

SAFEGUARD GUIDANCE NOTE: DISPLACEMENT AND RESETTLEMENT ENSURING OPTIMAL COMMUNITY OUTCOMES



Australian Government
Department of Foreign Affairs and Trade



This Guidance Note is one of a series that provide supplementary information on the management of displacement and resettlement in development investments. The notes complement the *Environmental and Social Safeguard Policy* and the *Environmental and Social Safeguard Operational Procedures*.



1. IDENTIFYING DEVELOPMENT OPPORTUNITIES ASSOCIATED WITH DISPLACEMENT AND RESETTLEMENT

In preparing investments, DFAT and other development agencies place primary emphasis on avoiding or minimising land acquisition. Otherwise mitigating the physical and economic displacement that ensues. This is consistent with a policy approach rooted in the premise that development investments should ‘do no harm’ to affected people.

There are some circumstances, however, in which land acquisition should not be avoided or minimised. This includes situations where land acquisition would alleviate potential safety or security issues, where additional land acquisition would prevent areas from being cut off or isolated, or where land acquisition will result in greater benefits to local communities. In other words, it is displacement – the harmful effects of land acquisition – that should be avoided or minimised, and not necessarily land acquisition itself. The harmful effects of displacement should always be mitigated, but assessment and design processes should also identify and consider potential opportunities to expand the scope, scale or reach of benefits the proposed investment may present.

In both instances, identifying circumstances in which avoidance of land acquisition may actually pose safety risks or isolation, and in identifying opportunities in which land acquisition can provide more or greater development benefits – consultation is essential. Those potentially affected may have important local knowledge about the potential impacts and opportunities that would result from land acquisition and the provision of financial resources and advisory support. These preferences are useful in shaping program designs that reflect their own views, desires and aspirations.



2. WHEN LAND ACQUISITION HELPS TO ‘DO NO HARM’

Avoiding or minimising land acquisition may cause, rather than alleviate, harm in circumstances in which natural hazards or public safety are at issue, or in circumstances where those potentially affected would be significantly inconvenienced as a result.

Depending on the nature, scale and location of the investment, it may be preferable to acquire all the land necessary to protect flood-prone areas, areas prone to slippage or subsidence, highway right-of-way, utility easements, and any other circumstances that may present safety or security issues. It may also be advisable to acquire land where houses or business structures are outside, but immediately adjacent to, a right-of-way, if the situation poses a safety risk to occupants of the structures or road users. To identify hazards and safety risks, engineering designs and site maps should be reviewed and local residents should be consulted during assessment and planning processes. Judgment may be necessary in determining whether land should be acquired as a precautionary measure. The preferences of potentially affected people should be solicited and considered in applying judgment.

Land acquisition beyond that technically required for construction-related purposes or for program operation may also be advisable in circumstances where livelihoods or living standards of people situated nearby may be adversely affected. This can happen as a result of severance, that is, when access to a property which would not otherwise be acquired becomes significantly impeded. This can happen, for example, when a land parcel is split by construction of a limited-access highway, or when a new reservoir destroys road access to land areas, isolating them. This can happen when only a part of a person’s land needs to be acquired, but the remainder would be too small or otherwise disadvantaged for effective use. In some instances, additional land acquisition should be considered at the request of potentially affected people who wish to move with other relatives or community members being displaced, in order to maintain social or economic relationships. Consultation may be the most effective way to determine whether there is a strong basis for acquiring land beyond that required by the technical parameters of the proposed investment.

3. LOOKING BEYOND ‘DO NO HARM’

Development investments, especially large-scale ones, can create transformative opportunities in the areas affected by them. These opportunities often go unidentified and unpursued. While mitigation of adverse impacts remains a key priority, DFAT should also encourage partner governments to identify ways to turn displacement and resettlement into a catalyst for positive development outcomes. This may be achieved best by encouraging proponents to consider linkages between the proposed investment and the broader development objectives espoused by the government.

The transformative potential may be minimal in proposed investments that involve only minor construction or rehabilitation of existing infrastructure and relatively more significant in those with larger-scale impacts. Even in large-scale proposed investments, there may be few opportunities that will be assessed as technically and financially feasible. Nonetheless, international development experience shows that resettlement frequently provides opportunities to aim higher than simple restoration of what is often a substandard *status quo*.



A first step in identifying development opportunities is to look for them. This likely requires active engagement between DFAT and partner government agencies, with a shared willingness to step beyond minimal avoidance and mitigation requirements. The range of potential development opportunities varies with the nature of the proposed investment, its location, and the social environment in which it would be implemented. Indicative examples include:

- ☑ **Improving the housing stock** – Especially in informal settlements, or other areas occupied by the poor, physical displacement creates an opportunity to improve available housing. This can be achieved directly through construction of housing or indirectly through provision of vouchers or subsidies that allow those affected to obtain housing of a satisfactory standard. It is important to note that application of mandatory housing standards alone may not address the problems associated with substandard housing and poor communities and informal settlements are likely to reappear elsewhere if those displaced have no better alternatives available to them.
- ☑ **Improving the accessibility or performance of community services.** Where an investment would disrupt community services or destroy community facilities, opportunities may exist to improve them. Such improvements include a change in location of facilities to improve access to services, enlargement of facilities to meet increased demand in areas of resettlement, or broadening the scope of services provided to facilitate restoration of livelihoods and living standards.
- ☑ **Improving the capacity or reliability of public infrastructure** – In investments with planned resettlement, there is little point in seeking to replace or restore infrastructure that is already obsolete or otherwise cannot meet existing system requirements. Large-scale land acquisition and planned resettlement create opportunities for infrastructure enhancement, to bring a system up to contemporary standards or to build capacity to meet present or anticipated demand.
- ☑ **Meeting the needs of vulnerable population groups** – Land acquisition and displacement may create opportunities to improve physical accessibility to public infrastructure and facilities for the disabled, the elderly or others whose access was impaired in the original facilities.
- ☑ **Promoting livelihood improvement** – When displacement includes loss of productive land in areas where replacement land is scarce, or loss of employment in areas where comparable jobs are scarce, compensation for assets often will not lead to livelihood improvement. Such circumstances often require transformation of livelihoods. Farmers may need to learn new production methods under different circumstances, or leave the farm. Workers may need new skills. Business owners may need to find a new clientele or new line of business. These circumstances may provide the partner government with opportunities to reshape local economic performance while improving livelihoods, for example by promoting higher value crops through market research or technical support, facilitating local market development, providing job training or job placement, or other means.
- ☑ **Providing preferential opportunities for displaced people or communities** – Some development investments create economic opportunities that could be reserved for displaced people or communities. These may include, for example, contracting with communities for minor road maintenance, establishing vendor spots or local markets along transportation routes, and providing employment (temporary or permanent) associated with construction or operation of the proposed investment.



- ☑ **Providing benefit-sharing schemes** – In some development investments, such as resource extraction or energy generation investments, the output is measurable and the benefits achieved are divisible. Under such circumstances, it is possible to devise benefit-sharing schemes where affected communities can obtain a sustained flow of benefits. Communities are also likely to be more supportive of investments where they obtain a portion of the net benefits. Benefit-sharing schemes can be designed as local or regional programs, as cash transfer mechanisms or as dedicated sources of support for community-level (or regional) improvements.
- ☑ **Clarifying or strengthening property rights** – In some developing areas, property rights are uncertain. Titling may be incomplete or out of date. Customary ownership or usage may conflict with administrative or legal provisions. Multiple claimants may be able to present a legitimate or reasonable basis for ownership or use rights to the same parcel of land. Affected individuals may feel aggrieved by decisions taken under communal land tenure. Other property-related issues also may occur. An investment with potentially significant land acquisition or changes in land use may present an opportunity to clarify or strengthen property rights by promoting land use planning, adjudication of claims, titling, or other measures.

Understandably, sectoral specialists promoting or planning a proposed investment may have limited awareness of broader social considerations and incipient development opportunities. It also is easy to understand why they may be focused primarily on meeting obligations necessary to obtain approvals and funding for their proposed investment. Ideally, careful early screening and social assessment will involve experienced and attentive social development specialists who can identify potential opportunities associated with displacement and bring them to the attention of DFAT and partner government officials. Similarly, specialists would be needed to translate identified opportunities into feasible and effective plans to bring them to completion.

GET HELP IF YOU ARE UNSURE

For assistance please contact: resettlement@dfat.gov.au

