



PT PLN (PERSERO)
ENERGY TRANSITION AND SUSTAINABILITY DIVISION

Indigenous People
MANAGEMENT GUIDELINE

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1. Introduction

This Indigenous People Management guideline explains the main considerations needed in making a management approach related to impacts on Indigenous Peoples (IP). This IP management is highly suggested especially for PLN projects located in remote areas (rural location and nearby forest) of Indonesia and eastern part of Indonesia. This guideline helps PLN to understand the impact of the project on the IP communities who may be present where the project is implemented. PLN ensures that processes are in place to ensure that the presence of IP in any project location is screened and, should they be found to be present, risks and impacts to IPs are screened, assessed, and mitigated in a manner consistent with the requirements of Indonesian regulatory setting, WB ESS7 up to, and including, securing free, prior, and informed consent (FPIC)¹.

This guidance is developed based on international indigenous people standards as well as main guidance on stakeholder engagement in national regulation. The main reference for Indigenous Peoples Management Guideline (IP MG) is detailed in the chapter 11 References. Additional regulation on IP for specific topics should be referred to depending on the project context.

The guideline aims to ensure that a project or an activity conducted by the PLN achieves the following objectives:

- ☐ Ensure that early and robust IP screening and identification is conducted to identify the potential presence of, and potentially impacts to, IP within the area of a proposed Project
- ☐ Conduct planning, engagement, impact assessment and development of management measures to minimize potentially adverse effects of the Project on IPs, and if unavoidable, develop and implement mitigation measures based on free, prior, and informed consultation resulting in broad support from the directly and/or indirectly impacted IP communities
- ☐ Avoid, minimize and/or compensate for adverse impacts on IP communities in a culturally appropriate manner, proportionate to the nature and scale of such risks, impacts and the form and degree of vulnerability of the affected IP communities
- ☐ Maximize the potential positive effects of the Project on the IPs, based on free, prior, and informed consultations with the IPs ensuring that the design and implementation of the Project incorporate aspirations and needs of the IPs
- ☐ Conducted having regards for the principles of FPIC in cases of Projects impacting IPs in a manner that triggers such a requirement²
- ☐ Recognize, respect, and preserve the culture, knowledge, and practices of IP, and to provide them with an opportunity to adapt to changing conditions in a manner and in a time frame acceptable to them.

In managing the risk and impact to indigenous people groups, it shall be managed following the mitigation hierarchy: avoid – minimize – compensate/restore.

¹ Also referred to as *PADIATAPA (Persetujuan Atas Dasar Informasi di Awal Tanpa Paksaan)*,

² As defined within Paragraph 24 of WB ESS7

2. Disclaimer

This guideline provides an overall guidance to the PLN staff when a project or activity is implemented where an IP community is present, however, additional requirements may be applied to respective project or activity depending on the policy or standard of the financier. This guideline will also be updated from time to time based on the changes in applicable policies, standards and regulations.

This guideline should not be taken as a standard, regulation, or manual, and it is not described to a detailed level of a work instruction. In condition that a more relevant or updated standard, regulation, or manual is available and demands for revision of this guideline, then such revision is permitted under the terms and conditions in the ESMS' Management of Change. If any revision is made; references, rationales and amended parts should be clearly defined.

To be able to serve its purpose, this guideline should be reviewed, implemented, and/or enforced by and to PLN staff with relevant authorities and competencies specified in the ESMS Manual Chapter 3. Any changes to this guideline may potentially trigger the need to update other associated guidelines or procedures.

3. Defining Best Practice

The conducting of IP screening, impact identification and assessment, developing and implementing an IPP and securing FPIC (in instances where it is required) is defined through a combination of Indonesian legislation, PLN regulations and policies, international standards. There are differences between international standards and the country's legal framework, particularly with regards to definition of IP due to the large number of government agencies involved in addressing matters relating to IPs. This is reflective of a fragmented legal and institutional framework on IP issues which are mostly defined at the sector level and pose significant challenges in coordination and implementation. Another gap exists in the requirements to conduct meaningful consultation beyond the land acquisition therefore limiting pathways to achieving FPIC. The below table provides an objective level analysis of gaps between the Indonesian regulatory system and international standards then supplements the detailed gaps evaluation presented within the ESMS. The outcomes have been used as the basis of development for this management guideline.

Standard gaps on indigenous people

ESS7 Objectives	Indonesia Regulations	Gap	Gap Filling Mechanism
<p>Objective 7.1: To ensure that the development process fosters full respect for the human rights, dignity, aspirations, identity, cultural and natural resource-based livelihoods of Indigenous Peoples</p> <p>Identification of IP: Regardless of any terminology used, covers a distinct social and cultural group possessing the four characteristics defined within Paragraph 8 in varying degrees.</p>	<p>Minister of Home Affairs Regulation No.54 of 2014; regarding Recognition and Protection of Indigenous Communities. Prevailing laws and regulations recognize the rights of citizens and respect IPs and their traditional rights, including within the Constitution and the Human Rights Law.</p> <p>Ministry of social regulation no 12 of 2015 provides definition on key terms like "KAT," "adat area," "customary law," and "isolated."</p>	<p>The key gap is the coordination challenges that have matters pertaining to the recognition of IP and their rights across sectors and stakeholders within Government. It is difficult to ensure consistency in application at sub-project levels.</p>	<p>The management guideline to establish clear and consistent objectives and mechanisms to ensure that these rights of IP are respected during project screening, impact assessment, IPP development and all forms of engagement.</p> <p>The management guideline needs to establish a screening mechanism to identify IP based on the characteristics as defined within Paragraph 8 of WB ESS7.</p>
<p>Objective 7.2: To avoid adverse impacts on Indigenous Peoples, or if not possible, to minimize, mitigate and/or compensate impacts. To promote</p>	<p>The Land Acquisition Law (Law 2 of 2012) requires that where a government agency requires land for a public interest development, a land acquisition plan must be prepared, and that notice must be given and public consultation conducted.</p>	<p>There are no measures within the regulations to ensure that they appropriately recognize, respect, and protect the land, territories, environment, health and culture of remote</p>	<p>The management guideline needs to clearly define and establish principles pertaining to impact avoidance, impact assessment, impact mitigation, and realization of potential development benefits that are culturally specific and</p>

<p>sustainable development for IP in a culturally appropriate and inclusive manner.</p>	<p>This law mandates that compensation for customary land shall be given in the form of (i) money, (ii) substitute or replacement land, (iii) resettlement, being a process of providing land at a different location from that of the entitled party in accordance with an agreement made during the acquisition process, (iv) share ownership, being equity participation in the relevant public interest development and/or the management thereof based on mutual agreement between the parties, or (v) other forms as agreed between the parties.</p> <p>Ministry of social regulation no 12 of 2015 covers various aspects of KAT empowerment, including identification, data collection, needs assessment, development planning, capacity building, service delivery, and monitoring and evaluation.</p>	<p>groups with limited external contact.</p> <p>There is no defined objective in any regulatory framework requiring avoidance of adverse impacts on IPs, particularly in relation to land acquisition and related socio-economic studies such as the Amdal.</p> <p>The law has not addressed collective compensation, being a mechanism to promote the effective distribution to all eligible members or effective use that benefits all members of the IP group, goals and preferences of the people, improving standards of living and livelihood in a culturally appropriate manner and fostering long-term sustainability of resources.</p>	<p>sensitive. This includes any IP groups that may be defined as a remote group with limited external contact. This is captured through the IP screening (intended to avoid impacts to the extent possible) and the development of an IPP and FPIC strategy that recognizes both direct and indirect impacts to IPs.</p> <p>The development of IPPs needs to account for collective compensation mechanisms.</p>
<p>Objective 7.3: To improve project design and promote local support by establishing and maintaining an</p>	<p>The legal framework as it stands across various legal instruments and sectors has generally addressed aspects of general public consultation.</p>	<p>While the legal framework provides for public consultation in the early project planning and land acquisition phase, it does not</p>	<p>The management guideline needs to clearly define and establish principles for ongoing and meaningful consultation and</p>

ongoing relationship based on meaningful consultation with the Indigenous Peoples affected by a project throughout the project's life cycle		recognize the concept of meaningful consultation and the development of ongoing relationships based on meaningful consultation are maintained throughout the lifecycle of a sub-project.	relationship development at sub-project level.
Objective 7.4: To obtain Free, Prior, and Informed Consent (FPIC) of affected Indigenous Peoples in important circumstances	The legal framework implementing land acquisition activities (i.e. Law 2 of 2012 and supporting regulations) provides that the agency that requires land must give notice of the development plan and hold public consultation regarding the plan. This demonstrates the intention of the government to facilitate communities and stakeholder engagement in a project.	Currently, Indigenous Peoples participation in project public consultation mainly applies to the land acquisition process. However, this is part of the broader public consultation and there is no specific mechanism or regulation that addresses a requirement to obtain FPIC of IP. It is not clear if there are regional level regulations in place that may address FPIC requirements. There is a need to capture requirements and capacity regarding obtaining FPIC, especially when an investment project involves potential resettlement and relocation. There is room to enhance their participation on other	The management guideline needs to introduce a clear requirement for compliance with the requirements of ESS7 as it relates to developing and implementing strategies to secure FPIC.

		project risks and impacts mitigation measure.	
<p>Objective 7.5: To recognize, respect, and preserve the culture, knowledge, and practices of Indigenous Peoples, and to provide them with an opportunity to adapt to changing conditions in a manner and a timeframe acceptable to them</p>	<p>Matters pertaining to land acquisition and access to land are addressed through Law 2 of 2012 and associated regulations.</p> <p>The Constitution of Indonesia obliges everyone to respect, preserve and maintain knowledge, innovations, and practices of Indigenous and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity and promote their wider applications with the approval and involvement of the holders of such knowledge, innovation and practices and encourage equitable sharing of the benefits arising from such consistent with the UN Convention of Biological Diversity.</p> <p>The central and regional governments are required to facilitate the management of cultural heritage areas, which in its implementation should not conflict with the community interest in the cultural heritage and social life.</p>	<p>There is no specific regulation which addresses measures for legal recognition of IPs perpetual or long-term renewable custodial or use rights. The capacity of IPs to understand their rights and to follow the procedures set out in regulations needs to be accounted for.</p> <p>There is no specific regulation pertaining to FPIC in respect of relocation or other changes in use or access to customary land and resources in a timeframe that is acceptable to the IP. The land acquisition time frame is driven through scheduled working days against steps within the process.</p> <p>This objective is not addressed outside the scope of land acquisition, consistent with the UN Convention on Biological Diversity, having regard for aspects such as respect, preservation, and</p>	<p>The IPP development process to ensure that all sub-projects are developed in a manner that recognizes, respect, and preserve the culture, knowledge and practices of Indigenous Peoples.</p> <p>In instances where FPIC is required, there will be the need to ensure that this is achieved prior to land acquisition being concluded and independent of the timelines defined within Law 2 of 2012 and its implementing regulations.</p>



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		maintenance of knowledge, innovations, and practices of Indigenous Peoples.	
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4. Process Overview

In overall the management of Indigenous People aspect will follow through the E&S safeguard process as regulate in the ESMS, which includes the screening and categorization process, impact assessment, mitigation planning and monitoring, whereas in every step of the process, the mitigation hierarchy (avoid – minimize – restore – offset) will be taken into consideration.

In order to achieve the objectives of each step of E&S safeguard process, the Indigenous People Management aspect will follow the following process:

- ☐ Conduct Indigenous People Screening
- ☐ Developing and implementing strategies for consultation with IP, up to and including FPIC;
- ☐ Identification of risk and impacts, defining avoidance, mitigation and benefits sharing measures, and capturing these within an Indigenous Peoples Plan (IPP);
- ☐ Monitoring and Review of the mitigation measure implementation.

5. Screening

The site selection process, the project design, pre-feasibility and feasibility study assessment must be informed as to the presence of IPs. Known as an Indigenous People's Screening, this is to be conducted in accordance with the "Screening for Identification of Characteristics of Indigenous Peoples". This screening format is provided within Annex 1 and defines whether the community or distinct groups within the community have characteristics in varying degrees as follows:

- a) Self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others;
- b) Collective attachment³ to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resources in these areas;
- c) Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and
- d) A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.

The preliminary screening step can be done by reviewing secondary information sources such as the PLN project database, and other readily available sources such as those held by the Indonesian government register under BRWA and KAT⁴. If BRWA or KAT do not mention the community group as Indigenous people in the potential project location, in recognising that IP

³ "Collective attachment" means that for generations there has been a physical presence in and economic ties to land and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas that hold special significance for it, such as sacred sites.

⁴ The two main official sources to consult are: a) bwra.or.id (Badan Registrasi Wilayah Adat) for obtain information on the status of customary land (certified, verified or registered), b) liaise with Ministry of Social affairs which provides a list of indigenous peoples communities remote areas (KAT) see the last available data [Data Masyarakat Adat 2019.xlsx](#). In addition, the AMAN website can also be a reference.

or Masyarakat Adat are not always formally registered or recorded PLN should consult with community figure and/or NGO (non-government organisation) and AMAN (Aliansi Masyarakat Adat) to determine if IP groups are actually absent from the area or if further detailed screening based on primary data is required. Such primary data needs to capture engagement and consultation with the community surrounding the Project location and the local Social Service Department. Stakeholder engagement should be conducted by an Indigenous People's expert from the province or region in which the Project is to be situated.

Where the evaluation against the four criteria defined within Appendix 1 indicate no presence of IP, the reason for the decision must be documented after which no further consideration of this Guideline is required by PLN.

6. Consultation, Grievance Mechanism and FPIC Circumstances

6.1. Consultation Planning and Implementation

Consultation with IP can support, strengthen the impact assessment process and help in identifying their development priorities and preferences regarding both project benefits and mitigation measures. Upon confirmation that IP are present within a Project location, consultation must commence as early as possible to support and strengthen assessment, help in identifying their development priorities and preferences regarding both project benefits and mitigation measures and define potential FPIC requirements. Consultation must be carried out in a manner that is culturally appropriate and based upon inputs from the IPs during project design and IP engagement strategy/document. Consultations continue throughout project design and implementation and are conducted in accordance with a participation and consultation strategy defined within the IPP. In addition to the matters below, detailed guidance for consultation planning and engagement is provided within Annex 2.

6.2. Grievance Mechanism

In instances where IPs are identified to be present, but not impacted in a manner that requires the development and implementation of an IPP, the Grievance Redress Mechanism (GRM) for the Project will include provisions to ensure that IPs are provided with full and culturally appropriate access to the GRM.

Where IPs are noted to be present and either directly or indirectly impacted and an IPP is required to be developed, it will include a GRM specific to IPP implementation. This GRM will be tailored to be socially and culturally appropriate and specific to the requirements of the community surrounding each Renewable Energy sub-project. This includes identifying existing grievance channels (e.g. head of village or IP governing body) and extra measures will be provided by the Project to ensure compliance with ESS 7 if necessary. The GRM will also consider local dispute-resolving mechanisms to ensure that the process entails good will and respects traditional values and practices. Engagement activities, including consultation and dialogues will be designed to be respectful of local values-systems and practices. It is also to include provisions for identifying grievances related to matters that affect any FPIC agreements secured for the sub-project (only in cases where FPIC is applicable).

6.3. Free, Prior and Informed Consent

Where the initial phases of the risk and impact identification process as defined within Section 6 found that any one of the circumstances described below exists, a Free, Prior and Informed Consent (**FPIC**) needs to be obtained before project activities affecting them can start::

- (a) Have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation;
- (b) Cause relocation of Indigenous Peoples from land and natural resources subject to traditional ownership or under customary use or occupation; or
- (c) Have significant impacts on Indigenous Peoples' cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected Indigenous Peoples' lives.

When the project is identified to have these FPIC circumstances, PLN will engage independent specialists to assist in the identification of the project risks and impacts. An FPIC strategy must be developed and integrated into the required IPP. Detailed guidance for steps to be conducted in planning an FPIC strategy are provided within Annex 3.

a. Free

Free in FPIC context refers to the absence of external manipulation, interference, coercion, discrimination, and intimidation in the decision-making process. It implies that indigenous Peoples have the freedom to express their opinions and make decisions without external pressure or intimidation. In other words, they should be able to participate in the process voluntarily, without any form of constraint or threat to their rights or well-being.

b. Prior

"prior" in FPIC context means that the consultation and decision-making process must occur before any project or development activity begins. It emphasizes the importance of engaging with affected communities early in the planning stages to ensure their input and concerns are taken into account from the outset.

In instances where FPIC is required, there will be the need to ensure that this is achieved prior to land acquisition being concluded and independent of the timelines defined within Law 2 of 2012 and its implementing regulations.

c. Informed Consent

Consent is defined as the collective support of affected indigenous peoples for the project activities that affect them, reached through a culturally appropriate process. Consent may exist even if some individuals or groups explicitly object to such project activities. So that, informed consent is described as making collective decision with prior available information related to: (i) their land rights under national law, including any national law recognizing customary use rights; (ii) the scope and nature of the project; and (iii) the potential impacts of the project.

Confirming FPIC process

Achieving FPIC requires attention to and documentation of both process and outcome. During the initial engagement, a Consent Process Agreement will be prepared and agreed upon between the affected indigenous communities and the PLN representative, which will clarify

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processes, procedures and protocols that should be followed during the FPIC process, as well as the conditions under which a consent is considered to have been achieved by both parties (e.g. minimum votes, absence of strong objections to voting results, endorsement by intra-community groups, etc.). Local government representatives will be encouraged to mediate the preparation of the Consent Process Agreement. Where and as relevant, PLN will consult the financier on the draft Consent Process Agreement, so the consent processes and conditions are agreeable to the financier. The Consent Process Agreement may be adjusted from time to time during the FPIC process if both parties consider as necessary. In the Indigenous Peoples' FPIC plan, records of objections from each group and individual are included as part of the FPIC process documentation. Strategies are then designed to continuously engage and find resolutions for groups that object to project activities.

The FPIC process begins early in the project stage to ensure that Indigenous peoples have sufficient time to understand project information. Once the information is analyzed and FPIC is deemed necessary, circumstances are identified (See **FPIC circumstances** above), and the planning and implementation of the FPIC process commence. Ideally, Indigenous Peoples' consent should be obtained before the construction stage and maintained continuously throughout the project lifecycle.

Achieving consent in FPIC process

An FPIC is considered to have been achieved if conditions set out in the Consent Process Agreement have been met including on the project design and locations, and impact mitigation and benefit sharing measures. IPP will describe how the agreed-upon consent conditions have been met. When full or partial consent is not achieved against the conditions agreed upon in the Consent Process Agreement, it's crucial to undertake efforts aimed at building trust, fostering dialogue, and addressing the concerns of the affected community. Some efforts that can be taken to improve the chance of obtaining consent in the future are:

1. **Engage in Meaningful Dialogue:** Initiate sincere and transparent dialogue with the affected community to understand their concerns, needs, and aspirations regarding the proposed project. Actively listen to their perspectives and demonstrate a genuine commitment to addressing their interests.
2. **Provide Additional Information:** Offer more information and accessible information about the proposed project, including its potential impacts, benefits, and risks. Ensure that the information is presented in a clear, culturally appropriate manner, and allow sufficient time for the community to review and understand it.
3. **Address Grievances and Mitigate Impacts:** Take concrete steps to address any grievances or negative impacts identified by the community. Develop and implement robust mitigation measures, compensation mechanisms, or alternative livelihood programs to minimize adverse effects and enhance the overall well-being of the community.
4. **Respect Indigenous Rights and Customary Practices:** Recognize and respect the rights, traditions, and customary practices of indigenous peoples and local communities. Incorporate indigenous knowledge and perspectives into decision-making processes and project designs to ensure alignment with community values and priorities.

5. **Build Capacity and Empower Communities:** Invest in capacity-building initiatives that empower communities to participate effectively in decision-making processes and engage in negotiations with project proponents. Provide training and support for community leaders and representatives to strengthen their advocacy skills and negotiation abilities.
6. **Establish Mechanisms for Continuous Engagement:** Establish formal mechanisms for ongoing consultation, participation, and feedback throughout the project lifecycle. Foster a collaborative relationship between the project proponent, government agencies, and the affected community to facilitate open communication and mutual understanding.
7. **Seek Mediation or Third-Party Facilitation:** In cases of significant disagreement or conflict, consider involving impartial mediators or third-party facilitators to help facilitate constructive dialogue and negotiation. Mediation can help bridge differences, build consensus, and find mutually acceptable solutions that address the interests of all parties involved.

When consent is not achieved with some parts or entire community in the Free, Prior, Informed Consent (FPIC) process, it typically means that the affected community has not given their explicit agreement or approval for the proposed project or development activity to proceed on their land or territory. In such cases, the project may modify locations and/or designs to achieve their FPIC, before the project can start activities that affect them.

7. Defining Risks, Impacts, Mitigation Measures and Benefits Sharing

7.1. Avoidance

As a first principle, PLN will seek to avoid adverse impacts on IP will be avoided where possible. Conducted as part of site selection and preliminary project design, it will capture principles such as avoiding areas of residence, cultural heritage and/or access to natural resources for indigenous peoples or indigenous communities (See Screening section to identify IP presents). Where alternatives have been explored and adverse impacts are unavoidable, PLN will minimize and/or compensate for these impacts in a culturally appropriate manner proportional to the nature and scale of such risk, impacts and the form and degree of vulnerability of the affected IP.

7.2. Risk and Impact Identification and Assessment

Targeted social assessment for the purpose of understanding the project impact to indigenous people is conducted as part of the environmental and social assessment. A key aspect of the assessment is understanding the relative vulnerabilities of the affected IP and how the project may affect them. The assessment is proportional to the nature and scale of the proposed projects potential risks to, and impacts on, as well as the vulnerability of the IP. The social assessment includes the following elements, as needed:

- a. A review of the legal and institutional framework applicable to IP.
- b. Gathering of baseline data on the demographic, social, cultural, vulnerability (that might be exacerbated by the project implementation) and political characteristics of the

- IP; the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend.
- c. Taking the review and baseline data into account, the identification of project-affected parties and the elaboration of a culturally appropriate process for involving and consulting with the IP at each stage of project preparation and implementation.
 - d. An assessment, based on meaningful consultation tailored to IP local context, of the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is an analysis of the relative vulnerability of, and risks to, the affected IP, given their distinct circumstances and close ties to land and natural resources, as well as their potential lack of access to opportunities relative to other social groups in the communities, regions, or national societies in which they live. The assessment should consider differentiated gender impacts of project activities and impacts on potentially disadvantaged or vulnerable groups within the community of IP
 - e. The identification and evaluation of measures necessary to avoid adverse impacts, or if such measures are not feasible, the identification of measures to minimize, mitigate, or compensate for such impacts, and to ensure that the IP receives culturally appropriate benefits under the project. This is based on meaningful consultation tailored to IP and, where relevant, pursuant on FPIC.

Example:

Potential indicative negative impact to indigenous people such as:

- Extensive land or forest acquisitions that prevent indigenous peoples from being able to continue their traditional livelihood patterns;
- Restrictions on indigenous peoples' access to forests that have been used for generations hunting, harvesting fruit, rattan and other non-timber forest products, or access to inheritance the culture that is usually visited;
- Restriction on indigenous peoples' access to cultural heritage;
- Resettlement of indigenous people to areas far from their places of origin.

Input from qualified specialists and accompanying meaningful consultations with IP are important to inform and support the assessment. The assessment also evaluates the capacity of the PLN / Project Implementing Partner (independent power producer) to involve IP in project design and implementation.

7.3. Key Components of Mitigation Measure

Based on the impact assessment process, all sources of adverse impact to Indigenous People that require mitigation measures and/or to be managed should be identified. Related information on the activity and impact, such as when the impact occurs, the location of the impact, the impact magnitude, and the impact receptor should be also listed. When land acquisition process triggers any of the FPIC circumstances above, FPIC process is considered along the project activities and mitigation measures design as well as implementation.

As previously described, the mitigation measures to be developed must follow the mitigation hierarchy (manage when avoidance is not possible). Each risk/impact towards indigenous people that is required to be mitigated should specify detailed mitigation activities, the

implementation schedule and measurable criterion of the targets to be achieved. These must be integrated into the IPP as described within Section 7 below.

8. Indigenous Peoples Plan Development

For any project where risk and impact identification and assessment has identified that the Project will result in direct and/or indirect economic, social, cultural (including cultural heritage) or environmental impacts to IPs (whether triggering FPIC or not) an Indigenous People Plan (IPP) is to be developed with the complexity to be commensurate with the magnitude of impacts arising. A full scope IPP must be prepared where IPs will experience direct impacts (refer to Annex 1 for guidance). For Projects where the nature of direct impacts resulting in the need to secure FPIC is confirmed, the IPP must clearly describe how FPIC will be secured, the management, mitigation and benefits packages that form the basis for any FPIC agreements, and how FPIC will be maintained. In circumstances where IPs will receive only positive benefits and/or indirect impacts, an abridged version of an IPP can be developed (refer to Annex 2 for guidance)

The IPP is to be developed in accordance with the sample contents as provided for Annex 4 (Full IPP) and Annex 5 (Abridged IPP) and developed by appropriately qualified consultants and in accordance with a TOR prepared specifically for the Project. It must capture the following as a minimum:

- **Participation, Consultation, and FPIC Processes:** A summary of results of the culturally appropriate consultation and, where required, FPIC processes undertaken with the affected peoples' which led to the indigenous peoples' support for the project.
- **Consultation and Consent:** A description of the mechanisms to conduct iterative consultation and consent processes throughout implementation of the project. Identify particular project activities and circumstances that shall require meaningful consultation.
- **Strategy for ongoing consultations to maintain FPIC:** For any sub-project where FPIC has been confirmed as being required, a clear description of the process proposed to secure FPIC, definition of benefits sharing schemes and impact mitigation measures, timelines for achieving FPIC, defining what the form the consent agreement will take, how ongoing consultation will be conducted to ensure that FPIC is maintained, and circumstances and forms in which the IP Community may withdraw their consent.
- **Risks, Impacts and Mitigation Measures:** Where potential risks and adverse impacts to indigenous peoples, their lands, territories and resources are identified, the details and associated timelines for the planned measures to avoid, minimize, mitigate, or compensate for these adverse effects. Include relevant measures to promote and protect the rights and interests of the indigenous peoples including compliance with the affected peoples' internal norms and customs. Where such mitigation measures are part of securing FPIC, this is to be clearly defined and the process through which these were developed and agreed upon in consultation with the impacted IP's is to be described within the IPP.

- **Appropriate Benefits:** vi Where such benefits distribution is part of an FPIC process, the process through which these were developed and agreed upon in consultation with the impacted IPs is to be described within the IPP.
- **Capacity support:** Description of measures to support social, legal, technical capabilities of indigenous peoples' organizations in the project area to enable them to better represent the affected indigenous peoples more effectively. Where appropriate and requested, description of steps to support technical and legal capabilities of relevant government institutions to strengthen compliance with the country's duties and obligations under international law with respect to the rights of indigenous peoples.
- **Grievance Redress:** A description of the procedures available to address grievances brought by the affected indigenous peoples arising from project implementation, including the remedies available, how the grievance mechanisms take into account indigenous peoples' customary laws and dispute resolution processes, as well as the effective capacity of indigenous peoples under national laws to denounce violations and secure remedies for the same in domestic courts and administrative processes.

The document must be developed and approved prior to any impacts to IPs occurring

9. Mitigation Measure Implementation, Monitoring and Review

The implementation of mitigation measures and its monitoring results should be reported. The report should be within the Environment Social Management Plan (ESMP) document. ESMP should specify to whom the reports are to be submitted for review, and the length of time records will be kept. This will include summary reports at intervals and to which institution the monitoring report should be submitted.

When the impact to Indigenous peoples is deemed significant, the implementation of the FPIC process as part of mitigation measures must be integrated into the IPP and further monitoring and reporting measures also defined. All mitigation measures requirements may vary depending on the project, context and to be tailored for the project specific circumstances. It is expected all mitigation measures implemented are documented and updated regularly.

Each of the activities implemented as mitigation measures should be monitored, periodically (at least every 6 months or annually) or at the end of the activity, depending on the type and time span. The frequency of monitoring should be specified for each activity, including the resource/person in charge required for monitoring, and the record that must be kept.

Regular mitigation measures review schedule should be determined, which is likely considering the nature of the management system planned, the legal requirements applied and E&S management plan as a whole. In minimum the indigenous people plan should be reviewed annually. Persons responsible for activities related with the mitigation measures review should also be determined.

10. Disclosure

The IPP for each sub-project will be disclosed in accordance with the requirements of international standard, with the document to be made available at:

- PLN and World Bank website

- PLN Regional Unit offices
- Villages offices that are readily accessible to project-affected people
- Sub-project offices

The IPP will be prepared in Bahasa Indonesia and English, plus any other local language as required by the affected IPs. In addition to the IPP, other supporting documents such as FPIC agreements will also be disclosed in accordance with the above requirement. Any aspects of the IPP and FPIC that may be considered commercially, culturally, or personally sensitive will not be disclosed unless agreement has first been sought from the affected IP community.

11. References

National Standards

- Law No. 41 Year 1999 on Forestry, which has been amended by Law No. 19 Year 2004. The Constitutional Court has reviewed the Law No. 41 Year 1999 on the forest rights of MHA through the Constitutional Court Decree No. 35 Year 2012 which confirms that adat forests are no longer state forests.
- Basic Agrarian Law of 1960 determines the applicability of adat law over land and customary rights (hak ulayat). This is the first law that introduced the concept of conditionality in the recognition of Indigenous Peoples which was further adapted through various laws governing land and natural resources.
- Village Law No. 6 Year 2014 acknowledges the existence and rights of MHA, provided that they are recognized, and MHA could opt to establish adat villages with their own institutional structures and authority. However, this law suffers from a lack of guiding regulations and institutional mandates to make such provisions operational. The Law grants a desa adat an authority to conduct adat-based public administration. Compared to other laws, the law adopts optional, non-cumulative criteria for recognition of MHAs with the existence of adat territory being mandatory.
- Law No. 27 Year 2007 on Coastal Zone and Small Island Management acknowledges the existence of MHA provided they are recognized and requires consultations with MHA for any development in coastal areas. This is the only Indonesian law that explicitly requires free, prior, and informed consultations for affected MHAs.
- Law No. 23 Year 2014 on Local Government recognizes the existence of adat institutions (lembaga adat) by giving them rights to “empowerment”. Secondly, the Law determines that adat law is an additional rule for use in particular purposes, such as village elections. Thirdly, the Law places of adat or adat law as the basis upon which to conduct local development, or as a parameter to measure social cohesiveness.
- Law No. 11 Year 2010 on Cultural Heritage recognizes MHA as the owners of their cultural heritage and grants them authority to manage it.
- Implementing regulations include PR 186/2014 on Social Empowerment of Remote Indigenous People, MAA Regulation 18/2019 on Procedures for Customary Land Administration as part of a Customary Law Community, Ministry of Home Affairs (MOHA) Regulation 52/2014 on Guidelines for Recognition and Protection of Indigenous People, and MOEF Regulation 17/2020 on Titled Forest and Indigenous Peoples Forest.
- Provincial Governments have enacted local regulations regarding the recognition and validation of indigenous peoples. For example, the statutory recognition of the indigenous people in Papua is acknowledged under Law 21 of 2001 on Special Autonomy for Papua Province.

International Standards

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- ESS7 Worldbank Indigenous Peoples/ Sub-Saharan African Historically Underserved Traditional Local Communities
- Guidance Note Environmental & Social Framework for IPF Operations ESS7: Indigenous Peoples/ Sub-Saharan African Historically Underserved Traditional Local Communities

PLN internal Standards

- PerDir 153/2019 regulates that risk screening and document preparation on land acquisition and resettlement issues should be based on meaningful consultations with affected people, especially vulnerable groups including Indigenous Peoples and other relevant stakeholders throughout project stages, from project planning to construction and operational stages.

12. Appendices

Annex 1: Form Screening for Identification and Characterisation of IP

Introduction:

There are Indigenous Peoples (IP) in all provinces of Indonesia who have a diversity of traditions and customs expressed in different languages, dialects, local wisdom, and arts. IP territorial boundaries can be identified in several spaces, namely settlement/residential areas, farming areas, sacred areas or areas for traditional ceremonies, tombs, reserve forests, hunting range areas. These boundaries can often only be understood by the IP group itself e.g. trees, rivers, rocks, monuments etc. IP settlements are located outside forest areas with small groups of settlements located in production forest areas. Indigenous groups also live in protected forest areas on a limited basis for certain purposes only, while other public settlements are prohibited in protected forest areas under National Legislation.

The design and implementation of PLN projects/activities are carried out while maintaining full respect for the dignity, human rights, and cultural uniqueness of Indigenous Peoples and so that they (1) can receive social and economic benefits, and (2) do not suffer negative impacts during the development process and project operations. Therefore, at the beginning of the project/activity feasibility study process, initial identification of the presence of indigenous peoples in the project area needs to be carried out (Indigenous People Screening). And if the presence of indigenous peoples is found in the project area, PLN is expected to design and implement a plan for the involvement / consideration of indigenous peoples in project activities through the FPIC (Free Prior Informed and Consent) process.

In allocating international funding, the following projects/activities (exclusion list) will not be funded:

A project with (i) acquisition of IP traditional territories (ancestral lands/customary lands)⁵ but without the consent of the entire IP community as well as the people who actually use the land, based on participatory processes; (ii) physical relocation of IP communities; (iii) significant impacts on indigenous peoples' cultural heritage; and (iv) significant impacts on access to natural resources for indigenous peoples.

Directions:

1. Scope of Application:

This Code of Practice is a reference that must be used and adhered to by all PT PLN (Persero) staff working in project planning and implementation. It is intended that PLN will be able to minimise the negative impacts of projects on indigenous peoples, better document and involve indigenous peoples in the consultation process. If necessary, the application of the Practical Guidelines can also be extended to each PLN subcontractor to increase its capacity to plan, implement and manage social safeguards systems in PLN projects.

⁵ PLN uses both government maps and AMAN maps to identify IP areas. Also, in practice, PLN consults with local communities and aims to avoid the acquisition of lands that are considered by local communities to be communal or ancestral values and should not be separated.

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2. UIP/UIW Responsibilities and Measures to accommodate indigenous peoples in the project area as follows:

No.	Step	Description
Pre-Construction		
1	Initial identification of the presence of indigenous peoples in the project area in the pre-feasibility study stage	From the outset, PLN understands who the affected indigenous peoples are and how much impact is expected.
2	Further community consultations to understand the characteristics of indigenous peoples (primary data collection) and the impacts of activities	After knowing the location of activities in identifying indigenous peoples, PLN is expected to discuss with indigenous peoples to understand their adaptability to impacts and their vulnerability to impacts.
3	Identify mitigation and impact management measures	Impact mitigation measures can be adapted to local wisdom and the needs of indigenous peoples.
4	Consultation with affected indigenous peoples	If necessary, the language used to communicate with indigenous peoples may be customised in local languages and the assistance of an indigenous designee may be allowed during consultations.
5	FPIC to obtain indigenous peoples' consent regarding the implementation of activities	If indigenous peoples' locations are affected by PLN's land acquisition activities, FPIC approval needs to be obtained from indigenous peoples' representatives. In the FPIC document, a joint decision is written regarding the project/activity endeavour involving indigenous peoples in decision-making on the location of the project/activity and the type of resolution of land affected by the project.
Construction begins		
6	Implementation of impact management related to indigenous peoples	Monitor progress of mitigation of impacts during land acquisition and post land acquisition on indigenous peoples (if any Livelihood Restoration is implemented)
7	Impact monitoring related to affected indigenous peoples	Livelihood restoration implementation programme, discussions with indigenous peoples and monitoring process throughout the loan commitment (if any Livelihood Restoration is implemented)

3. Forms that can be used by activity implementers (PLN, IPP, Consultant)

Project Description information required

No.	Screening Questions	Internal project information based on pre-FS
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1	Name the project	
2	State the year of project implementation!	
3	What type of project (Generation, Transmission, Distribution, Substation)?	<ul style="list-style-type: none"> a. Generation: Solar PV, Wind Power b. Transmission line c. Distribution Network d. Substation
4	Name the key person responsible for Corporate Planning/UIP Land Acquisition/UIW Land Acquisition?	<ul style="list-style-type: none"> a. PLN Centre: Division b. UIP c. UIW
5	What is the required project footprint in square metres?	
6	How much new access road is required in metres per square? The road in question is a government-owned access road and land acquisition is the responsibility of the local government, not PLN.	
7	Design drawing of the required land in metres per square?	
8	List the types of impacts that indigenous peoples will experience e.g. land acquisition, closure of access roads - state the size of the affected land and the pattern of use of the affected land (gardens/fields/tombs/sacred places/roads) prior to PLN's use. Select one in the list of impacts or add other types of impacts identified.	<ul style="list-style-type: none"> a. Impact on residential land (....m2) <ul style="list-style-type: none"> i. Residential land area before and after impact ii. Landforms of affected dwellings b. Impact on agricultural land (...m2) <ul style="list-style-type: none"> i. Land area before and after impact ii. Crop types of affected farmland c. Resulting in impacts to community land that must be physically relocated d. Impacts to cultural heritage assets, please specify e. Impact on limited access to land (forest/garden) water, hunting and gathering areas,

Screening for Identification of Characteristics of Indigenous Peoples

In identifying the presence of indigenous peoples in the project footprint area, PLN needs to understand and seek information related to the 4 characteristics of Indigenous Peoples below. Data collection for this identification process can come from secondary data and primary data. If possible, coordination with the local Social Service can be carried out to understand the vulnerability of affected indigenous peoples due to the identified characteristics. The information collected below is for PLN's internal data and is not to be shown to indigenous peoples.

Characteristics	Questions to find information	Describe the findings of related information
1. Self-identification as a member of a group and recognition of this distinct social and cultural identity by others;	What is the name of the tribe/indigenous people found in the activity location? Provide references from the Remote Indigenous Peoples Map ⁶ or non-profit organisation indigenous peoples map ⁷ or Ministry of Social Affairs data on Remote Indigenous Peoples Groups or Local regulations on specific indigenous peoples.	Summarise the answers so as to understand the characteristics of this socio-cultural identification 'present or not in the society'.
	<p>Are there any migrant tribes in the PLN sub-project/activity area? What is the name of the tribe and where did they come from? If so, ask how they obtained land in the area, e.g. permission from local traditional leaders and/or the village head. How much land does the migrant tribe own?</p> <ul style="list-style-type: none"> - Do the indigenous and migrant tribes mix well or do each still have certain land boundaries? - Do indigenous and migrant tribes use the same local language? - Are there any traditional leaders or figures? What is their role in the community? - Are there still traditional ceremonies that are determined and led by traditional leaders? Please mention any ceremonies. - Are there any customary ownership land boundaries in the area in the form of forests, plantations, agricultural land that are jointly owned by the customary group? If so, please specify the type of land and what kind of boundary markings, e.g. trees, rivers, stones etc., are present. - 	
2. Collective attachment ⁸ to	Where is the area/land used as typical village land/traditional ritual place/sacred	Summarise the answers to

⁶ List of Remote Indigenous Groups from the Ministry of Social Affairs or Social Service Office relevant to the activity.

⁷ <https://brwa.or.id/wa/> or <https://archive.aman.or.id/peta/>

⁸ "Collective attachment" means that for generations there has been a physical presence and economic ties to the lands and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas of special significance to it, such as sacred sites.

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geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as the natural resources in these areas;	place? Is the location of PLN activities within the area? How are land management patterns and customary land certificates (SKTA) used? How long (years/historically) have people lived in the project affected area? Draw a map of the customary area and explain.	understand whether or not this characteristic of collective ownership 'exists in the community'.
3. Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture;	How is the village governed? Are there customary community leaders other than the appointed village head/assigned village head? Do you have written/unwritten customary laws or fines (especially on land use)? Describe the government structure in the village and explain.	Summarise the answers so that it can be understood whether or not this institutional characteristic 'exists in the community'.
4. Different languages or dialects, often different from the national language or the region in which they live.	Is there a colloquial language used other than Bahasa Indonesia? What is the name of this language? How many people in the village use the local/traditional language? Do people have difficulty communicating in Indonesian?	Summarise the answers so as to understand the characteristics of this language 'present or not in the community'.

After filling in the answers in the 4 criteria above, conclude which criteria are most visibly present in the community. If you do not see any of the above 4 criteria present in the community, then it can be concluded that 'The community is not a vulnerable indigenous community affected by the project/activity' and vice versa. Therefore, mitigation measures towards the project impact for IP is adjusted to the criteria associated with the IP group identified (vulnerable indigenous community impacted by the project or not). Please see the considerations below in filling out form above.

Notes to consider in completing form above:

1. Please add information not only from primary data (70% of data, asking indigenous people) but also from secondary data (30% of data) journals found on the internet.
2. Many indigenous peoples in Indonesia are not registered with the Ministry of Social Affairs.
3. Local regulations of certain indigenous peoples sometimes also provide information on the type of traditions, language, government structure, and location of customary lands recognised by the local government.
4. Consultation with community organisations, such as AMAN, can be done via email or the call centre on their website/social media pages. Please ask to be directed to the indigenous representative council of the region where the PLN activity/project is taking place.
5. If people drive vehicles, use *mobile phones*, wear normal clothes, go to school; this cannot be taken as a sign that they are not indigenous.

6. Consider including information that may be used to understand the vulnerability of the community such as 'the community does not speak Indonesian in their daily lives - this indicates the community/affected people (PAPs) need help discussing/language adjustment'.
7. The above form is expected to be answered in 1-3 pages only.

IPP Development Practical Guidance

Consultations and Engagement

Project implementers with assistance from the UIW/UIP and/or expert consultants will engage in a process of meaningful consultation with affected IPs. This engagement is to be an iterative process until common understanding have been reached on matters such as presence of customary land and natural resources under customary management, processes to be followed to enable for customary decision-making norms to be respected (regardless of whether FPIC is required), and ongoing participation and consultation during important Project steps such as land acquisition.

The extent, frequency, and degree of engagement required during the consultation process will vary with each project and should be commensurate with the identified potential risks and concerns raised by respective IP's. Meaningful consultations need to be built on mutually accepted processes by IP community representatives and their legitimate and recognized. Such consultation needs to serve two key purposes:

- Provide a platform to enable community participation to express their concerns, views on the project's benefits, risks, impacts, and mitigation measures and explore ways to ensure project implementation is culturally and socially acceptable; and
- Enable decision making processes based on local/customary mechanisms.

IP community participation needs to be based on gender-sensitive and intergenerationally inclusive approaches. Effective consultations are built upon a two-way process that should:

- Involve members of affected communities and their recognized representative bodies and organizations in good faith;
- Capture the views and concerns of men, women and vulnerable community segments including the elderly, youth, displaced persons, children, people with special needs, etc., about impacts, mitigation mechanisms, and benefits where appropriate. If necessary, separate forums or engagements need to be conducted based on their preferences;
- Begin early in the process of identification of environmental and social risks and impacts and continue on an ongoing basis as risks and impacts arise;
- Be based upon the prior disclosure and dissemination/socialization of relevant, transparent, objective, meaningful, and easily accessible information that is in a culturally appropriate language(s) and format and is understandable for affected communities. In designing consultation methods and use of media, special attention needs to be paid to include the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits;

- Place greater emphasis on inclusive engagement for people directly affected by the project, rather than people affected indirectly;
- Ensure that the consultation processes are free of external manipulation, interference, coercion and/or intimidation. The consultations' design should create enabling environments for meaningful participation, where applicable. In addition to the language(s) and media used, the timing, venues, participation composition need to be carefully thought through to ensure everyone could express their views without repercussions; and
- Be documented.

Consultation must be conducted during planning and design phase with IPs, with the outcomes integrated into the IPP which, as described further below, needs to incorporate IP stakeholder identification and analysis, description of historical stakeholder engagement related to the RE sub-project, and a proposed stakeholder engagement and consultation programme specific to IP's.

Free, Prior and Informed Consent

There may be instances where projects are required to obtain FPIC from impacted IP communities, such circumstances include projects that:

- have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation;
- cause the relocation of IP from land and/or natural resources subject to traditional ownership or under customary use or occupation; or
- have significant impacts on IPs cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected IP community

No project in these circumstances will be approved unless it can be demonstrated that FPIC has either been acquired, or that there is a plan in place that has been developed in consultation with IP to secure and maintain FPIC. The FPIC process therefore needs to be established as follows:

- The scope of FPIC applies to project design, implementation arrangements, and expected outcomes related to risks and impacts on the affected Indigenous Peoples;
- FPIC builds on and expands the process of meaningful consultation described in meaningful consultation process and will be established through good faith negotiation between the PLN and affected Indigenous Peoples;
- PLN will document the negotiation and consent process: (i) The mutually accepted process to carry out good faith negotiations that has been agreed upon by the PLN and Indigenous Peoples; and (ii) the outcome of the good faith negotiations between the PLN and Indigenous Peoples, including all agreements reached as well as dissenting views; and
- FPIC does not require unanimity and may be achieved even when individuals or groups within or among affected Indigenous Peoples/ explicitly disagree.

Where FPIC has been identified as being required, the IPP is to include specific provisions to describe how PLN will ensure that FPIC is attained and maintained.

Social Assessment

Commensurate to the potential risks and impacts, social assessments will be required as part of the broader ESIA and LARPF process to identify the presence and understand the nature of project's impacts on IPs. In all cases where impacts to IPs are identified, a stand-alone assessment that can be integrated into the IPP must be undertaken.

The assessment is expected to provide a more informed understanding and analysis of risks as well as opportunities through which mitigation measures can be tailored to specific contexts and needs. In this circumstance, both qualitative and quantitative data will inform the assessment, including baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples, the land, and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend. Main areas to be covered include:

- Nature of vulnerability and attachments to land and natural resources;
- Specific risks and potential adverse impacts as a result of project and/or sub-project implementation;
- Level of community acceptance to the activities and/or initiatives supported by the project and/or sub-project activities;
- Analysis of relevant stakeholders, either who will be impacted or who have interest to the activities in question and the elaboration of a culturally appropriate process for consulting with the Indigenous Peoples and *Masyarakat Adat* at each stage of activity preparation and implementation;
- Opportunities to enhance participation of the communities concerned as well as benefit sharing arrangements; and
- Approach to participation, including specific measures to promote participation and inclusion of vulnerable groups in risk management and overall project implementation.

The approach and engagement with affected communities for the social assessment purposes are based on meaningful consultations in good faith. The outcomes of this assessment are to drive the development of the IPP.

Annex 2: Additional Guidance in Conducting Engagement and Consultation**Consultations and Engagement**

On the basis of outcomes of screening, RE sub-project implementers with assistance from the UIW/UIP and/or expert consultants will engage in a process of meaningful consultation with affected IPs. This engagement is to be an iterative process until common understanding have been reached on matters such as presence of customary land and natural resources under customary management, processes to be followed to enable for customary decision-making norms to be respected (regardless of whether FPIC is required), and ongoing participation and consultation during important Project steps such as land acquisition.

The extent, frequency, and degree of engagement required during the consultation process will vary with each RE sub-project and should be commensurate with the identified potential risks and concerns raised by respective IP's. Meaningful consultations need to be built on mutually accepted processes by IP community legitimate and recognized representatives. Such consultation needs to serve two key purposes:

- Provide a platform to enable community participation to express their concerns, views on the project's benefits, risks, impacts, and mitigation measures and explore ways to ensure project implementation is culturally and socially acceptable;
- Enable decision making processes based on local/customary mechanisms.

IP community participation needs to be based on gender-sensitive and intergenerationally inclusive approaches. Effective consultations are built upon a two-way process that should:

- Involve members of affected communities and their recognized representative bodies and organizations in good faith;
- Capture the views and concerns of men, women and vulnerable community segments including the elderly, youth, displaced persons, children, people with special needs, etc., about impacts, mitigation mechanisms, and benefits where appropriate. If necessary, separate forums or engagements need to be conducted based on their preferences;
- Begin early in the process of identification of environmental and social risks and impacts and continue on an ongoing basis as risks and impacts arise;
- Be based upon the prior disclosure and dissemination/socialization of relevant, transparent, objective, meaningful, and easily accessible information that is in a culturally appropriate language(s) and format and is understandable for affected communities. In designing consultation methods and use of media, special attention needs to be paid to include the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits;
- Place greater emphasis on inclusive engagement for people directly affected by the project, rather than people affected indirectly;
- Ensure that the consultation processes are free of external manipulation, interference, coercion and/or intimidation. The consultations' design should create enabling environments for meaningful participation, where applicable. In addition to the

language(s) and media used, the timing, venues, participation composition need to be carefully thought through to ensure everyone could express their views without repercussions; and

- Be documented.

Consultation must be conducted during planning and design phase with IPs, with the outcomes integrated into the IPP which, as described further below, needs to incorporate IP stakeholder identification and analysis, description of historical stakeholder engagement related to the RE sub-project, and a proposed stakeholder engagement and consultation programme specific to IP's.

Free, Prior and Informed Consent

There may be instances where RE sub-projects are required to obtain FPIC from impacted IP communities, such circumstances include RE sub-projects that:

- have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation;
- cause the relocation of IP from land and/or natural resources subject to traditional ownership or under customary use or occupation; or
- have significant impacts on IPs cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected IP community

The project has acquired consent through FPIC, or that there is a plan in place that has been developed in consultation with IP to secure and maintain FPIC. The FPIC process therefore needs to be established as follows:

- The scope of FPIC applies to project design, implementation arrangements, and expected outcomes related to risks and impacts on the affected Indigenous Peoples;
- FPIC builds on and expands the process of meaningful consultation described in the general meaningful consultation process and will be established through good faith negotiation between the PLN and affected Indigenous Peoples;
- PLN will document the negotiation and consent process: (i) The mutually accepted process to carry out good faith negotiations that has been agreed upon by the PLN and Indigenous Peoples; and (ii) the outcome of the good faith negotiations between the PLN and Indigenous Peoples, including all agreements reached as well as dissenting views; and (iii) FPIC does not require unanimity and may be achieved even when individuals or groups within or among affected Indigenous Peoples/ explicitly disagree.

Where FPIC has been identified as being required, the IPP is to include specific provisions to describe how PLN will ensure that FPIC is attained and maintained.

Social Assessment

Commensurate with the potential risks and impacts, social assessments will be required as part of the broader ESIA and LARPF process to identify the presence and understand the nature of project's impacts on IPs. In all cases where impacts to IPs are identified, a stand-alone assessment that can be integrated into the IPP must be undertaken.

The assessment is expected to provide a more informed understanding and analysis of risks as well as opportunities through which mitigation measures can be tailored to specific contexts and needs. In this circumstance, both qualitative and quantitative data will inform the assessment, including baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples, the land, and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend. Main areas to be covered include:

- Nature of vulnerability and attachments to land and natural resources;
- Specific risks and potential adverse impacts as a result of project and/or sub-project implementation;
- Level of community acceptance to the activities and/or initiatives supported by the project and/or sub-project activities;
- Analysis of relevant stakeholders, either who will be impacted or who have interest to the activities in question and the elaboration of a culturally appropriate process for consulting with the Indigenous Peoples and *Masyarakat Adat* at each stage of activity preparation and implementation;
- Opportunities to enhance participation of the communities concerned as well as benefit sharing arrangements; and
- Approach to participation, including specific measures to promote participation and inclusion of vulnerable groups in risk management and overall project implementation.

Annex 3: Additional FPIC Participation Guidance

Indigenous Peoples or Masyarakat Adat (Customary Communities) may be vulnerable to the loss of, alienation/resettlement from or exploitation to natural and cultural resources. IPs communities are often among the poorest of the poor in the community and closely tied to their settlements, lands and related natural resources upon which the sustenance of their livelihoods depends. Frequently, these lands and settlements are traditionally owned or under customary use and often not legally recognized by national laws. In recognition of this vulnerability, interventions introduced through this project with the objectives to improve land administration and address informal settlements may potentially alienate and/or displace IPs if the mechanisms for Free, Prior and Informed Consultations (FPICs) to obtain broad support are not built into project design and implementation.

Objective.

The extent, frequency and degree of engagement required by the consultation process should commensurate with the identified project risks and adverse impacts and with the concerns raised by affected IPs. FPICs are built on mutually accepted process between affected communities and project actors. FPICs serve at least two purposes:

- a. Provide a platform to undertake a process of consultations in good faith and in a manner that provides affected IPs with opportunities to express their concerns and views on the sharing of development benefits, risks, impacts, and mitigation measures and explore ways to leverage culturally and socially acceptable benefits.
- b. Provide a two-way mechanism for village apparatus especially PLN staff to engage with IPs and their organizations, including Adat councils, community groups to consider and respond to the views and concerns expressed by affected IPs prior to project execution.

Procedures. FPICs should be orientated towards obtaining broad community support and by which, broad community support consists of a collection of expressions by affected community members and/or their recognized representatives in support of the proposed project/sub-project activities. Although FPICs do not necessarily require unanimity and in some instances, decisions may be achieved even individuals or groups within the community disagree, FPICs lay out organized and iterative processes through which decisions and measures adopted by the project incorporate the views of the affected IPs on matters that affect them directly.

The Community Participation Framework needs to be built on gender-sensitive and intergenerationally inclusive approaches. Effective FPICs are built upon two-way processes that should:

- a. Involve members of affected communities and their recognized representative bodies and organizations in good faith.
- b. Capture the views and concerns of men, women and vulnerable community segments including the elderly, youth, displaced persons, children, people with special needs, etc. about impacts, mitigation mechanisms, and benefits where appropriate as reflected in sub-project design. If necessary, separate forums or engagements need to be conducted based on their preferences.

- c. Begin early in the process of identification of environmental and social risks and impacts and continue on an ongoing basis as risks and impacts arise.
- d. Be based on the prior disclosure and dissemination/socialization of relevant, transparent, objective, meaningful, and easily accessible information which is in a culturally appropriate language(s) and format and is understandable to affected IPs. In designing consultation methods and use of media, a special attention needs to be paid to include the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits.
- e. Focus on inclusive engagement on those directly affected than those not directly affected;
- f. Ensure that the consultation processes are free of external manipulation, interference, coercion and/or intimidation. The ways the consultations are designed should create enabling environments for meaningful participation, where applicable. In addition to the language(s) and media used, the timing, venues, participation composition need to be carefully thought through to ensure everyone could express their views without repercussions.
- g. Be documented

In deciding whether to proceed with the sub-project, PLN should ascertain on the basis of social assessment and FPICs whether affected IPs provide their broad support to the project. Where there is such a support, the PLN should prepare:

- a. Documented evidence of FPICs as well as measures taken to avoid and minimize risks to and adverse impacts of the affected IPs. This includes list of participants, meeting minutes and other documentation (e.g., photos, video, etc.);
- b. Additional measures, including project design modification, alternative locations, and where applicable compensations to address adverse effects on affected IPs and to provide them with culturally and socially appropriate benefits;
- c. Action plan and recommendations for FPICs during project implementation, monitoring, and evaluation, and
- d. Any formal agreements reached with affected IPs and/or their representative organizations.

The PLN and financiers will review the process and the outcome of the consultation carried out by the village apparatus to confirm that the affected IPs have provided their broad support to the project.

Requirements. To ensure that FPICs can be ascertained, the following requirements are needed to determine whether:

- a. The level of engagement in a way that enables informed participation of affected IPs is acceptable;
- b. The level of support and dissent among affected IPs for the project is taken into account into decision making and development of mitigation measures.

Annex 4: Indigenous Peoples Plan Template (Full)

Depending on the scale and nature of potential risks and impacts on Indigenous Peoples and/or *Adat* Communities, an Indigenous Peoples Plan (IPP), or elements of such a planning instrument, is required for all project and subproject activities with impacts on Indigenous Peoples and/or *Masyarakat Adat*.

The following provides the key elements of a full-blown IPP, to be applied where IPs will experience direct impacts. These elements include:

- b. **IPP Executive Summary.** This section concisely describes the critical facts, significant findings, and recommended actions (required for a standalone IPP);
- c. **Assessments of project and/or sub-project activities with impacts on Indigenous Peoples and/or *Masyarakat Adat*.** This section provides analysis of the nature and scale of such impacts, should:
 - i. Review the legal and institutional framework applicable to Indigenous Peoples and/or *Masyarakat Adat* in the project context.
 - ii. Provide baseline information on the demographic, social, cultural, and political characteristics of the affected communities; the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend
 - iii. Identify key project stakeholders and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation with Indigenous Peoples and/or *Masyarakat Adat* at each stage of project preparation and implementation, taking the review and baseline information into account.
 - iv. Assess, based on meaningful consultation with the affected communities, the potential adverse and positive effects of the project and subproject activities. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected Indigenous Peoples and/or *Masyarakat Adat*, given their circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live.
 - v. Include a gender-sensitive assessment of the affected Indigenous Peoples and/or *Masyarakat Adat*'s perceptions about the project and its impact on their social, economic, and cultural status.
 - vi. Identify and recommend, based on meaningful consultation with the affected communities, the measures necessary to avoid adverse effects or, if such measures are not possible, identify measures to minimize, mitigate, and/or compensate for such effects and to ensure that Indigenous Peoples and/or *Masyarakat Adat* receive culturally appropriate benefits under the project.
- d. **Assessments of circumstances requiring FPIC and alternative project design/siting to avoid adverse impacts (refer to the Section on Free, Prior and Informed Consent).**

- e. **Information disclosure, consultation and participation.** This section should:
- ii. Describes the information disclosure, consultation and participation process with the affected communities that can be carried out during project preparation;
 - iii. Summarize their comments on the results of the social impact assessment and identify concerns raised during consultation and how these have been addressed in project design;
 - iv. In the case of project activities requiring FPIC, document the process and outcome of consultations with affected communities and any agreement resulting from such consultations for the project activities and risk management measures addressing the impacts of such activities;
 - v. Describe consultation and participation mechanisms to be used during implementation to ensure Indigenous Peoples and/or *Masyarakat Adat* participation during implementation; and
 - vi. Confirm disclosure of the draft and final documents to the affected Indigenous Peoples and/or *Masyarakat Adat*;
- f. **Benefit sharing arrangements.** this section specifies the measures to ensure that the affected communities receive social and economic benefits that are culturally appropriate, and gender responsive.
- g. **Mitigation measures.** this section specifies the measures to avoid adverse impacts on Indigenous Peoples and/or *Masyarakat Adat*; and where the avoidance is impossible, specifies the measures to minimize, mitigate and compensate for identified unavoidable adverse impacts for each affected community.
- h. **Capacity building.** This section provides measures to strengthen the social, legal, and technical capabilities of (a) government institutions to address Indigenous Peoples and/or *Masyarakat Adat*'s issues in the project area; and (b) affected communities' organizations in the project area to enable them to represent their communities more effectively and participate in the management of risks and impacts.
- i. **Feedback and Grievance Redress Mechanism.** This section describes the procedures to redress grievances by affected Indigenous Peoples and/or *Masyarakat Adat* communities. It also explains how the procedures are accessible to Indigenous Peoples and/or *Masyarakat Adat*' and culturally appropriate and gender sensitive.
- j. **Monitoring, reporting and evaluation.** This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the IPP. It also specifies arrangements for participation of affected Indigenous Peoples and/or *Masyarakat Adat* in the preparation and validation of monitoring, and evaluation reports.
- k. **Institutional arrangements.** This section describes institutional arrangement responsibilities and mechanisms for carrying out the various mitigation measures in the IPP. It also describes the process of including relevant local organizations and/or NGOs in carrying out the measures of the IPP.

- I. **Budget and financing.** This section provides an itemized budget for all activities described in the IPP.

Annex 5: Indigenous Peoples Plan Template (Abridged)

In circumstances where IPs and/or Masyarakat Adat will either result in only positive benefits or indirect impacts, an abridged IPP will be prepared that captures the following:

- i. Identify the relevant IP, provide baseline information on the demographic, social, cultural and political characteristics of the community.
- ii. Present outcomes of impact identification and assessment process, including a statement as to whether the characteristics of the IP community makes them more vulnerable to indirect impacts in comparison to other non-IP members. This is to capture elements such as whether given their circumstances, close ties to land and natural resources, and historic lack of access to opportunities relative to those available to other social groups in the communities will mean that they may be differentially impacted
- iii. Describe any specific measures to avoid these adverse impacts on IPs and, where avoidance is impossible, specify the measures to minimize, mitigate, and compensation for identified unavoidable adverse impacts for each affected community. This is capturing any additional specific measures required to address differential impacts to IPs and also describe any additional measures that may be required to ensure that they are able to access sub-project culturally appropriate benefits
- iv. Describe procedures to redress grievances by IPs, explaining how these are accessible, culturally appropriate and gender sensitive
- v. Describe the monitoring, reporting and evaluation benchmarks appropriate to the sub-project for monitoring and evaluating the implementation of the abridged IPP. It is to specify any specific arrangements for participation of IPs in the preparation and validation of monitoring and evaluation reports
- vi. Describing the arrangements and responsibilities for implementation of the measures described within the abridged IPP. This may include integrating these measures into other instruments prepared for the sub-project including, but not limited to, the Stakeholder Engagement Plan or Environmental and Social Management Plan