a map clearly indicating the boundary line of the land to be expropriated.
- (Section 29)

If necessary, expropriation can be done prior to the enactment of the specific Act, with compensation either paid to the owner or deposited in an account under the name of the owner as detailed in Section 46 of this Act. (Section 28)

The Act for expropriation of immovable property is to be disseminated in the same manner as stipulated in Section 11. (Section 36)

Upon enactment of the expropriation Act, ownership of the immovable properties is vested in the Official. However, possession or use of those properties can be made only after payment or a deposit of compensation has been made. (Section 31)

If the expropriation leaves the owner with insufficient land for residence or for livelihood, the Official can expropriate additional land as compensation to the owner in full or in part in lieu of payment, given the consent of the owner. (Section 35)

Compensation can be made either of the land alone or of the land along with any structures upon it, depending on the wishes of the owner. If compensation is for the land and its structures, compensation is to include the value of the land and any building, structure and other immovable property on the land, and any damages caused by the owner needing to leave the property. If compensation is to be made for the land alone, compensation is to include the value of the land along with costs of demolition, relocation, construction of new building, structure and other immovable property on the land, and other damages. (Section 36)

Those eligible for compensation are:

- (1) the owner of the expropriated land.
- (2) the owner of a building, structure or other immovable property existing on the date on which the Act expropriating immovable property, or the Royal comes into force or as subsequently constructed with the Official's permission;
- (3) the owner of perennial plants grown on the land on the date the Act expropriating immovable property, or the Royal Decree comes into force;

- (4) the lessee or sub-lessee of the land, a building or any other structure on the land to be expropriated.
 - (5) a person deprived of the right of way or the right to lay water pipes, drainage pipes, electric wires or the like through the land to be expropriated.
 - (6) the owner or any person residing in, or engaging in lawful trade or business in, the immovable property to be expropriated and aggrieved on account of leaving such immovable property.
- (Section 40)

For those with written leases, compensation is to be made for relocation costs and other damages caused by the move, while those without written leases are eligible only for relocation costs. (Section 41) Other specific conditions for compensation are provided in Sections 42-48.

Sections 49-50 describe the appeals process. Those who sell voluntarily (under Section 25) and those whose land is expropriated (under Section 28) can appeal to the Minister responsible under the Royal Decree within 90 days of receiving the compensation payment. The Minister is to appoint a committee to consider the appeal and provide a recommendation within 180 days of receipt of the appeal. The Minister will decide on the matter within 30 days of receipt of the opinion of the committee. If the owner is not satisfied with the decision, or the period for a decision has lapsed, the owner can take the matter to the Courts.

Donations: Cabinet Resolution of 1 August B.E. 2550 (2007) on Guidelines in the Case of Government Officials Requesting People to Dedicate Land or in the Case of Entering into an Operation on Private Land for Mutual Use

Donations of private lands can be made under the Cabinet Resolution of 1 August B.E. 2550 (2007) on Guidelines in the Case of Government Officials Requesting People to Dedicate Land or in the Case of Entering into an Operation on Private Land for Mutual Use.¹⁰

Although translated as land “donation” in English, the Thai term *uthit* used in these guidelines has a more precise meaning of giving something for a specific purpose, often used when making merit for the benefit of another person, or for the benefit of the community or the broader society.

When such land donations are made, the official of the agency to use the land (hereafter referred to as the Official) is to prepare a letter with the following information:

1. The person donating the land must be the legal owner or possessor of the property with no other encumbrances. Anyone else with rights to the land must also be informed.
2. If the land lies within an area of state lands (such as a reserved forest), the Official must coordinate with the relevant state agency to determine if all or part of the land lies within the area of state lands, and if so to submit a request to the provincial subcommittee to resolve problems of land encroachment, to determine if the claim to the land is legal.
3. The Official must make a record of all the structures and crops on the land, as well as a map of the location and dimensions of the land to be donated. This is to be signed by the land owner or the person with rights to utilize the land, in the presence of a witness, along with

¹⁰ The Secretariat of the Cabinet, (2007). Principles and Guidelines in the Case of Government Officials Requesting People to Dedicate Land to or in the Case of Entering into an Operation on Private Land for Mutual Use According to the Cabinet Resolution on August 1, 2007.
<http://www.oic.go.th/FILEWEB/CABINFOCENTER20/DRAWER010/GENERAL/DATA0000/00000210.PDF>

a copy of any land deed or certificate. Four copies of this record are to be made and signed, with one for the office of the Official, one for the land owner, one for the state agency responsible for the land, and one for the local office of the Land Department.

4. If all documentation is in order and the land deeds or certificates or the utilization certificates are legal and unencumbered, the transfer of the land to the Officer can be made.

Voluntary Acquisition of Lands

In cases where only small amounts of private land are required by an agency, and the owner does not want to donate the land, it is possible for the agency to purchase the land without having to initiate the expropriation process described in Section 2.1.2 above.

However, this is rarely done for 2 reasons:

1. DRR appoints a committee to set the purchase price of the land. They set the purchase price at the assessed value of the land officially fixed for the purpose of the collection of land and building taxes. They run a legal risk if the price offered is higher than the assessed value.
2. As the assessed value is lower than the market value, this price offered to the landowner would be lower than the price calculated under the Expropriation Act, which considers prevailing market rates as well as assessed values. Landowners would not be willing to sell at the lower rates.

Legal Rights of Renters: Thai Civil and Commercial Code, Sections 537 to 571 on Specific Contracts, Title IV, Renting Property¹¹

Thai national law covering rental agreements is the Thai Civil and Commercial Code, Sections 537 to 571, on Specific Contracts, Title IV, Renting Property.

The first chapter, Sections 537 to 545, deals with general provisions, such as duration and conditions for subletting, and the requirements to register contracts.

The second chapter, Sections 546 to 551, describes duties and liabilities of the person leasing out (the lessor) the property, including clauses describing reasons the renter (the lessee or the hirer) can terminate the contract.

The third chapter, Sections 552 to 563, describes duties and liabilities of the hirer, including responsibilities if the property is sublet.

The fourth chapter, Sections 564 to 571, describes various conditions for termination of a contract, including the period of notice for early termination.

¹¹ An English translation of these sections is available at <https://library.siam-legal.com/thai-law/civil-and-commercial-code-exchange-section-537-545/> ; <https://library.siam-legal.com/thai-law/civil-and-commercial-code-exchange-section-546-551/> ; <https://library.siam-legal.com/thai-law/civil-and-commercial-code-exchange-section-552-563/> ; and <https://library.siam-legal.com/thai-law/civil-and-commercial-code-exchange-section-564-571/>

Legal Standing of Assets Within the Right of Way: Highways Act B.E. 2535 (1992) and Highways Act (No. 2) 2549 (2006)¹²

The ROW to be used for the projects is considered property of the Department of Highways. The Department of Rural Roads will request use of those portions of the ROW required for the bridges.

Construction of buildings or other structures within a highway area is covered under Section 47 of the Act:

Section 47: No person shall construct buildings or any other thing within or intruding a highway area, unless permitted in writing by the highway director or the entrusted person. In granting such permission, the highway director or the entrusted person may impose any condition and shall have the power to prescribe measures for environmental conservation, prevention of accidents and traffic congestion.

The person so permitted under paragraph one shall pay fee for utilization of the highway area at the rates prescribed in Ministerial Regulation.

The permission under paragraph one may, when it is necessary for the road work or when it appears that the person so permitted breaches the conditions imposed in the permission, be revoked by the highway director or the entrusted person.

As regards buildings or any other thing constructed without permission or without compliance with the imposed conditions, section 37 paragraph three shall apply *mutatis mutandis*.

The conditions under Section 37 paragraph three apply to any structures built in the ROW without permission:

As regards a way, road or any other thing constructed without permission, or the stipulated conditions of which were not complied with, the highway director or the entrusted person has the power to order the person to demolish or destroy the same within a reasonable period and, in the event of noncompliance, to demolish or destroy the same whereby the person cannot claim damages and must bear the cost therefor.

¹² An English translation of the amended law is available at http://web.krisdika.go.th/data/document/ext809/809930_0001.pdf

Annex 2: Location of Shophouses Affected by Lanta Bridge



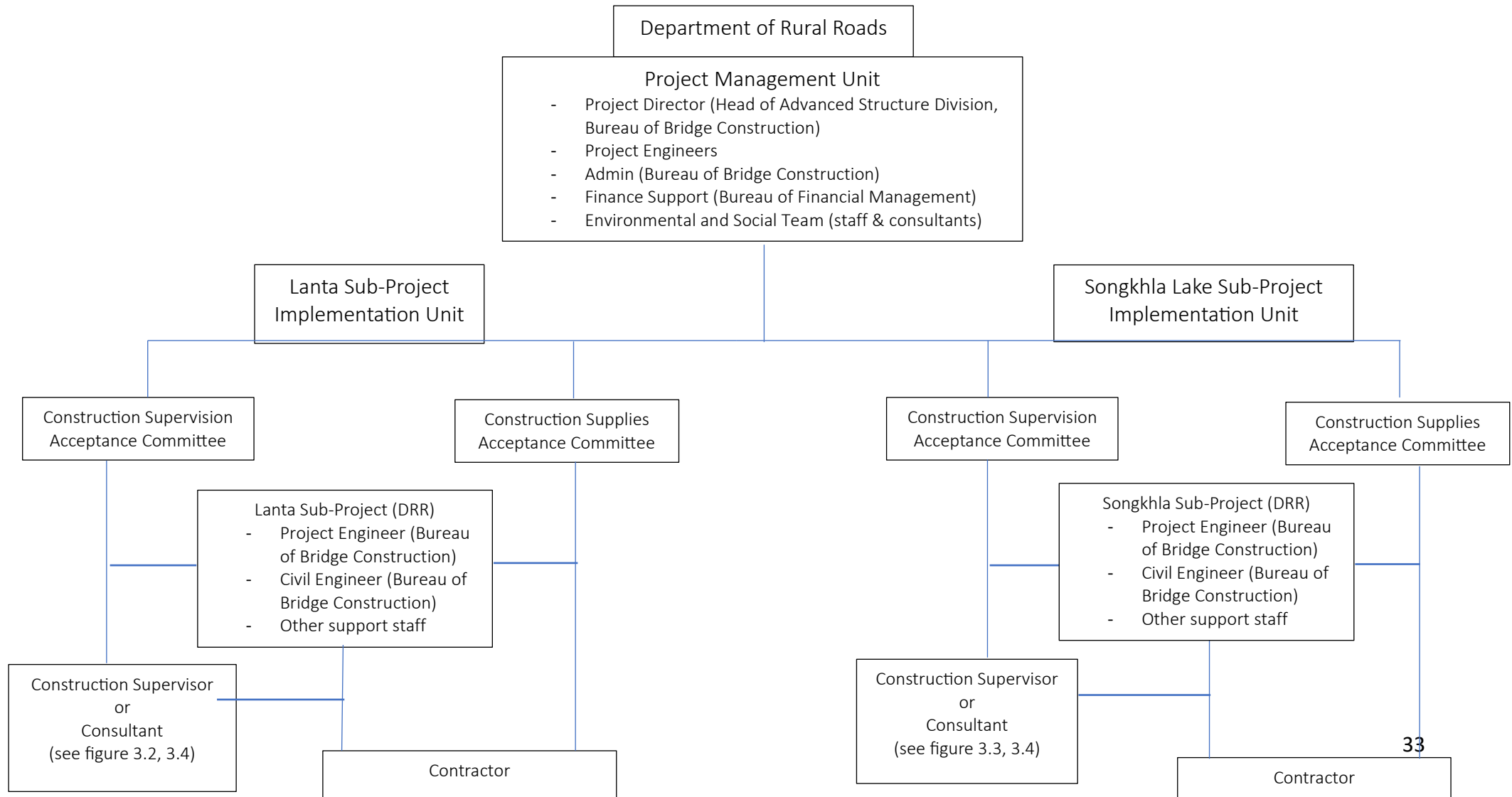
The four (4) shophouses numbered in yellow are those with legal written leases in the concession area of the existing Ban Hua Hin Pier.

The five (5) in numbered in red are those located within the right of way (ROW).

No residences, no other buildings or structures, and no other productive assets will be affected by the construction of this bridge based on its current alignment and design.

Annex 3: Organization Chart of the Project

1. Project Organization Chart



2. Construction Technical Supervisor Organization Chart

