

**Comparative Analysis of Cook Islands' Legal Framework and ADB Safeguard Policy Statement:  
Indigenous Peoples**

<b>(A) ADB Safeguard Policy Statement</b>	<b>(B) Corresponding Legal Provisions</b>	<b>(C) Extent of Equivalence <sup>1</sup></b>	<b>(D) Recommended Gap-filling Measures</b>
<p><b>Scope and Triggers:</b> (Definition of Indigenous Peoples) The term Indigenous Peoples is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. ....A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.</p>			
<p><b>Key Element (1)</b> Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others</p>	<p><b>Constitution consolidated 2004<sup>2</sup></b> 66A. Custom - (1) In addition to its powers to make laws pursuant to Article 39, Parliament may make laws recognising or giving effect to custom and usage. (2) In exercising its powers pursuant to this Article, Parliament shall have particular regard to the customs, traditions, usages, and values of the indigenous people of the Cook Islands. (3) Until such time as an Act otherwise provides, custom and usage shall have effect as part of the law of the Cook Islands, provided that this subclause shall not apply in respect of any custom, tradition, usage or value that is, and to the extent that it is, inconsistent with a provision of this Constitution or of any other enactment. (4) For the purposes of this Constitution, the opinion of the Aronga Mana of the island or vaka to which a custom, tradition or value relates, as to matters relating to</p>	<p><b>Full equivalence</b> The Cook Islands legal regime generally uses the term 'native' rather than 'indigenous people'. The Constitution uses the word 'indigenous' once.</p>	

<sup>1</sup> "Full Equivalence" denotes that DMC legal requirement(s) are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. "Partial Equivalence" denotes that the DMC legal requirement is in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and "No Equivalence" denotes that no DMC legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element.

<sup>2</sup> Unofficial consolidation

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	<p>and concerning custom, tradition, usage or the existence, extent or application of custom, shall be final and conclusive and shall not be questioned in any court of law.</p> <p><b>Cultural and Historic Places Act 1994-1995</b>            2. Interpretation – (1) In the Act, unless the context otherwise requires -...            "Traditional site" means a place or site that is important by reason of its historical significance or spiritual or emotional association with the Cook Islands Maori people or to any group or section thereof;...</p>		
<p><b>Key Element (2)</b> Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories</p>	<p><b>Cultural and Historic Places Act 1994-1995</b>            2. Interpretation – (1) In the Act, unless the context otherwise requires -...            "Traditional site" means a place or site that is important by reason of its historical significance or spiritual or emotional association with the Cook Islands Maori people or to any group or section thereof;...</p> <p>39. Traditional sites - (1) An application may be made to the Trust to have a place or site declared to be a traditional site.            (2) If the Trust is satisfied that the place or site is or may be a traditional site, it shall consider the importance of the place or site and the action (if any) that should be taken to protect it, and may -            (a) refer the application to the Minister who shall refer the matter to the House of Ariki with the recommendation that the application be considered;            (b) refer the application to the Koutu Nui or any other appropriate authority who shall</p>	<p>Full equivalence</p>	

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	<p>consider the importance of the place or site and what action, if any, should be taken in regard to the place or site.</p> <p>(3) The House of Ariki, Koutu Nui or other authority, on receiving an application referred to it under subsection (2), shall advise the Trust as to whether or not in its opinion the place or site should be set aside as a traditional site and the Trust shall have regard to that advice.</p> <p>(4) Where the Trust considers that the boundaries of a traditional site can be sufficiently defined, it may recommend proposals to any appropriate body or person for the recognition and preservation of the traditional site.</p> <p>(5) Where any place or site is declared a traditional site, the territorial authority in whose district the traditional site is situated shall take into account the desirability of protecting or preserving the traditional site.</p>		
<p><b>Key Element (3)</b> Customary cultural...institutions that are separate from those of the dominant society and culture</p>	<p><b>Constitution consolidated 2004</b> Custom 66A. Custom - (1) ...Parliament may make laws recognising or giving effect to custom and usage. (2) In exercising its powers pursuant to this Article, Parliament shall have particular regard to the customs, traditions, usages, and values of the indigenous people of the Cook Islands. (3) Until such time as an Act otherwise provides, custom and usage shall have effect as part of the law of the Cook Islands, provided that this subclause shall</p>	<p><b>Full equivalence</b></p> <p>The Constitution may be directly effective.<sup>3</sup></p>	

<sup>3</sup> The Cook Islands Constitution Act 1964 (N.Z.), enacted by the New Zealand Parliament, stipulated: "4. Constitution of the Cook Islands - The Constitution set out in the Schedule to this Act shall be the Constitution of the Cook Islands, and shall be the supreme law of the Cook Islands."

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	<p>not apply in respect of any custom, tradition, usage or value that is, and to the extent that it is, inconsistent with a provision of this Constitution or of any other enactment.</p> <p>(4) For the purposes of this Constitution, the opinion of the Aronga Mana of the island or vaka to which a custom, tradition or value relates, as to matters relating to and concerning custom, tradition, usage or the existence, extent or application of custom, shall be final and conclusive and shall not be questioned in any court of law.</p>		
<p><b>Key Element (4)</b> Customary... economic... institutions that are separate from those of the dominant society and culture</p>	<p>See Scope and Triggers, Key element 3.</p>	<p><b>Full equivalence</b></p>	
<p><b>Key Element (5)</b> Customary... social, institutions that are separate from those of the dominant society and culture</p>	<p>See Scope and Triggers, Key element 3.</p>	<p><b>Full equivalence</b></p>	
<p><b>Key Element (6)</b> Customary...political institutions that are separate from those of the dominant society and culture</p>	<p>See Scope and Triggers, Key element 3.</p>	<p><b>Full equivalence</b></p>	
<p><b>Key Element (7)</b> A distinct language, often different from the official language of the country or region</p>	<p><b>Constitution consolidated 2004</b></p> <p>35. Languages - (1) All debates and discussions in Parliament shall be conducted in the Maori language as spoken in Rarotonga and also in the English language.</p> <p>(2) Every Bill introduced into Parliament and every Act shall be in the Maori language as spoken in Rarotonga and also in the English language.</p> <p>Provided that Parliament may, by resolution, determine that any Bill or Act shall be in the English language only.</p> <p>(3) The records of proceedings in Parliament, or in committees thereof shall be in the English language, and such of</p>	<p><b>Full equivalence</b></p> <p>See footnote 3.</p>	

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	those records as are specified in the Standing Orders of Parliament shall also be in the Maori language as spoken in Rarotonga. (4) Where there is any conflict between the Maori version and the English version of any Bill or Act or of any such record, the English version shall prevail.		
<b>Key Element (8)</b> A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.	See Scope and Triggers, Key elements 1 and 2.	<b>Full equivalence</b>	
<b>Policy Principle 1:</b> Screen early on to determine (i) whether Indigenous Peoples are present in, or have collective attachment to, the project area; and (ii) whether project impacts on Indigenous Peoples are likely.			
<b>Key element (1):</b> Early screening to determine whether Indigenous Peoples are present in, or have collective attachment to, the project area.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to establish the requirement for screening as soon as the need for an EIA has been determined.
<b>Key element (2):</b> Early screening to determine whether project impacts on Indigenous Peoples are likely.	See Policy Principle 1, Key element 1	<b>No equivalence</b>	See Policy Principle 1, Key element 1
<b>Policy Principle 2:</b> Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples. Give full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures. Identify social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and intergenerationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.			
<b>Key element (1):</b> Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples.	<b>Environment Act 2003</b> 2. Interpretation - In this Act, unless the context otherwise requires... “Environment” – (a) Means the ecosystems and the quality of those ecosystems as well as the... social...processes and resources in those ecosystems... and (b) Includes...(ii) ...cultural, demographic and social...qualities and characteristics of an area...	<b>Partial equivalence</b> The Environment Act 2003 defines ‘environment’ to include social processes and resources. By implication, an environmental impact assessment should identify social impacts, but the Act does not stipulate that explicitly.	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require a culturally appropriate and gender-sensitive social impact assessment to assess potential project impacts, both positive and adverse.
<b>Key element (2):</b> Assessment process gives full consideration to options the affected Indigenous	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to

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Peoples prefer in relation to the provision of project benefits and the design of mitigation measures.			explicitly require project proponents to incorporate the input from public consultations into an EIA report and to submit documentation of all public consultations together with an EIA report.
<b>Key element (3):</b> Assessment process identifies social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and intergenerationally inclusive.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that an EIA report must identify social and economic benefits that are culturally appropriate and gender and inter-generationally inclusive for all affected native people.
<b>Key element (4):</b> Project preparation process develops measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.	<b>Environment Act 2003</b> 2. Interpretation - In this Act, unless the context otherwise requires... “Environment” – (a) Means the ecosystems and the quality of those ecosystems as well as the... social...processes and resources in those ecosystems... and (b) Includes...(ii) ...cultural, demographic and social...qualities and characteristics of an area...  36. Environmental Impact Assessment - ... (3) Every application for a project permit shall...include an environmental impact assessment, setting out details of – (a) the impact of the project upon the environment and in particular- (i) the adverse effects that the project will have on the environment... (b) the proposed action to mitigate adverse environmental effects...	<b>Partial equivalence</b>  The Environment Act 2003 defines ‘environment’ to include social processes and resources. By implication, an environmental impact assessment should identify social impacts and develop measures to avoid, minimize and/or mitigate them, but the Act does not stipulate that explicitly.	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that an EIA report must measures to avoid, minimize, and/or mitigate adverse impacts on all affected native people.
<b>Policy Principle 3:</b> Undertake meaningful consultations with affected Indigenous Peoples communities and concerned Indigenous Peoples organizations to solicit their participation (i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner. To enhance Indigenous Peoples’ active			

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participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development. Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.			
<b>Key element (1):</b> Affected Indigenous Peoples communities and organizations are consulted in a meaningful manner.	<b>Environment Act 2003</b> 36. Environmental Impact Assessment - (5) The [National Environment] Service shall undertake public consultation for the issuance of the project permit... (6) The Service shall request comments from any...person affected by or having expertise relevant to the proposed project or its environmental impact.	<b>Full equivalence</b> The Environment Act 2003 requires consultation with any person affected by a proposed project.	
<b>Key element (2):</b> The scope of consultations includes design, implementation and monitoring of measures to avoid or otherwise minimize, mitigate or compensate for adverse impacts.	See Policy Principle 3, Key element 1	<b>Partial equivalence</b> The Environment Act 2003 requires consultation at the design stage of a project, but not during implementation and monitoring.	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require project proponents to continue consultations with stakeholders throughout project implementation and monitoring.
<b>Key element (3):</b> The Scope of consultations includes tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that project benefits be specifically tailored in a culturally appropriate manner for project-affected native people.
<b>Key element (4):</b> Enhance Indigenous Peoples' active participation in projects affecting them will provide for culturally appropriate and gender inclusive capacity development.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that project proponents must enhance the participation of project-affected native people in projects in ways that provide for culturally appropriate and gender-inclusive capacity development.
<b>Key element (5):</b> Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require project proponents to establish a culturally appropriate and gender-inclusive grievance redress mechanism to facilitate resolution of project-affected native people's concerns throughout project implementation.

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<p><b>Policy Principle 4:</b> Ascertain the consent of affected Indigenous Peoples communities to the following project activities: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. For the purposes of policy application, the consent of affected Indigenous Peoples communities refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for such project activities. Broad community support may exist even if some individuals or groups object to the project activities.</p>			
<p><b>Key element (1):</b> Consent of affected Indigenous Peoples communities is required for project activities that would include commercial development of cultural resources and knowledge of Indigenous Peoples.</p>	<p>No corresponding legal provision.</p>	<p><b>No equivalence</b></p>	<p>Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require project proponents to secure the written consent of project-affected native people for project activities that would include commercial development of their cultural resources and knowledge.</p>
<p><b>Key element (2):</b> Consent of affected Indigenous Peoples communities is required for project activities that would include physical displacement of Indigenous Peoples from traditional or customary lands.</p>	<p><b>Constitution consolidated 2004</b></p> <p>40. No property to be taken compulsorily without compensation - (1) No property shall be taken possession of compulsorily, and no right over or interest in any property shall be acquired compulsorily, except under the law, which itself or when read with any other law - (a) Requires the payment within a reasonable time of adequate compensation therefor...</p> <p>48. Jurisdiction of Divisions of the High Court - (3) Notwithstanding anything in this Part or in Part IVA, and in recognition of the customs and traditions of the people of those islands, the Land Division shall not exercise any jurisdiction or power in relation to land...in any of the islands of Mangaia, Mitiaro and Pukapuka, and such other islands as may be prescribed by Act, provided that no such Act shall be introduced to Parliament except with the consent of the Aronga Mana of the island to which it relates.</p> <p>(4) Where on any island to which</p>	<p><b>No equivalence</b></p> <p>The Constitution provides generally for compensation when land is taken compulsorily. See footnote 3.</p> <p>But there appears to be no provision in the legal regime that requires consent of affected native people if a project would displace them from traditional or customary lands.</p>	<p>Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require project proponents to secure the written consent of project-affected native people for project activities that would include their physical displacement from traditional or customary lands.</p>



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	<p>subclause (3) applies, jurisdiction or power in relation to any land...is exercised in accordance with the customs and usages of that island, the exercise of that jurisdiction or power shall be final and binding on all persons affected thereby and shall not be questioned in any Court of law.</p> <p>64. Fundamental human rights and freedoms - (1) It is hereby recognised and declared that in the Cook Islands there exist, and shall continue to exist, without discrimination by reason of race, national origin, colour, religion, opinion, belief, or sex, the following fundamental human rights and freedoms:...</p> <p>(c) The right of the individual to own property and the right not to be deprived thereof except in accordance with law: Provided that nothing in this paragraph or in Article 40 of this Constitution shall be construed as limiting the power of Parliament to prohibit or restrict by Act the alienation of Native land (as defined in section 2(1) of the Cook Islands Act 1915 of the Parliament of New Zealand);...</p>		
<p><b>Key element (3):</b> Consent of affected Indigenous Peoples communities is required for project activities that would include commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples.</p>	<p>No corresponding legal provision.</p>	<p><b>No equivalence</b></p>	<p>Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require project proponents to secure the written consent of project-affected native people for project activities that would include commercial development of natural resources within customary lands under use that would impact their livelihoods or their cultural, ceremonial, or spiritual uses that define their identity and community.</p>

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<b>Policy Principle 5:</b> Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected Indigenous Peoples communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and that their benefits are equitably shared.			
<b>Key element (1):</b> Project design avoids, to the maximum extent possible, any restrictions on Indigenous Peoples' access to, and physical displacement of Indigenous Peoples from, protected areas and natural resources.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly stipulate that proposed projects must reach prior agreement with affected native people, on a project-specific basis, that such impacts will be avoided to the maximum extent possible and reflect this agreement in the project design.
<b>Key element (2):</b> Where avoidance is not possible, project designs ensure that the affected Indigenous Peoples communities can participate in the design, implementation, and monitoring and evaluation of management arrangements for such protected areas and natural resources.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly stipulate that, where avoidance is not possible, project designs ensure that affected native people can participate in the design, implementation, and monitoring and evaluation of management arrangements for such protected areas and natural resources.
<b>Key element (3):</b> Where avoidance is not possible, project designs ensure that affected Indigenous Peoples communities share equitably in project benefits.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly stipulate that, where avoidance is not possible, project designs ensure that affected native people can share equitably in project benefits.
<b>Policy Principle 6:</b> Prepare an Indigenous Peoples plan (IPP) that is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous knowledge and participation by the affected Indigenous Peoples communities. The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation; specifies measures to ensure that Indigenous Peoples receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.			
<b>Key element (1):</b> When Indigenous Peoples communities are present in the project area, or are likely to be affected by project activities, an Indigenous Peoples Plan (IPP) is prepared.	No corresponding legal provision	<b>No equivalence</b>  The Environment Act 2003 does not require an environmental management plan or any plan similar to an IPP.	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require, when native people are present in a project area, that every EIA report must include a plan equivalent to an IPP.

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<b>Key element (2):</b> The IPP is based on social impact assessment and is prepared by qualified experts.	No corresponding legal provision	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that every EIA report for projects that will have adverse impacts on native people must include a plan equivalent to an IPP that is based on social impact assessment and was prepared by qualified experts.
<b>Key element (3):</b> The IPP draws on indigenous knowledge and participation by the affected Indigenous Peoples communities.	No corresponding legal provision	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that every EIA report for projects that will have adverse impacts on native people must include a plan equivalent to an IPP that draws on native people's knowledge and involves their participation.
<b>Key element (4):</b> The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation.	No corresponding legal provision	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that every EIA report for projects that will have adverse impacts on native people must include a plan equivalent to an IPP that includes a framework for continued consultation with the affected native people during project implementation.
<b>Key element (5):</b> The IPP includes specific measures to ensure that Indigenous Peoples communities receive culturally appropriate benefits.	No corresponding legal provision	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that every EIA report for projects that will have adverse impacts on native people must include a plan equivalent to an IPP that includes specific measures to ensure that affected native people receive culturally appropriate benefits.
<b>Key element (6):</b> The IPP identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts.	No corresponding legal provision	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that every EIA report for projects that will have adverse impacts on native people must include

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			a plan equivalent to an IPP that identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts.
<b>Key element (7):</b> The IPP includes a culturally appropriate grievance redress mechanism.	See Policy Principle 3, Key element 5.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that every EIA report for projects that will have adverse impacts on native people must include a plan equivalent to an IPP that includes a culturally appropriate grievance redress mechanism.
<b>Key element (8):</b> The IPP includes arrangements for monitoring during project implementation and for evaluation of results.	<b>Environment Act 2003</b> 36. Environmental Impact Assessment - ... (3) Every application for a project permit shall...include an environmental impact assessment, setting out details of... (b) ...the proposed plan to monitor environmental impacts arising out of the project;...	<b>Partial Equivalence</b> See Policy Principle 2, Key element 1. The Environment Act 2003 does not require an IPP, but it does define 'environment' to include social aspects and does require an EIA to set out a proposed plan for monitoring environmental impacts arising out of a project.	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that every EIA report for projects that will have adverse impacts on native people must include a plan equivalent to an IPP that includes the proposed monitoring requirements.
<b>Key element (9):</b> The IPP includes a budget and time-bound plan for implementing all required actions.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that every EIA report for projects that will have adverse impacts on native people must include a plan equivalent to an IPP that includes a budget and time-bound plan for implementing all required actions.
<b>Policy Principle 7:</b> Disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected Indigenous Peoples communities and other stakeholders. The final IPP and its updates will also be disclosed to the affected Indigenous Peoples communities and other stakeholders.			
<b>Key element (1):</b> A draft IPP (including documentation of consultations with Indigenous Peoples communities and social impact assessment results) is publicly disclosed in a timely manner	<b>Environment Act 2003</b> 36. Environmental Impact Assessment - (5) The [National Environmental] Service shall undertake public consultation for the issuance of the project permit and in so	<b>Partial equivalence</b> The Environment Act 2003 requires disclosing a draft EIA report, which includes some elements of a	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that every EIA report for projects that will have adverse impacts on native people must include

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before project appraisal.	doing... (b) make available copies of the environmental impact assessment report prepared by the project developer for review by the public;...	comprehensive EMP, which may include some aspects of social impact assessment, but there is no requirement to prepare a document equivalent to an IPP.	a plan equivalent to an IPP and that a draft of that plan, including documentation of consultations with affected native people and social impact assessment results, is publicly disclosed in a timely manner before project appraisal.
<b>Key element (2):</b> The disclosed draft IPP is accessible to, and in a form and language(s) understandable to, affected Indigenous Peoples communities and other stakeholders.	<b>Environment Act 2003</b> 36. Environmental Impact Assessment - (5) The [National Environmental] Service shall undertake public consultation for the issuance of the project permit and in so doing... (a) publish details of the project in such a manner that these become accessible to the affected public;...	<b>Partial equivalence</b>  The Environment Act 2003 requires disclosing a draft EIA report, which includes some elements of a comprehensive EMP, which may include some aspects of social impact assessment, but there is no requirement to prepare a document like an IPP.	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that every EIA report for projects that will have adverse impacts on native people must include a plan equivalent to an IPP and that a draft of that plan, including documentation of consultations with affected native people and social impact assessment results, is accessible to, and in a form and language(s) understandable to, affected native people and other stakeholders.
<b>Key element (3):</b> The final IPP (and any subsequent updates) also are disclosed to affected Indigenous Peoples communities and other stakeholders.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to explicitly require that every EIA report for projects that will have adverse impacts on native people must include a plan equivalent to an IPP and that the Service must publicly disclose the final EIA report, the final plan equivalent to an IPP, and any subsequent updates.
<b>Policy Principle 8:</b> Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.			
<b>Key element (1):</b> Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves activities that are contingent on establishing legally recognized rights to lands and territories	No corresponding legal provision.	<b>No equivalence</b>	

<b>(A)</b> <b>ADB Safeguard Policy Statement</b>	<b>(B)</b> <b>Corresponding Legal Provisions</b>	<b>(C)</b> <b>Extent of Equivalence <sup>1</sup></b>	<b>(D)</b> <b>Recommended Gap-filling Measures</b>
that Indigenous Peoples have traditionally owned or customarily used or occupied.			
<b>Key element (2):</b> Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves involuntary acquisition of such areas.	No corresponding legal provision.	<b>No equivalence</b>	
<b>Policy Principle 9:</b> Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPP's objective and desired outcome have been achieved, taking into account the baseline conditions and the results of IPP monitoring. Disclose monitoring reports.			
<b>Key element (1):</b> Monitor implementation of the IPP using qualified and experienced experts.	<b>Environment Act 2003</b> 36. Environmental Impact Assessment - ... (3) Every application for a project permit shall...include an environmental impact assessment, setting out details of... (b) ...the proposed plan to monitor environmental impacts arising out of the project;...	<b>Partial equivalence</b> The Environment Act 2003 does not require an EMP or an IPP, but it does require an EIA which includes some elements of a comprehensive EMP, which may include some aspects of social impact assessment, to set out a proposed plan for monitoring environmental impacts arising out of a project.	Amend the Environment Act 2003 and/or issue EIA regulations to require project proponents to prepare a plan equivalent to an IPP when a project will cause adverse impacts on native people, and to monitor its effectiveness.
<b>Key element (2):</b> Include arrangements for participatory monitoring whenever possible.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to require project proponents to prepare a plan equivalent to an IPP when a project will cause adverse impacts on native people, and to include arrangements for participatory monitoring of the implementation of that plan, whenever possible.
<b>Key element (3):</b> Assess whether IPP objectives and desired outcomes are achieved, taking into account baseline conditions and monitoring results.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to require project proponents to prepare a plan equivalent to an IPP when a project will cause adverse impacts on native people, and to provide for assessing whether the plan's objectives and desired outcomes are achieved, taking into account baseline conditions and monitoring results.

<b>(A)</b> <b>ADB Safeguard Policy Statement</b>	<b>(B)</b> <b>Corresponding Legal Provisions</b>	<b>(C)</b> <b>Extent of Equivalence <sup>1</sup></b>	<b>(D)</b> <b>Recommended Gap-filling Measures</b>
<b>Key element (4):</b> Monitoring reports are disclosed.	No corresponding legal provision.	<b>No equivalence</b>	Amend the Environment Act 2003 and/or issue EIA regulations to require project proponents to prepare a plan equivalent to an IPP when a project will cause adverse impacts on native people, to monitor its effectiveness, and to disclose monitoring reports.

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