

Solomon Islands Sustainable Mining Development Technical Assistance Project (SMDTAP)
Strategic Environment and Social Assessment (SESA)
Terms of Reference

1.0 Purpose

The Solomon Island Government (SIG) has received funding from the International Development Association (IDA), through the Solomon Islands Sustainable Mining Development Technical Assistance Project (SMDTAP, the “Project”) to strengthen the capacity of regulatory institutions, including the Ministry of Mines, Energy and Rural Electrification (MMERE) and the Ministry of Environment, Climate Change, Disaster Management and Meteorology (MECDM), to implement revised mining and related laws consistently, transparently and effectively.

Through this Terms of Reference, MMERE seeks to engage an individual or firm to conduct a Strategic Environment and Social Assessment (SESA) of mineral development in Solomon Islands to inform and facilitate the drafting, delivery and implementation of MMERE proposed bills and regulations, including the much-anticipated draft Minerals Resources Bill and Regulations and associated consultations processes.

The SESA will review the status of environmental and social issues, and policies in the mining sector to identify institutional and regulatory gaps that should be addressed to strengthen the mining regulatory framework in terms of environmental and social risk management requirements, enhance implementation, compliance monitoring and enforcement of revised laws and regulations, and to recommend required resources, inter-agency coordination and standardized procedures to mitigate any identified risks.

2.0 Background and Rationale

The National Mining Policy of 2017 (NMP) set out a vision of mining contributing to Solomon Islands' sustainable development through improved management of the sector leading to investment by responsible mining companies and more equitable flows of benefits to stakeholders. The current project will support SIG to complete the regulatory framework envisaged by the NMP and strengthen the capacity of regulatory institutions to implement revised mining and related laws consistently, transparently and effectively. To assist the Solomon Island Government (SIG) in realizing these goals the World Bank has provided support since 2010 through the use of six small grants. The grants supported engagement with government and other stakeholders through forums and workshops which led to completion of the NMP in late 2016 and an ongoing review of the Mines and Minerals Act 1990¹ (and its amendment dated 1996).

As part of Project implementation, and as required by National Environment Impact Assessment (EIA) guidelines and World Bank Environment and Social Framework (ESF), a SESA will be conducted to identify and recommend how to address the associated negative and positive social and environmental impacts in the needed mining reforms.

As in many resource-rich countries, weak and inconsistent management of the mining sector has played a role in inhibiting investment and exacerbating environmental and social harm caused by mining activities. Governance challenges include low levels of regulatory capacity, high levels of discretion with respect to the approvals process, friction relating to land rights and the rights of vulnerable groups, the inequitable distribution of taxes and royalties and poor environmental controls. Mining

¹ The Mines and Minerals Act 1990 covers all types of mining activities, including open pit, underground, alluvial, quarrying, etc.

developments are often associated with long term and/or cumulative environmental damage, land and resource-based conflicts, impacts of unmanaged artisanal mining, occupational and community health and safety impacts, livelihood impacts, issues around social inclusion and benefit sharing. The analysis undertaken during Project preparation, and documented in the Overarching Project ToR, identified several key overarching environmental and social issues from mining operations in the Solomon Islands to be addressed, including: climate resilience, excessive land clearance, severe erosion, land degradation, and air/land/freshwater/marine pollution caused by mining activities; some forest areas are not legally protected against mining developments; mining operations have a poor record in health and safety compliance, especially small-scale mining, quarrying and other activities; destruction of graves, tambu and other tangible and intangible cultural heritage by mining operations; consultation undertaken with affected communities is often ineffective (lack of Free Prior and Informed Consent); mining benefits are often unevenly distributed (potential for increased conflict); women's traditional and rightful status as landowners is often disregarded; women are excluded from decision making and/or misrepresented by men; and legacy issues related to unrehabilitated mine sites.

As part of regulatory reforms supported through the Project, particular attention will be given to (i) institutional strengthening actions to deal with environmental and social impacts associated with the growth and development of the mining sector (including artisanal and small scale mining); (ii) measures to overcome existing and projected policy, institutional and budgetary constraints that result in limited enforcement and implementation capacity; and (iii) ways to improve public participation and monitoring processes.

The SESA will follow the national and the World Bank 's norms and standards of strategic environmental and social assessment.

3.0 Key Objectives for the Strategic Environment and Social Assessment (SESA)

The objective of the assignment is to undertake a comprehensive and participatory Strategic Environmental and Social Assessment (SESA) that leads to identification and integration of environmental and social considerations into the regulatory framework devolved from the National Mines and Mineral Policy 2017, in a manner consistent with Solomon Islands environmental laws and regulations, Good International Industry Practices (e.g. ICMM guidance) and the World Bank's environmental and social safeguard policies and framework.

Generally, SESA articulates analytical work and multi-stakeholder dialogue to i) identify environmental and social priorities; ii) assess institutional and capacity gaps, and political economy constraints in managing these priorities; and iii) recommend adjustments to address these gaps, including a risk assessment of proposed changes. The SESA shall inform the drafting of mining sector reforms, including specific recommendations for implementation.

The step 1 objective is to set a process for stakeholders to select environmental and social priorities linked to mining sector reform. It builds on expert judgment and the preferences of multiple stakeholders, including disenfranchised segments of society. The step 2 objective is to assess the institutional and capacity gaps, and political economy constraints to address the environmental and social priorities. Finally, the step 3 objective is to recommend feasible courses of action to address the institutional and capacity gaps, and political economy constraints assessed in the transmission mechanisms analysis.

4.0 Scope of Work/Expected Outputs

As described in the National Minerals Policy 2017 (NMP), the government is aware that mining places long-term stresses on the natural and social environment including downstream impacts, livelihood impacts, soil erosion, discharge of mining waste and impacts on biodiversity.

The implementation priorities outlined in the NMP are:

- i) Capacity building for Ministry staff
- ii) Drafting of the first amendment act, focusing on the key regulatory controls of Minister and Director powers, and the prospecting and mining regime, including landowner process
- iii) Development of the Model Mining Agreement
- iv) Costing/budgeting of key regulatory services and agreement with MoFT and MDPAC of minimum support levels
- v) Scoping and establishment of Natural Resources Independent Advisory Centre.

In undertaking the SESA, the consultant will conduct the following activities:

Step 1: Identification of Environmental and Social Priorities

- Identify key environmental and social issues in the mining sector, preferably linked to economic development and poverty alleviation. This step is based on a situational analysis using a variety of methods (spatial analysis, case studies, sector and EIA reports, etc.) and based mainly on secondary sources;
- Stakeholder analysis identifying key stakeholders in the sector who should be engaged in the SESA and in the selection of SESA priorities, examining carefully the historical, social, political, economic and cultural factors that influence the relationships among stakeholders; and
- Present the key environmental and social issues to the stakeholders for the selection of SESA's priorities as a critical outcome of the policy dialogue, through workshops, focus groups, interviews and polls.

The expected outcomes of this first step are selected environmental and social priorities associated with mining policy and sector reform.

Step 2: Institutional, capacity and political economy assessment

- Undertake an analysis of the formal aspects of institutions, comprising the legal and regulatory components, as well as the non-formal institutional features, such as unwritten codes of behavior that derive from tradition, customary law, and cultural-historical patterns, focusing the assessment on the transmission mechanisms from policies to environmental and social results on the ground;
- Review of the legal and regulatory framework associated with the management of environmental and social priorities, including (a) institutional and organizational capacity and coordination; (b) the influence of stakeholders on policy implementation; and (c) coordination among stakeholders;
- Assess why the relevant policies, laws, and regulations have failed to address or have only partially addressed the priorities;
- Based on the findings from this assessment, assess the potential of the proposed mining reform to fill the gaps or remove the constraints that were identified in the previous analysis; and
- Finally, an assessment of the potential reaction of stakeholders to the proposed reform and the difficulties inherent in its implementation.

The analysis will focus on inter-agency coordination for environmental permitting and mining lease agreements, requirements for mine closure and rehabilitation, land rights and community benefits, and governance processes, including inclusion of women and vulnerable groups, representation and transparent participation, etc. as a minimum.

The expected outcome of Step 2 is to validate key institutional (formal and non-formal) and capacity gaps, and political economy constraints to address environmental and social priorities. While identification and assessment of gaps and constraints is mainly made by the SESA team, validation by the stakeholders aims at broadening their understanding of complex policy and institutional issues associated with the mining reform.

Step 3: Recommendations and Risk Assessment

- Provide recommendations framed in an action plan matrix that includes short-term (1-2 years), medium-term (3-5 years), and long-term (more than 5 years) reforms and actions, as well as monitoring indicators. Make provisions for sustained effort to strengthen capacities, institutions and governance as it is at the core of the reform implementation;
- Assess the risks associated with the recommended actions and consider possible mechanism to safeguard the proposed institutional and governance changes;
- Share recommendations with stakeholders in a multi-stakeholder workshop.

The expected outcomes of this final step are validated recommendations and an action matrix that includes monitoring indicators to assess the progress of reform in the short, medium, and long terms.

5.0 Deliverables

- Inception report, including the proposed analytical framework, stakeholder engagement outline (which include detail of stakeholder workshops, focus group discussions) and detailed report outline. Within 3 weeks of award.
 - Workshop (1/2 day – MMERE, PMU, World Bank, Consultant)
- Draft SESA. Within 4 months of award.
 - Workshop (1- 2 days) modality and format to be discussed with PMU. Also needs consultation with 4 provinces (Guadalcanal, Rennell, Isabel, Choiseul).
- Final SESA. Within 3 weeks of receiving comments.
 - Workshop (1-2 days) modality and format to be discussed with PMU

6.0 Resources Required

None. The Consultant or /Firm will be providing their own working tools such as laptops. Whilst in Honiara, MMERE will provide working space for the Consultant at their offices.

MMERE, represented by the PMU will assist with setting up and attending consultations with key stakeholders.

Recommended background documents

The following documents are recommended for background reading and can be provided to the consultants upon request.

- National Strategic Plan 2016 - 2032
- National Mineral Policy 2017
- Draft Mineral Resources and Mining Act 2019
- South Pacific Regional Environment Program (SPREP) Strategic Environment Assessment (SEA) guideline.
- Solomon Islands Sustainable Mining Technical Assistance Project (SISMDTAP) - Overarching Terms of References,
- SISMDTAP - Environment and Social Commitment Plan (ESCP)
- State of Environment Report (SoE)
- EIA for Companies
- SISMDTAP - Project Information Document (PID) and Integrated Safeguards Datasheet (ISDS)
- SISMDTAP – Project Operations Manual (POM)
- SISMDTAP – Stakeholder Engagement Plan (SEP)
- SISMDTAP – Labour Management Procedure (LMP)
- Loayza F. and Albarracin-Jordan J. (2010). Mining Sector Strategic Environmental and Social Assessment (SESA). Environment Notes (No. 4). World Bank Environment Department. 12p.
- World Bank Environment and Social Framework policy
[<https://thedocs.worldbank.org/en/doc/837721522762050108-0290022018/original/ESFFramework.pdf>]
- ESF guidance notes on Indigenous People - <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/environmental-and-social-framework-resources#guidancenotes>
- ICMM guidance

7.0 Reporting & Supervision

Director of Mines, Ministry of Mines, Energy and Rural Electrification, represented by PMU.

8.0 Requirements for Qualifications & Experience

This assignment shall be performed by a firm or team of relevant specialists, including at minimum:

- (a) a SESA specialist (international), who will manage the process and coordinate with key stakeholders, including the government;
- (c) an environmental assessment specialist (national) with experience in environmental, and policy issues related to mining; and
- (d) a social assessment and public participation expert (national).

If international consultants are hired, local consultants with knowledge of and experience in the country-specific social and cultural context must be involved in organizing and implementing the policy dialogue.

8.1 Minimum qualifications:

- The individual or consulting firm should have in its team individuals with relevant professional qualifications to perform the tasks.

- A minimum qualification of a Bachelor's Degree in Environment Science, Social Science, Public Policy or related field.

8.2 Experience/Skills:

- SESA specialist: At least 15 years in Environment and Social Science or Policy ; all others at least 10 years' experience in the required field;
- Have experience working in similar field, the mining policy sector, SI Public Service, NGOs and rural communities;
- Have experience in consulting with stakeholders;
- Have had experience in carrying out Strategic Environment Assessment, Strategic Environment Social Assessment or similar assignment in the past.

8.3 Competencies:

- Good inter-personal skills
- Good English writing and presentation skills
- Good analytical and expert judgment
- Ability to engage with partners in negotiations

9.0 Duration of Contract:

- Title: Strategic Environment and Social Assessment
- Period: 6 Months (or 180 days)
- Commencing Date: November 2022

10.0 Maximum Budget limit:

SBD400,000 or USD50,000.

Annex A. Technical Assistance Environmental and Social Risk Management Clauses

1. Outcomes and outputs, such as policy, studies, recommendations and advice, must be consistent with the World Bank ESF and its standards, the project E&S risk management documents (SEP, LMP, POM, ESCP), IFC Environmental, Health, and Safety Guidelines for mining, Solomon Islands law and good mineral rights management principles,
2. Outputs must include an analysis of the compatibility of current relevant legislations/regulations and practices to identify gaps to be addressed and recommend gap filling measures (if relevant).
3. Recommendations must consider downstream impacts on community and worker health and safety and avoid recommendations that would negatively impact safe working conditions and/or community health and safety.
4. Recommendations must consider the downstream impacts on resource use efficiency and refer to relevant good international industry practice (GIIP), including the mitigation hierarchy, for pollution control.
5. Recommendations must consider the downstream impacts on land acquisition and access and livelihoods and where necessary, include a requirement for minimizing or avoiding involuntary land acquisition, involuntary resettlement or involuntary restriction of access to assets.
6. Recommendations must consider whether vulnerable and traditionally disadvantaged groups (as identified in the Project SEP) will be disproportionately impacted.
7. Recommendations must consider the downstream impacts on land clearance, natural habitats such as forests, and reduction in biodiversity.
8. Recommendations must avoid any negative downstream impacts of activities on critical natural habitats.
9. Recommendations must avoid direct or indirect impacts on both tangible and intangible cultural heritage, including burial sites, tambu areas etc.
10. If applicable, the consultant/s must undertake due diligence on any good, hardware, or software procured to ensure that it causes no adverse environmental, social or health and safety impacts.
11. The consultant/s must carry out a stakeholder gap analysis to identify any relevant stakeholders that might not have been identified during the development of the Project SEP.
12. The consultant/s must consult with and engage relevant stakeholders, and the public where necessary, throughout the activity to gather and share information in accordance with the Project SEP.
13. Consultations must be inclusive and those with barriers to participation given extra support. These include vulnerable groups, in particular women, youth, people with disabilities and ethnic minorities, as detailed in the Project SEP
14. Free, prior and informed consultation (FPIC) of potentially affected people, stakeholders, traditionally disadvantaged and vulnerable groups is required in all community consultations and engagements. FPIC shall be adequately delivered, gender and youth inclusive, and well documented and in compliance with the Project SEP.
15. The consultant/s will submit any relevant outputs (studies etc.) to the PMU ESF and Stakeholder Engagement Officer to review for compliance with the World Bank ESF and its standards, the project E&S risk management documents (SEP, LMP, POM, ESCP), IFC Environmental, Health, and Safety Guidelines for mining, and Solomon Islands law.
16. The consultant/s, with the assistance of the PMU ESF and Stakeholder Engagement Officer, will disclose the outputs and studies developed which [the Project Director] determines are disclosable.
17. Workshops and outreach events must be COVID-19 safe. Events organized under this contract must avoid large group gatherings (20 people or fewer) and allow for adequate physical distancing (at least 1 meter of separation between participants). The consultant shall register the attendance of all attendees for contact tracing purposes and require attendees to follow standard precautions such as hand hygiene, physical distancing, and mask wearing. Ensure to liaise with Ministry of Health and Medical Services -COVID 19 oversight focal contact prior to workshops and trainings.