

Comparative Analysis of Kiribati's Legal Framework and Environment Safeguards in the ADB Safeguard Policy Statement

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
Environmental Safeguards Objectives: To ensure the environmental soundness and sustainability of projects and to support the integration of environmental considerations into the project decision-making process			
Key Element (1) Ensure the environmental soundness and sustainability of projects	Environment Act 1999 (as amended 2007) (Environment Act 2007) General duty to Consider environmental impact 12. In considering the grant of approval for any existing or proposed development or further expansion in any existing development, the Minister...shall have regard as far as practicable to the effect such development or expansion would have on the environment. 21. Environmentally-significant activities Environmentally-significant activities are activities listed in the Schedule. 22. Carrying out environmentally-significant activities (1) An- (a) environmentally significant activity; and (b) any construction work designed to enable an environmentally significant activity, must be carried out in accordance with an environment licence....,	Full Equivalence.	None required
Key Element (2) Support the integration of environmental considerations into the project decision-making	Environment Act 2007 General duty to Consider environmental impact 12. In considering the grant of approval for any existing or proposed development or further expansion in any existing development, the Minister...shall have regard as far as practicable to the effect such development or expansion would have on the environment.	Full Equivalence.	None required

¹ All text in Column B is direct citation from the official versions of the legal instruments. Citations to non-legally-binding guidelines are in footnotes to recommendations in Column D. In this analysis, the words "shall" and "must" are interpreted to mean that an action is mandatory; the word "may" is interpreted to mean that an action is discretionary.

² "Full Equivalence" denotes that the national legal instruments are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. "Partial Equivalence" denotes that the national legal instruments are in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and "No Equivalence" denotes that no legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element. It is intended that the referenced text of the national legal instruments be sufficiently clear to demonstrate the findings of Full Equivalence or No Equivalence without further explanation, except in those instances where an explanation would appear necessary and is given. A finding of Partial Equivalence normally requires the explanation provided.

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process	22. Carrying out environmentally-significant activities (2) A person who- (a) carries out; or (b) ...allows the carrying out of an environmentally-significant activity, or construction work, contrary to subsection (1) commits an offence.		
Scope and Triggers: Environmental safeguards are triggered if a project is likely to have potential environmental risks and impacts.			
	<p>Environment Act 2007</p> <p>32. Consideration of application (1) After receiving an application for an environment licence, the Principal Environment Officer may, in writing to the applicant- (a) grant an environment licence, subject to any reasonable conditions; (b) require the applicant to submit an environmental impact assessment report to the Principal Environment Officer; or (c) refuse to grant an environment licence. (2) The Principal Environment Officer may only grant an environment licence under subsection (1) if- (a) the possible environmental impacts of the proposed activity are well known, are not significant, will not harm area of natural, cultural or historic significance, and are not likely to be controversial; or (b) the activity is an unforeseen activity requiring immediate action in the public interest, and the need for such action outweighs the need for an environmental assessment. (3) In making a decision under subsection (1), the Principal Environment Officer must- (a) be guided by the principles of sustainable development; (b) not act inconsistently with any international obligation or agreement relating to the environment entered into by Kiribati; and (c) act in accordance with any other requirements that may be prescribed.</p> <p>Schedule Prescribed Developments 1. Food Industries including:... 2. Iron and Steel Industries 3. Non-Metallic Industries including:...</p>	<p>Full Equivalence.</p> <p>The Environment Act 2007 appears to give a Principal Environment Officer full discretion to determine whether to grant an environmental license on the basis of an application, or to require an EIA.</p> <p>Section 17 of the Environment Act 1999 stipulated criteria for scoping. The Environment Act 2007 repealed that section.</p>	None required

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	4. Leather, Paper, Textile and Wood Industries including:... 5. Fishing and Marine Industry Product... 6. Chemical Industry including:... 7. Tourism Industry including:... 8. Agriculture Industry including:... 9. Public Works Sector including:... 10. Genetically Engineered Organisms (GEOs) 11. Other (a) industrial estates (b) housing multiple units (c) settlement and resettlement schemes (d) petroleum product storage and processing works.		
Policy Principle 1: Use a screening process for each proposed project, as early as possible, to determine the appropriate extent and type of environmental assessment so that appropriate studies are undertaken commensurate with the significance of potential impacts and risks.			
Key element (1) Screen as early as possible	Environment Act 2007 32. Consideration of application (1) After receiving an application for an environment licence, the Principal Environment Officer may... (b) require the applicant to submit an environmental impact assessment report...	Full Equivalence.	None required
Key element (2) Determine the appropriate extent and type of environmental assessment so that appropriate studies are undertaken commensurate with the significance of potential impacts and risks.	Environment Act 2007 33. Requirements of environmental impact assessment report (1) An environmental impact assessment report must include- (a) a description of the impacts of the proposed activity; (b) the possible alternatives to the proposed activity, including the alternative of not undertaking the proposed activity; (c) mitigation measures that can be applied to minimise or prevent harm to the environment; and (d) any details that may be prescribed. (2) The Principal Environment Officer may...exempt the applicant from including information required by subsection (1) if the Principal Environment Officer considers the information is not necessary or appropriate for the purposes of evaluating the proposed activity.	Partial Equivalence. The Environment Act 2007 provides only the most basic criteria -- descriptions of impacts, alternatives and mitigation measures -- for screening and gives the Principal Environment Officer significant discretion to exempt an applicant from describing even those fundamental elements of EIA.	Amend the Environment Act 2007 and/or issue EIA regulations that stipulate minimum criteria for screening.
Policy Principle 2: Conduct an environmental assessment for each proposed project to identify potential direct, indirect, cumulative, and induced impacts and risks to physical, biological, socioeconomic (including impacts on livelihood through environmental media, health and safety, vulnerable groups, and gender issues), and physical cultural resources in the context of the project's area of influence. Assess potential trans-boundary and global impacts, including climate change. Use strategic environmental assessment where appropriate.			

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
Key element (1): Identify indirect as well as direct impacts	Environment Act 2007 33. Requirements of environmental impact assessment report (1) An environmental impact assessment report must include-... (d) any details that may be prescribed. Requirements of environmental impact assessment report³ Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—... 5 the potential or actual impacts of the proposed activity on the environment, including any primary, secondary...impacts...	Partial Equivalence. The Environment Act 2007 does not require identifying indirect impacts but the “Requirements of environmental impact assessment report” require identifying secondary impacts, which may be interpreted be indirect impacts.	Amend the “Requirements of environmental impact assessment report” to explicitly require an environmental impact assessment report to identify indirect as well as direct impacts. ⁴
Key element (2) Identify cumulative impacts	Environment Act 2007 Interpretation 2. In this Act, unless the context otherwise requires-... “impact” concerning the use, development or protection of the environment includes - (d) an impact which is cumulative over time or in combination with other impacts regardless of its scale, intensity, duration or frequency;...	Partial Equivalence. The Environment Act 2007 defines ‘impact’ to include cumulative impacts but does not explicitly require assessment of cumulative impacts.	Amend the “Requirements of environmental impact assessment report” to explicitly require an environmental impact assessment report to identify cumulative impacts.
Key element (3) Identify induced impacts ⁵	No corresponding legal provision.	No Equivalence.	Amend the “Requirements of environmental impact assessment report” to require an environmental impact assessment report to identify

³ The website of the Environment and Conservation Division of the Ministry of Environment, Lands, and Agricultural Development has a link titled “Requirements of environmental impact assessment report”: <http://www.environment.gov.ki/wp-content/uploads/2015/04/Requirements-of-environmental-impact-assessment-report.pdf> The document available on the website has no title and two sections: “Requirements of basic environmental impact assessment report” and “Requirements of comprehensive environmental impact assessment report”. There is no indication whether it is part of another legal instrument. This analysis assumes that the document is legally binding because it states that its contents are for the purposes of section 33, “Requirements of environmental impact assessment report”, of the Environment Act 2007 and that the requirements are mandatory.

⁴ Environment Licence Application Guideline: Guideline for applicants seeking an environment licence under the Environment Act 1999 (as amended) (non-binding)

Attachment 2 – Environmental Impact Assessment content and format

Comprehensive Environmental Impact Assessment (CEIA)

Item 5 the potential or actual impacts of the proposed activity on the environment, including any primary, secondary...impacts.

‘Primary’ and ‘secondary’ impacts may or may not be equivalent to direct and indirect impacts.

⁵ ADB defines induced impacts as adverse and/or beneficial impacts on areas and communities from unintended but predictable developments caused by a project, which may occur later or at a different location.

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			induced impacts.
Key element (4) Identify physical impacts	Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report ...5 the potential or actual impacts of the proposed activity on the environment...	Partial Equivalence. The Environment Act 2007 does not require assessment of physical impacts but the “Requirements of environmental impact assessment report” require environmental impact assessment reports to include potential or actual impacts generally.	Amend the “Requirements of environmental impact assessment report” to explicitly require an environmental impact assessment report to identify physical impacts.
Key element (5) Identify biological impacts	Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 3 a description of the proposed activity, including—... (c) if the activity includes taking, harvesting, growing or keeping of organisms, the type and number of organisms involved; (d) if the activity includes harm to a coral reef, mangrove or sea grass bed, the nature and extent of the harm; (e) if the activity includes harm to a protected species or ecological community, the nature and extent of the harm;... Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details— 1 all the information required by a basic environmental impact assessment report for the proposed activity... 3 a description of the environment with the potential to be affected by the proposed activity including—... (c) ecological important habitats and organisms: distribution and abundance in the area...	Full Equivalence.	None required
Key element (6) Identify socioeconomic impacts (including on livelihood through environmental	Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 8 the benefits of the proposed activity, including any economic, social and cultural factors...	Partial Equivalence. Section 20(l) of the Environment Act 1999 stipulated that an EIA must justify the prescribed development in terms of economic and social considerations. The Environment Act 2007 repealed that requirement. The “Requirements of environmental impact assessment report” require an EIA report to include economic, social and cultural factors, but only in the context of benefits of the proposed activity, not in the	Amend the “Requirements of environmental impact assessment report” to explicitly require assessment of gender issues as well as economic and social impacts, both positive and adverse, on vulnerable groups in a basic

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health and safety, vulnerable groups, and gender issues)	Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details— 1 all the information required by a basic environmental impact assessment report for the proposed activity... 4 a description of, and any potential impacts on, social, economic and cultural resources including: (a) population & employment (within the likely affected community); (b) health facilities;... (d) current land use and resources traditionally used by local communities;...	context of impacts.	EIA report as well as in a comprehensive one. ⁶
Key element (7) Identify impacts on physical cultural resources	Requirements of environmental impact assessment report Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—... 4 a description of, and any potential impacts on,...cultural resources including:... (e) sites or structures that are of historical and cultural significance	Full Equivalence.	None required ⁷

⁶ Environment Licence Application Guideline: Guideline for applicants seeking an environment licence under the Environment Act 1999 (as amended) (non-binding)

Attachment 2 – Environmental Impact Assessment content and format
Basic Environmental Impact Assessment (BEIA)
 Item 8 the benefits of the proposed activity, including any economic, social and cultural factors
Comprehensive Environmental Impact Assessment (CEIA)
 Item 4 a description of, and any potential impacts on, social, economic and cultural resources including:
 (a) population & employment (within the likely affected community);
 (b) health facilities;
 (c) education facilities;
 (d) current land use and resources traditionally used by local communities;...

⁷ Environment Licence Application Guideline: Guideline for applicants seeking an environment licence under the Environment Act 1999 (as amended) (non-binding)

Attachment 2 – Environmental Impact Assessment content and format
Comprehensive Environmental Impact Assessment (CEIA)
 Item 4 a description of, and any potential impacts on,...cultural resources including:...
 (e) sites or structures that are of historical and cultural significance

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Key element (8) Identify impacts in the context of the project's area of influence	Environment Act 2007 Interpretation 2. In this Act, unless the context otherwise requires-... "impact" concerning the use, development or protection of the environment includes -... (g) spatial dimension of such impacts, whether local, regional or global.	Partial Equivalence. The Environment Act 2007 defines 'impact' to include local impacts but, because the Act does not define 'local', it is not clear that 'local' would encompass a project's entire area of influence. The Act does not explicitly require assessment of impacts in a project's area of influence. Section 20(j) of the Environment Act 1999 stipulated that an EIA must describe the geographic boundaries of the impacts. The Environment Act 2007 repealed that requirement.	Amend the "Requirements of environmental impact assessment report" to require an environmental impact assessment report to explicitly define a proposed project's area of influence and analyze impacts in the context of a project's area of influence.
Key element (9) Assess potential trans-boundary impacts	Environment Act 2007 Interpretation 2. In this Act, unless the context otherwise requires-... "impact" concerning the use, development or protection of the environment includes -... (g) spatial dimension of such impacts, whether local, regional or global.	Partial Equivalence. The Environment Act 2007 defines 'impact' to include regional, which in the case of Kiribati would be trans-boundary, impacts, but does not explicitly require assessment of trans-boundary impacts. This key element is irrelevant in the context of Kiribati.	None required
Key element (10) Assess potential global impacts, including climate change	Environment Act 2007 Interpretation 2. In this Act, unless the context otherwise requires-... "impact" concerning the use, development or protection of the environment includes -... (g) spatial dimension of such impacts, whether local, regional or global. Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 7 a description of how climate change and climate variability may impact on the activity... Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the	Full Equivalence. This key element is irrelevant in the context of Kiribati.	None required

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	following details—... 9 a full description on long term measures proposed to be undertaken to avoid likely adverse impacts of climate change and climate variability in relation to the activity, taking into consideration global and local climate scenarios...		
Key element (11) Use strategic environmental assessment where appropriate	No corresponding legal provision.	No Equivalence.	Amend the Environment Act 2007 to introduce strategic environmental assessment where appropriate.
Policy Principle 3. Examine alternatives to the project's location, design, technology, and components and their potential environmental and social impacts and document the rationale for selecting the particular alternative proposed. Also consider the no project alternative.			
Key element (1) Examine alternatives to the project's location, design, technology, and components and their potential environmental and social impacts	Environment Act 2007 33. Requirements of environmental impact assessment report (1) An environmental impact assessment report must include-... (b) the possible alternatives to the proposed activity, including the alternative of not undertaking the proposed activity; (c) mitigation measures that can be applied to minimise or prevent harm to the environment;... Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 9 reasonable alternatives to the proposed activity, for example, design and sites,... Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—... 8 a full description of each alternative to the proposed activity, including the benefits, impacts and management options...	Full Equivalence.	None required
Key element (2) Document the	Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report	Full Equivalence.	None required

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rationale for selecting the particular alternative proposed	<p>For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—...</p> <p>10 an outline of the reasons for the proposed activity as opposed to the alternatives...</p> <p>Requirements of comprehensive environmental impact assessment report</p> <p>For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—...</p> <p>1 all the information required by a basic environmental impact assessment report for the proposed activity...</p>	<p>Section 20(h) of the Environment Act 1999 stipulated that an EIA must outline the reasons for the choice of the prescribed development. The Environment Act 2007 repealed that requirement.</p> <p>The “Requirements of environmental impact assessment report” require documenting the reasons for selecting the proposed activity as opposed to the alternatives.</p>	
<p>Key element (3)</p> <p>Also consider the no project alternative</p>	<p>Environment Act 2007</p> <p>33. Requirements of environmental impact assessment report</p> <p>(1) An environmental impact assessment report must include-...</p> <p>(b) the possible alternatives to the proposed activity, including the alternative of not undertaking the proposed activity;...</p> <p>Requirements of environmental impact assessment report</p> <p>Requirements of basic environmental impact assessment report</p> <p>For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—...</p> <p>9 reasonable alternatives to the proposed activity, for example, design and sites, and including, at least, the alternative of not undertaking the activity...</p>	<p>Full Equivalence.</p>	<p>None required</p>
<p>Policy Principle 4: Avoid, and where avoidance is not possible, minimize, mitigate, and/or offset adverse impacts and enhance positive impacts by means of environmental planning and management. Prepare an environmental management plan (EMP) that includes the proposed mitigation measures, environmental monitoring and reporting requirements, related institutional or organizational arrangements, capacity development and training measures, implementation schedule, cost estimates, and performance indicators. Key considerations for EMP preparation include mitigation of potential adverse impacts to the level of no significant harm to third parties, and the polluter pays principle.</p>			
<p>Key element (1)</p> <p>Avoid adverse impacts where possible</p>	<p>Environment Act 2007</p> <p>Interpretation</p> <p>2. In this Act, unless the context otherwise requires-... “mitigation” includes -</p> <p>(a) avoiding an impact by not taking a particular course of action as part of development;...</p> <p>Requirements of environmental impact assessment report</p>	<p>Partial Equivalence.</p> <p>The Environment Act 2007 defines ‘impact’ to include avoiding impacts, but does not explicitly require avoiding impacts where possible.</p> <p>The “Requirements of environmental impact assessment report” require avoiding impacts only in the context of climate change.</p>	<p>Amend the “Requirements of environmental impact assessment report” to explicitly require an environmental impact assessment report to specify how a proposed project will avoid all adverse impacts.</p>

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	<p>Requirements of comprehensive environmental impact assessment report</p> <p>For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—...</p> <p>9 a full description on long term measures proposed to be undertaken to avoid likely adverse impacts of climate change and climate variability in relation to the activity...</p>		
<p>Key element (2)</p> <p>Where avoidance is not possible, minimize and/or, mitigate adverse impacts to the level of no significant harm to third parties</p>	<p>Environment Act 2007</p> <p>33. Requirements of environmental impact assessment report</p> <p>(1) An environmental impact assessment report must include-...</p> <p>(c) mitigation measures that can be applied to minimise or prevent harm to the environment;...</p> <p>Requirements of environmental impact assessment report</p> <p>Requirements of basic environmental impact assessment report</p> <p>For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—...</p> <p>14 an environmental management and protection plan for the proposed activity, including—...</p> <p>(b) a description and assessment of the controls, safeguards, standards or other environmental management or mitigation measures intended to be adopted or applied for the protection of the environment, or to minimize or prevent harm to the environment...</p> <p>Requirements of comprehensive environmental impact assessment report</p> <p>For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—...</p> <p>1 all the information required by a basic environmental impact assessment report for the proposed activity...</p>	<p>Full Equivalence.</p>	<p>None required</p>
<p>Key element (3)</p> <p>Offset adverse impacts</p>	<p>No corresponding legal provision.</p>	<p>No Equivalence.</p>	<p>Amend the “Requirements of environmental impact assessment report” to explicitly provide for offsets as an option for mitigating adverse</p>

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<p>Key element (4): Enhance positive impacts</p>	<p>Environment Act 2007 interpretation 2. In this Act, unless the context otherwise requires-... “impact”, concerning the use, development or protection of the environment includes –... (a) a positive... impact;...</p> <p>Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 8 the benefits of the proposed activity...</p> <p>Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—... 1 all the information required by a basic environmental impact assessment report for the proposed activity...</p>	<p>Partial Equivalence.</p> <p>The Environment Act 2007 defines ‘impact’ to include positive impacts, but there is no substantive provision requiring that positive impacts be enhanced.</p> <p>The “Requirements of environmental impact assessment report” require consideration of benefits of a proposed activity, but do not require enhancing them.</p>	<p>environmental impacts.</p> <p>Amend the “Requirements of environmental impact assessment report” to explicitly require an environmental impact assessment report to require an analysis of potential for enhancing a proposed project’s positive impacts.⁸</p>

⁸ Environment Licence Application Guideline: Guideline for applicants seeking an environment licence under the Environment Act 1999 (as amended) (non-binding)
Attachment 2 – Environmental Impact Assessment content and format
Basic Environmental Impact Assessment (BEIA)
Item 8 the benefits of the proposed activity...
Comprehensive Environmental Impact Assessment (CEIA)
Item 5 the potential or actual impacts of the proposed activity on the environment, including any...beneficial impacts

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<p>Key element (5) Prepare an environmental management plan (EMP) that includes the proposed mitigation measures</p>	<p>Environment Act 2007 38. Conditions on environment licences An environment licence may be subject to reasonable conditions, including conditions—...</p> <p>(c) specifying the method of undertaking any activities; (d) modifying the proposed activity;... (g) requiring the implementation of a plan to manage any environmental impacts;... j) requiring replanting of vegetation or measures to improve the environment; (k) specifying any procedures for cessation and rehabilitation;...</p> <p>Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—...</p> <p>14 an environmental management and protection plan for the proposed activity, including—...</p> <p>(b) a description and assessment of the controls, safeguards, standards or other environmental management or mitigation measures intended to be adopted or applied for the protection of the environment, or to minimize or prevent harm to the environment...</p> <p>15 the summary of the environmental management and protection plan in a matrix form. The summary of the environmental and protection plan must include —...</p> <p>(b) proposed mitigation, control or safeguard measures,...</p> <p>Requirements of comprehensive environmental impact assessment report</p>	<p>Full Equivalence.</p> <p>Under the Environment Act 2007, a project proponent has no responsibility to prepare an EMP. A plan to manage environmental impacts is one of several discretionary conditions that the permitting authority may apply to an environment licence.</p> <p>However, the “Requirements of environmental impact assessment report” explicitly require an environmental management and protection plan that includes mitigation measures.</p>	<p>None required.⁹</p>

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Attachment 2 – Environmental Impact Assessment content and format
Basic Environmental Impact Assessment (BEIA)

Item 14 an environmental management and protection plan for the proposed activity, including—
(a) a description and assessment of the controls, safeguards, standards or other environmental management or mitigation measures intended to be adopted or applied for the protection of the environment, or to minimize or prevent harm to the environment...

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	<p>For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—...</p> <p>1 all the information required by a basic environmental impact assessment report for the proposed activity...</p>		
<p>Key element (6) Prepare an environmental management plan (EMP) that includes the proposed monitoring requirements</p>	<p>Environment Act 2007 38. Conditions on environment licences An environment licence may be subject to reasonable conditions, including conditions-... (e) requiring the monitoring...of any environmental impacts;...</p> <p>Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 14 an environmental management and protection plan for the proposed activity, including—... (c) a description of any intended environmental monitoring...of the impact of the activity... (d) a description of responsibilities and authorities for implementation of mitigation measures and monitoring requirements;...</p> <p>Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—...</p>	<p>Full Equivalence.</p> <p>Under the Environment Act 2007, monitoring environmental impacts is one of several discretionary conditions that the permitting authority may apply to an environment licence.</p> <p>Section 20(p) of the Environment Act 1999 stipulated that an environmental impact statement must describe proposed monitoring schemes. The Environment Act 2007 repealed that requirement.</p> <p>However, the “Requirements of environmental impact assessment report” require an EMP that includes monitoring requirements.</p>	<p>None required.¹⁰</p>

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Basic Environmental Impact Assessment (BEIA)

Item 14 an environmental management and protection plan for the proposed activity, including—
(b) a description of any intended environmental monitoring...of the impact of the activity...

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	1 all the information required by a basic environmental impact assessment report for the proposed activity...		
Key element (7) Prepare an environmental management plan (EMP) that includes the proposed reporting requirements	Environment Act 2007 38. Conditions on environment licences An environment licence may be subject to reasonable conditions, including conditions-... (e) requiring the...reporting of any environmental impacts;... Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 14 an environmental management and protection plan for the proposed activity, including—... (c) a description of any intended...reporting of the impact of the activity... Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—... 1 all the information required by a basic environmental impact assessment report for the proposed activity...	Full Equivalence. Section 20(p) of the Environment Act 1999 stipulated that an environmental impact statement must describe proposed reporting schemes. The Environment Act 2007 repealed that requirement. However, the “Requirements of environmental impact assessment report” require an EMP that includes reporting requirements.	None required. ¹¹
Key element (8) Prepare an environmental	Environment Act 2007 38. Conditions on environment licences An environment licence may be subject to reasonable conditions,	Full Equivalence.	None required. ¹²

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Basic Environmental Impact Assessment (BEIA)

Item 14 an environmental management and protection plan for the proposed activity, including...

(b) a description of any intended...reporting of the impact of the activity...

¹² Environment Licence Application Guideline: Guideline for applicants seeking an environment licence under the Environment Act 1999 (as amended) (non-binding)
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Item 14 an environmental management and protection plan for the proposed activity, including...

(c) a description of responsibilities and authorities for implementation of mitigation measures and monitoring requirements;...

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions¹	(C) Extent of Equivalence²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
<p>management plan (EMP) that includes related institutional or organizational arrangements</p>	<p>including conditions-... (l) specifying individuals who may carry out activities under the licence.</p> <p>Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 14 an environmental management and protection plan for the proposed activity, including—... (d) a description of responsibilities and authorities for implementation of mitigation measures and monitoring requirements;...</p> <p>15 the summary of the environmental management and protection plan in a matrix form. The summary of the environmental and protection plan must include —... (c) name of institutions responsible for implementing mitigation, control or safeguard measures[].</p> <p>Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—... 1 all the information required by a basic environmental impact assessment report for the proposed activity...</p>		
<p>Key element (9) Prepare an environmental management plan (EMP) that includes related capacity development and training measures</p>	<p>No corresponding legal provision.</p>	<p>No Equivalence.</p>	<p>Amend the “Requirements of environmental impact assessment report” to make it mandatory that a project proponent prepare an EMP that includes capacity development and training measures.</p>
<p>Key element</p>	<p>Requirements of environmental impact assessment report</p>	<p>Full Equivalence.</p>	<p>None required</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions¹	(C) Extent of Equivalence²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
<p>(10) Prepare an environmental management plan (EMP) that includes an implementation schedule</p>	<p>Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 3 a description of the proposed activity, including—... (v) proposed schedule for implementation and completion;...</p> <p>Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—... 1 all the information required by a basic environmental impact assessment report for the proposed activity...</p>		
<p>Key element (11) Prepare an environmental management plan (EMP) that includes cost estimates</p>	<p>Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 14 an environmental management and protection plan for the proposed activity, including—... (b) a description and assessment of the controls, safeguards, standards or other environmental management or mitigation measures intended to be adopted or applied for the protection of the environment, or to minimize or prevent harm to the environment, including their estimated costs; (c) a description of any intended environmental monitoring and reporting of the impact of the activity with estimated costs;...</p> <p>Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive</p>	<p>Full Equivalence.</p> <p>The Environment Act 2007 repealed provisions of the Environment Act 1999 which stipulated that an environmental impact statement must:</p> <ul style="list-style-type: none"> ▪ describe measures to prevent or reduce significant adverse impacts and enhance beneficial effects and an account of their likely success with estimated costs; ▪ describe proposed monitoring and reporting schemes with estimated costs as appropriate; ▪ describe and assess the estimated cost effectiveness of any safeguards or standards for the protection of the environment to be adopted or applied including its implementation, monitoring and reporting. <p>However, the “Requirements of environmental impact assessment report” require an EMP that includes estimated costs for mitigation, monitoring and reporting.</p>	<p>None required.¹³</p>

¹³ Environment Licence Application Guideline: Guideline for applicants seeking an environment licence under the Environment Act 1999 (as amended) (non-binding)
Attachment 2 – Environmental Impact Assessment content and format
Basic Environmental Impact Assessment (BEIA)

Item 14 an environmental management and protection plan for the proposed activity, including—
(a) a description and assessment of the...mitigation measures...including their estimated costs;
(b) a description of any intended environmental monitoring and reporting of the impact of the activity with estimated costs;...

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	environmental impact assessment report must include the following details—... 1 all the information required by a basic environmental impact assessment report for the proposed activity...		
Key element (12) Prepare an environmental management plan (EMP) that includes performance indicators	No corresponding legal provision.	No Equivalence.	Amend the “Requirements of environmental impact assessment report” to make it mandatory that a project proponent prepare an EMP that includes performance indicators.
Key element (13) Consider the polluter pays principle in environmental management planning	Environment Act 2007 20. Duty to clean-up environment (1) A person who causes or allows the discharge of any waste or other substance in contravention of this Act must take any appropriate actions to remove the waste or other substance and remedy, mitigate and contain any harm to the environment. (2) A person who fails to comply with subsection (1) commits an offence. Maximum penalty: fine of \$100,000, imprisonment for five years. 65. Injunctions (1) If a person has contravened, is contravening, or proposes to contravene this Act, any person may apply to a court for an injunction.... (3) If the court grants an injunction under subsection (2), the court may make an order requiring the person to do an act (including repairing or mitigating damage to the environment). 78. Additional powers of courts ...(2) A court may order a person to clean up any substance, take actions, or pay an amount to the Republic for actual or anticipated costs, to remedy or mitigate any adverse effect caused as a result of the contravention of this Act.	Full Equivalence.	None required
Policy Principle 5: Carry out meaningful consultation with affected people and facilitate their informed participation. Ensure women’s participation in consultation. Involve stakeholders, including affected people and concerned nongovernment organizations, early in the project preparation process and ensure that their views and concerns are made known to and understood by decision makers and taken into account. Continue consultations with stakeholders throughout project implementation as necessary to address issues related to environmental assessment. Establish a			

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
grievance redress mechanism to receive and facilitate resolution of the affected people's concerns and grievances regarding the project's environmental performance.			
<p>Key element (1) Carry out meaningful consultation with affected people and facilitate their informed participation.</p>	<p>Environment Act 2007 33. Requirements of environmental impact assessment report ... (3) In preparing an environmental impact assessment report, the applicant must attempt to consult with- (a) any nearby or adjacent landowners; and (b) any other person who would have an immediate interest in the activity.</p> <p>Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 12 a summary of the results of consultations undertaken for the proposed activity 13 a list of the persons and bodies who have been consulted...</p> <p>Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details— 1 all the information required by a basic environmental impact assessment report for the proposed activity... 12 detail of public involvement and disclosure including: (a) a description of the participation schemes involving the public from project planning until decommissioning; (b) an outline of major issues received from the public and a description of how these concerns are going to be addressed; (c) a summary of public opinion on the proposed project...</p>	<p>Partial Equivalence.</p> <p>The Environment Act 2007 requires only an attempt to consult with affected people during the EIA process.</p> <p>The “Requirements of environmental impact assessment report” require documenting consultations, but do not make consultations mandatory.</p>	<p>Amend the Environment Act 2007 to explicitly require a project proponent to consult with affected people during the EIA process.</p>
<p>Key element (2) Ensure women's participation in consultation</p>	<p>Environment Act 2007 36. Publication of environmental impact assessment report (1) ...the Principal Environment Officer must give notice...setting out a procedure for publication adequate to bring the report to the attention of interested persons.</p>	<p>Partial Equivalence.</p> <p>The Environment Act 2007 provides for consultation with interested persons, but does not specify that the participation of women or vulnerable groups should be facilitated.</p>	<p>Amend the “Requirements of environmental impact assessment report” to explicitly require a project proponent to facilitate women's informed participation.</p>
<p>Key element (3) Involve</p>	<p>Environment Act 2007 36. Publication of environmental impact assessment report</p>	<p>Partial Equivalence.</p>	<p>Amend the “Requirements of environmental impact</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions¹	(C) Extent of Equivalence²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
stakeholders, including affected people and concerned nongovernment organizations	(1) ...the Principal Environment Officer must give notice...setting out a procedure for publication adequate to bring the report to the attention of interested persons.	The Environment Act 2007 provides for consultation with interested persons, but does not specify that the participation of nongovernment organizations should be facilitated.	assessment report” to explicitly require a project proponent to facilitate participation of nongovernment organizations.
Key element (4) Involve stakeholders early in the project preparation process	Requirements of environmental impact assessment report Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—... 12 detail of public involvement and disclosure including: (a) a description of the participation schemes involving the public from project planning until decommissioning;...	Partial Equivalence. Section 19 of the Environment Act 1999 required public consultation at the screening/initial environmental evaluation stage. The Environment Act 2007 repealed that requirement. The “Requirements of environmental impact assessment report” require documenting public participation beginning at the project planning stage, but do not explicitly require that public consultation must begin at the project planning stage.	Amend the “Requirements of environmental impact assessment report” to stipulate that public consultations should begin at the scoping phase of the EIA process.
Key element (5) Ensure that stakeholder views and concerns are made known to and understood by decision makers and taken into account.	Requirements of environmental impact assessment report Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—... 12 detail of public involvement and disclosure including: (a) a description of the participation schemes involving the public from project planning until decommissioning; (b) an outline of major issues received from the public and a description of how these concerns are going to be addressed; (c) a summary of public opinion on the proposed project...	Partial Equivalence. Section 21(3) of the Environment Act 1999 explicitly required the Minister to consider public comments. The Environment Act 2007 repealed that provision. The “Requirements of environmental impact assessment report” require that a comprehensive environmental impact assessment report include information on public opinion received during consultations.	Amend the Environment Act 2007 and/or issue EIA regulations that specify that results of mandatory public consultations must be submitted as part of an environmental impact statement and require decision-makers to take those comments into account.
Key element (6) Continue consultations with stakeholders throughout project implementation as necessary to address issues related to environmental	No corresponding legal provision.	No Equivalence.	Amend the Environment Act 2007 and/or issue EIA regulations to require proponents to continue consultations with stakeholders throughout project implementation as necessary to address issues related to the project’s environmental performance.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
assessment			
Key element (7) Establish a grievance redress mechanism to receive and facilitate resolution of the affected people's concerns and grievances regarding the project's environmental performance.	No corresponding legal provision.	No Equivalence.	<ul style="list-style-type: none"> ▪ Amend the Environment Act 2007 to establish a grievance redress mechanism to facilitate resolution of affected people's concerns and grievances concerning environmental issues. ▪ Amend the Environment Act 2007 and/or issue EIA regulations to require project proponents to establish a grievance redress mechanism to facilitate resolution of stakeholders' concerns and grievances concerning a project's environmental performance throughout project implementation.
Policy Principle 6: Disclose a draft environmental assessment (including the EMP) in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected people and other stakeholders. Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders.			
Key element (1) Disclose a draft environmental assessment including the EMP	Environment Act 2007 36. Publication of environmental impact assessment report (1) If the Principal Environment Officer is satisfied that an environmental impact assessment report meets the requirements of this Act, the Principal Environment Officer must give notice in writing to the applicant setting out a procedure for publication adequate to bring the report to the attention of interested persons. (2) Without limiting the generality of subsection (1) the Principal Environment Officer may require- (a) publication of notices in newspapers and radio; (b) the holding of public hearings; and (c) submission of copies to public authorities or specified persons that may be interested in the proposed activity.... (7) The Principal Environment Officer is not required to make any further decisions in relation to an application unless the applicant has published the environmental impact assessment report as	Full Equivalence.	None required

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions¹	(C) Extent of Equivalence²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	required by subsection (1).		
Key element (2) Disclose a draft environmental assessment in a timely manner prior to appraisal.	Environment Act 2007 36. Publication of environmental impact assessment report ... (3) The Principal Environment Officer may require that comments be submitted to the Principal Environment Officer by a particular date.	Partial Equivalence. Timeliness is at the discretion of the Principal Environment Officer. Section 21(2) of the Environment Act 1999 specified a period of 30 days for public comments. The Environment Act 2007 repealed that provision.	Amend the Environment Act 2007 and/or issue EIA regulations to specify a reasonable period of time – 30 days, for example – that a draft environmental impact statement must be available to the public for review before the decision-making process begins.
Key element (3) Disclose a draft environmental assessment in an accessible place	No corresponding legal provision.	No Equivalence.	Amend the Environment Act 2007 and/or issue EIA regulations to stipulate that the draft environmental impact statement must be made available in a place that is accessible to affected people.
Key element (4) Disclose a draft environmental assessment in a form and language(s) understandable to affected people and other stakeholders	Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... an executive summary of the impact assessment report, written in Kiribati... Requirements of comprehensive environmental impact assessment report	Full Equivalence.	None required. ¹⁴

¹⁴ Environment Licence Application Guideline: Guideline for applicants seeking an environment licence under the Environment Act 1999 (as amended) (non-binding)
Attachment 2 – Environmental Impact Assessment content and format
Basic Environmental Impact Assessment (BEIA)
Item 16 an executive summary of the impact assessment report, written in both English and Kiribati

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details— 1 all the information required by a basic environmental impact assessment report for the proposed activity...		
Key element (5) Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders	Environment Act 2007 83. Public register of applications, licences, etc. (l) The Principal Environment Officer must keep a public register of every- (a) application for an environment licence; (b) environment impact assessment report; (c) environment licence; (d) management plan;... issued under Division 2 of Part VI; (f) improvement plan; (g) environment protocol; and (h) any variation, suspension, termination and transfer of any of the above.	Full Equivalence.	None required
Policy Principle 7: Implement the EMP and monitor its effectiveness. Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.			
Key element (1) Implement the EMP	Environment Act 2007 38. Conditions on environment licences An environment licence may be subject to reasonable conditions, including conditions-... (g) requiring the implementation of a plan to manage any environmental impacts;... Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—...	Full Equivalence. The Environment Act 2007 enables a discretionary condition on an environmental license that would require implementing an EMP. Section 22(1) of the Environment Act 1999 required developers to carry out development in accordance with the development consent. The Environment Act 2007 repealed that provision. However, the “Requirements of environmental impact assessment report” require an EMP that includes a clear statement that the proponent is committed to the measures set out in the EMP.	None required. ¹⁵

¹⁵ Environment Licence Application Guideline: Guideline for applicants seeking an environment licence under the Environment Act 1999 (as amended) (non-binding)
Attachment 2 – Environmental Impact Assessment content and format
Basic Environmental Impact Assessment (BEIA)

Item 14 an environmental management and protection plan for the proposed activity, including...
(d) a clear statement that the applicant is committed to the measures included in the environmental management and protection plan;...

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	<p>14 an environmental management and protection plan for the proposed activity, including—...</p> <p>(e) a clear statement that the applicant is committed to the measures included in the environmental management and protection plan;...</p> <p>Requirements of comprehensive environmental impact assessment report</p> <p>For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details—</p> <p>1 all the information required by a basic environmental impact assessment report for the proposed activity...</p>		
Key element (2) Monitor effectiveness of EMP	<p>Environment Act 2007</p> <p>38. Conditions on environment licences</p> <p>An environment licence may be subject to reasonable conditions, including conditions-...</p> <p>(e) requiring the monitoring...of any environmental impacts;...</p> <p>See Policy Principle 4, Key element 6.</p>	Full Equivalence.	None required
Key element (3) Document monitoring results, including the development and implementation of corrective actions	<p>Environment Act 2007</p> <p>38. Conditions on environment licences</p> <p>An environment licence may be subject to reasonable conditions, including conditions-...</p> <p>(e) requiring the monitoring...of any environmental impacts;...</p>	<p>Partial Equivalence.</p> <p>The Environment Act 2007 enables a discretionary condition on an environmental license that would require monitoring environmental impacts, but does not explicitly require documenting them and does not include developing and implementing corrective actions.</p>	Amend the Environment Act 2007 and/or issue EIA regulations to stipulate that project proponents must document monitoring results and the implementation of any corrective actions.
Key element (4) Disclose monitoring reports	No corresponding legal provision.	No Equivalence.	Amend the Environment Act 2007 and/or issue EIA regulations to stipulate that project proponents must disclose monitoring reports.
<p>Policy Principle 8: Do not implement project activities in areas of critical habitats, unless (i) there are no measurable adverse impacts on the critical habitat that could impair its ability to function, (ii) there is no reduction in the population of any recognized endangered or critically endangered species, and (iii) any lesser impacts are mitigated. If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area. In an area of natural habitats, there must be no significant conversion or degradation, unless (i) alternatives are not available, (ii) the overall benefits from the project substantially outweigh the environmental costs, and (iii) any conversion or degradation is appropriately mitigated.</p>			

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
Use a precautionary approach to the use, development, and management of renewable natural resources.			
<p>Key element (1) Do not implement project activities in areas of critical habitats¹⁶, unless (i) there are no measurable adverse impacts on the critical habitat that could impair its ability to function</p>	<p>Environment Act 2007 24. Harming a protected species or its nest or dwelling place (1) A person who causes or allows harm to- (a) an organism that is a protected species; or (b) the nest or dwelling place of a living organism that is a protected species, other than in accordance with an environment licence commits an offence.</p>	<p>Partial Equivalence. The Environment Act 2007 makes it an offense to harm the nest or dwelling place of a protected species, but does not define 'critical habitat' in the broad sense that ADB uses. The Wildlife Conservation Ordinance 1975 enables the declaration of fully protected and partially protected species, except for fish, and the designated areas where they are protected. The Ordinance does not specify whether these designated areas correspond to those protected species' critical habitats. It also enables the declaration of wildlife sanctuaries for any purpose under the Ordinance. The Ordinance prohibits taking wild birds and turtles and their eggs, and other non-fish animals, without a permit but it does not regulate activities that may affect the habitats of protected species.</p>	<ul style="list-style-type: none"> ▪ Amend the Wildlife Conservation Ordinance 1975 to define 'critical habitat'. ▪ Amend the Environment Act 2007 and/or issue EIA regulations to: <ul style="list-style-type: none"> ▪ define 'critical habitat'; ▪ provide for conserving critical habitats outside of legally protected areas; and ▪ prohibit activities in any area of critical habitat unless there are no measurable adverse impacts on the critical habitat that could impair its ability to function.¹⁷ Amend the Schedule to the Environment Act 2007 on Prescribed Developments to include critical habitats.

¹⁶ ADB's Safeguard Policy Statement defines 'critical habitat' as "[a] subset of both natural and modified habitat that deserves particular attention. Critical habitat includes areas with high biodiversity value, including habitat required for the survival of critically endangered or endangered species; areas having special significance for endemic or restricted-range species; sites that are critical for the survival of migratory species; areas supporting globally significant concentrations or numbers of individuals of congregatory species; areas with unique assemblages of species or that are associated with key evolutionary processes or provide key ecosystem services ; and areas having biodiversity of significant social, economic, or cultural importance to local communities."

¹⁷ Environment Licence Application Guideline: Guideline for applicants seeking an environment licence under the Environment Act 1999 (as amended) (non-binding)

Attachment 2 – Environmental Impact Assessment content and format

Basic Environmental Impact Assessment (BEIA)

Item 3 a description of the proposed activity, including...

(e) if the activity includes harm to a coral reef, mangrove or sea grass bed, the nature and extent of the harm;

(f) if the activity includes harm to a protected species or ecological community, the nature and extent of the harm;...

Comprehensive Environmental Impact Assessment (CEIA)

Item 3 a description of the environment with the potential to be affected by the proposed activity including...

(c) ecological [*sic*] important habitats and organisms: distribution and abundance in the area.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions¹	(C) Extent of Equivalence²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
Key element (2) Do not implement project activities in areas of critical habitats, unless... (ii) there is no reduction in the population of any recognized endangered or critically endangered species	Environment Act 2007 24. Harming a protected species or its nest or dwelling place (1) A person who causes or allows harm to- (a) an organism that is a protected species; or (b) the nest or dwelling place of a living organism that is a protected species, other than in accordance with an environment licence commits an offence.	Partial Equivalence. See Policy Principle 8, Key element 1.	See Policy Principle 8, Key element 1. In addition: Amend the Environment Act 2007 and/or issue EIA regulations to prohibit activities in areas of critical habitats unless there is no reduction in the population of any recognized endangered or critically endangered species.
Key element (3) Do not implement project activities in areas of critical habitats, unless... (iii) any lesser impacts are mitigated.	Environment Act 2007 24. Harming a protected species or its nest or dwelling place (1) A person who causes or allows harm to- (a) an organism that is a protected species; or (b) the nest or dwelling place of a living organism that is a protected species, other than in accordance with an environment licence commits an offence.	Partial Equivalence. See Policy Principle 8, Key element 1.	See Policy Principle 8, Key element 1. In addition: Amend the Environment Act 2007 and/or issue EIA regulations to prohibit activities in areas of critical habitats unless any lesser impacts are mitigated.
Key element (4) If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area.	Environment Act 2007 43. Prescribing protected areas ...(3) A protected area may be subject to any conditions, including that- (a) it is a protected area only at certain times; or (b) that particular provisions of Part III do not apply to the protected area. 47. Management plans ...(2) A management plan sets out the principles, practices and procedures necessary to manage the protected area, and may- (a) state the activities that are allowed, prohibited or regulated in the area, and the means of allowing, prohibiting or regulating them;...	Partial Equivalence. The Environment Act 2007 requires management plans for protected areas that specify activities that may be allowed, prohibited or regulated. It also provides that a protected area may be subject to any conditions and that other provisions of the Act, including environmental license, may not apply to a protected area. It is not clear whether this means that an environmental license could be waived to allow development in a protected area. The Environment Act 2007 does not limit the activities that an environment license may permit in a legally protected area and, if a project is located within a protected area, does not require the proponent to implement additional programs to promote and enhance the conservation aims of the protected area.	Amend the Environment Act 2007 and the "Requirements of environmental impact assessment report" to require any activity located within a legally protected area to implement additional programs to promote and enhance the conservation aims of the protected area. Amend the Schedule to the Environment Act 2007 on Prescribed Developments to include protected areas.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	<p>Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—...</p> <p>3 a description of the proposed activity, including—... (f) if the activity is in a protected area..., the nature and extent of any harm to the protected area...</p> <p>Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details— 1 all the information required by a basic environmental impact assessment report for the proposed activity...</p>	<p>Kiribati is a Party to the Convention Concerning the Protection of the World Cultural and Natural Heritage.</p>	
<p>Key element (5) In an area of natural habitats, there must be no significant conversion or degradation, unless (i) alternatives are not available</p>	<p>No corresponding legal provision.</p>	<p>No Equivalence.</p> <p>The Wildlife Conservation Ordinance 1975 enables the declaration of fully protected and partially protected species, except for fish, and the designated areas where they are protected. The Ordinance does not specify whether these designated areas correspond to those protected species' habitats. It also enables the declaration of wildlife sanctuaries for any purpose under the Ordinance. The Ordinance does not specify whether wildlife sanctuaries correspond to the habitats of particular species. The Ordinance does not regulate activities that may affect natural habitats.</p>	<p>Amend the Environment Act 2007 and/or issue EIA regulations to provide for conserving natural habitats outside protected areas and, in particular, stipulate that, if an activity is implemented within an area of natural habitats, the decision to approve it must impose the condition there must be no significant conversion or degradation unless alternatives are not available.¹⁸</p>

¹⁸ Environment Licence Application Guideline: Guideline for applicants seeking an environment licence under the Environment Act 1999 (as amended) (non-binding)
Attachment 2 – Environmental Impact Assessment content and format
Basic Environmental Impact Assessment (BEIA)
Item 3 a description of the proposed activity, including...
(e) if the activity includes harm to a coral reef, mangrove or sea grass bed, the nature and extent of the harm;
(f) if the activity includes harm to a[n]...ecological community, the nature and extent of the harm;...
Comprehensive Environmental Impact Assessment (CEIA)
Item 3 a description of the environment with the potential to be affected by the proposed activity including...

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
			Amend the Schedule to the Environment Act 2007 on Prescribed Developments to include natural habitats.
<p>Key element (6) In an area of natural habitats, there must be no significant conversion or degradation, unless...(ii) the overall benefits from the project substantially outweigh the environmental costs</p>	No corresponding legal provision.	<p>No Equivalence. See Policy Principle 8, Key element 5.</p>	<p>See Policy Principle 8, Key element 5.</p> <p>In addition: Amend the Environment Act 2007 and/or issue EIA regulations to stipulate that, if any activity is implemented within a an area of natural habitats, the decision to approve the activity must impose the condition there must be no significant conversion or degradation unless the overall benefits from the activity substantially outweigh the environmental costs.</p>
<p>Key element (7) If a project is located within a legally protected area, there must be no significant conversion or degradation, unless...(iii) any conversion or degradation is appropriately mitigated.</p>	<p>Environment Act 2007 45. Management of protected areas (1) The Principal Environment Officer is responsible for managing protected areas... (b) according to the principle that the integrity of an area is best conserved by protecting it from disturbance and threatening processes;...</p> <p>Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 3 a description of the proposed activity, including—...</p>	<p>Partial Equivalence.</p> <p>The Environment Act 2007 establishes the principle that protected areas should be conserved by protecting them from disturbance and threatening processes, but does not have a substantive provision that applies that principle.</p> <p>The “Requirements of environmental impact assessment report” require assessment of potential harm to a protected area.</p>	<p>See Policy Principle 8, Key element 4.</p> <p>In addition: Amend the Environment Act 2007 and/or issue EIA regulations to stipulate that, if an activity is located within a legally protected area, there must be no significant conversion or degradation, unless any conversion or degradation is appropriately mitigated.</p>

(c) ecological [*sic*] important habitats and organisms: distribution and abundance in the area.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
	<p>(f) if the activity is in a protected area..., the nature and extent of any harm to the protected area...</p> <p>Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details— 1 all the information required by a basic environmental impact assessment report for the proposed activity...</p>		
<p>Key element (8) Use a precautionary approach to the use, development, and management of renewable natural resources.</p>	<p>Environment Act 2007 Interpretation 2. In this Act, unless the context otherwise requires-... "precautionary principle" means the principle whereby a lack of scientific certainty should not be used as a reason for not acting to anticipate, prevent or minimise environmental harm;...</p> <p>4B. Requirements of decision making In any decision made under this Act, the decision-maker must-... (e) not act inconsistently with the precautionary principle;...</p> <p>Biosecurity Act 2011 Biosecurity import specifications 26....(3) In determining specifications under subsection (1), the Director-... (d) may apply the precautionary principle.</p>	<p>Full Equivalence.</p> <p>While the Environment Act 2007 is fully equivalent, the Biosecurity Act 2011 is not – it makes applying the precautionary principle discretionary, rather than mandatory.</p>	<p>None required</p> <p>None required for the Environment Act 2007, but it would be advisable to amend the Biosecurity Act 2011 to make applying the precautionary principle mandatory, consistent with the Environment Act 2007.</p>
<p>Policy Principle 9: Apply pollution prevention and control technologies and practices consistent with international good practices as reflected in internationally recognized standards such as the World Bank Group's Environmental, Health and Safety Guidelines. Adopt cleaner production processes and good energy efficiency practices. Avoid pollution, or, when avoidance is not possible, minimize or control the intensity or load of pollutant emissions and discharges, including direct and indirect greenhouse gases emissions, waste generation, and release of hazardous materials from their production, transportation, handling and storage. Avoid the use of hazardous materials subject to international bans or phaseouts. Purchase, use, and manage pesticides based on integrated pest management approaches and reduce reliance on synthetic chemical pesticides.</p>			
<p>Key element (1) Apply pollution prevention and control</p>	<p>No corresponding legal provision.</p>	<p>No Equivalence.</p>	<p>Amend the Environment Act 2007 to stipulate that pollution prevention and control technologies must be applied</p>

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technologies and practices consistent with international good practices			in accordance with accepted international best practice. ¹⁹
Key element (2) Adopt cleaner production processes	No corresponding legal provision.	No Equivalence.	Amend the Environment Act 2007 to require all persons to reduce all forms of pollution at the source, including by adopting cleaner production processes.
Key element (3) Adopt good energy efficiency practices.	No corresponding legal provision.	No Equivalence.	Amend the Environment Act 2007 and/or issue regulations on energy efficiency.
Key element (4) Avoid pollution, or, when avoidance is not possible, minimize or control the intensity or load of pollutant emissions and discharges, including direct and indirect greenhouse gases emissions	Environment Act 2007 3. The objects of this Act shall be- (a) to provide for and establish integrated systems of... pollution control; (b) to prevent, control and monitor pollution; (c) to reduce risks to human health and prevent the degradation of the environment by all practical means. including the following - (i) regulating the discharge of pollutants to the air, water or land;... (e) to comply with and give effect to regional and international conventions and obligations relating to the environment;... 14. Excessive emissions from vehicles (1) A person who drives, or allows a person to drive, a vehicle if the vehicle emits excessive emissions commits an offence. 17. Pollution from private premises A person who causes or allows the discharge of any substance... from private premises that unreasonably interferes, or is likely to unreasonably interfere with, the health or comfort of any person outside that premises commits an offence.	Full Equivalence. The objectives of the Environment Act 2007 include preventing, controlling and minimizing pollution. The Act is specific with respect to discharges of pollutants into water, but does not provide the same level of specificity with respect to discharges into the air, except for vehicle emissions. This difference in the level of regulation may indicate that water pollution is a more significant issue for Kiribati than is air pollution. The Act provides for environmental protocols that are to specify what is and is not environmentally acceptable with respect to activities and substances that may affect the environment. Otherwise, the Act controls pollution through penalties.	None required

¹⁹ As of June 2015, Kiribati was developing a General Regulation under the Environment Act 1999 (as amended 2007). This regulation could potentially incorporate the substance of all key elements of Policy Principle 9.

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	<p>18. Pollution in a public place or public conveyance A person who causes or allows the discharge of any substance... in any public place...that unreasonably interferes with, or is likely to unreasonably interfere with, the health or comfort of any person commits an offence.</p> <p>19. Pollution that harms the environment A person who causes or allows the discharge of a substance or energy which harms the environment other than in accordance with an environment licence commits an offence.</p> <p>79. Scope of environment protocols (1) An environment protocol sets out what is and what is not environmentally acceptable in relation to any- (a) environmental issue; (b) area; (c) activity that may affect the environment; or (d) substance that may affect the environment. (2) An environment protocol may contain- (a) methods for achieving what is and avoiding what is not environmentally acceptable... (3) ..., examples of environmental protocols include environmental protocols in relation to-... (b) standards for-... (iii) the installation and operation of works or equipment to control waste or pollution; (c) measures designed to minimise the possibility of the occurrence of pollution;...</p> <p>80. Making and effect of environment protocols (1) The Minister...may make an environment protocol, by notice published in the <i>Gazette</i>.... (3) A public authority may not act inconsistently with an environment protocol.</p>		
Key element (5) Avoid pollution, or, when avoidance is not	Environment Act 2007 3. The objects of this Act shall be- (a) to provide for and establish integrated systems of... pollution control;	Partial Equivalence. The objectives of the Environment Act 2007 include minimizing or controlling waste generation through recycling, re-use, reduction, and	Amend the Environment Act 2007 and/or issue regulations that require minimizing or controlling waste generation.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
possible, minimize or control waste generation	<p>(b) to prevent, control and monitor pollution;</p> <p>(c) to reduce risks to human health and prevent the degradation of the environment by all practical means. including the following - ...</p> <p>(i) regulating the discharge of pollutants to the air, water or land;</p> <p>(ii) regulating the transport, collection, treatment, storage and disposal of wastes;</p> <p>(iii) promoting recycling, re-use, reduction, composting and recovery of materials in an economically viable manner;...</p> <p>19. Pollution that harms the environment A person who causes or allows the discharge of a substance... which harms the environment other than in accordance with an environment licence commits an offence.</p> <p>79. Scope of environment protocols (1) An environment protocol sets out what is and what is not environmentally acceptable in relation to any-... (d) substance that may affect the environment.... (3) ..., examples of environmental protocols include environmental protocols in relation to-... (b) standards for- (i) maximum quantities of waste to be discharged into the environment;... (iii) the installation and operation of works or equipment to control waste or pollution; (c) measures designed to minimise the possibility of the occurrence of pollution;...</p> <p>80. Making and effect of environment protocols (1) The Minister...may make an environment protocol, by notice published in the <i>Gazette</i>.... (3) A public authority may not act inconsistently with an environment protocol.</p> <p>Special Fund (Waste Material Recovery) Act 2004 Power to levy Deposits for waste material recovery 3. (1) The Minister responsible for environment...may... levy Deposits [for the recovery of waste materials from the importers of waste materials] in respect of prescribed materials for waste</p>	<p>recovery but the Act does not have a substantive provision that requires minimizing or controlling waste generation.</p> <p>The Special Fund (Waste Material Recovery) Act 2004 enables the Minister responsible for environment to levy deposits for the recovery of waste materials from the importers of waste materials.</p>	

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	<p>material recovery.</p> <p>Requirements of environmental impact assessment report Requirements of basic environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a basic environmental impact assessment report must include the following details—... 3 a description of the proposed activity, including—... (c) if the activity includes the generation of any waste substances or energy— (i) the nature and quantity of any waste products; (ii) proposed methods for controlling and dealing with any waste products;...</p> <p>Requirements of comprehensive environmental impact assessment report For the purposes of section 33(1)(d) of the Act, a comprehensive environmental impact assessment report must include the following details— 1 all the information required by a basic environmental impact assessment report for the proposed activity...</p>		
<p>Key element (6) Avoid pollution, or, when avoidance is not possible, minimize or control release of hazardous materials from their production, transportation, handling, and storage</p>	<p>Environment Act 2007 3. The objects of this Act shall be- (a) to provide for and establish integrated systems of... pollution control; (b) to prevent, control and monitor pollution; (c) to reduce risks to human health and prevent the degradation of the environment by all practical means. including the following - (i) regulating the discharge of pollutants to the air, water or land;... (e) to comply with and give effect to regional and international conventions and obligations relating to the environment;... (h) to control, manage and regulate hazardous substances;...</p> <p>19. Pollution that harms the environment A person who causes or allows the discharge of a substance... which harms the environment other than in accordance with an environment licence commits an offence.</p>	<p>Partial Equivalence.</p> <p>The objectives of the Environment Act 2007 include controlling, managing and regulating hazardous substances but the Act does not have a substantive provision that requires this.</p> <p>Kiribati is a Party to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.</p>	<p>Amend the Environment Act 2007 and/or issue regulations that require controlling and managing hazardous substances.</p>
<p>Key element (7) Avoid the use of</p>	<p>Environment Act 2007 3. The objects of this Act shall be-</p>	<p>No Equivalence.</p>	<p>▪ Issue the regulation on ozone depleting substances that was</p>

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hazardous materials subject to international bans or phaseouts	<p>...(e) to comply with and give effect to regional and international conventions and obligations relating to the environment;... (h) to control, manage and regulate hazardous substances;...</p> <p>19. Pollution that harms the environment A person who causes or allows the discharge of a substance... which harms the environment other than in accordance with an environment licence commits an offence.</p>	<p>Kiribati is a Party to:</p> <ul style="list-style-type: none"> ▪ Stockholm Convention on Persistent Organic Pollutants ▪ Vienna Convention for the Protection of the Ozone Layer ▪ Montreal Protocol on Substances that Deplete the Ozone Layer 	<p>being finalized as of June 2015.</p> <ul style="list-style-type: none"> ▪ Develop and issue regulations on persistent organic pollutants.
Key element (8) Purchase, use, and manage pesticides based on integrated pest management approaches	No corresponding legal provision.	No Equivalence.	Amend the Environment Act 2007 and/or enact new legislation or adopt regulations that require purchasing, using, and managing pesticides based on integrated pest management approaches.
Key element (9) Reduce reliance on synthetic chemical pesticides	No corresponding legal provision.	No Equivalence.	Amend the Environment Act 2007 and/or enact new legislation or adopt regulations that require reducing reliance on synthetic chemical pesticides.
Policy Principle 10: Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease. Establish preventive and emergency preparedness and response measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks to the health and safety of local communities.			
Key element (1) Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease	No corresponding legal provision.	<p>No Equivalence.</p> <p>The Employment Act 1966 provides that employers must provide water, sanitary arrangements and medical care and may be required to provide food. The Act does not require employers to provide safe and healthy working conditions, or to take any measures to prevent accidents, injuries, and disease.</p>	Amend the Employment Act 1966 and/or adopt regulations that require employers to provide safe and healthy working conditions, or to take any measures to prevent accidents, injuries, and disease.
Key element (2) Establish preventive and emergency preparedness and response	<p>National Disaster Act 1993 Interpretation 2. In this Act, unless the context otherwise requires -... "disaster" means, and subject to section 3, the actual or imminent occurrence of an event which endangers or threatens to endanger the safety or health of any communities or persons in Kiribati, or</p>	<p>Partial Equivalence.</p> <p>The definition of 'disaster' in the National Disaster Act 1993 specifies catastrophic events and does not provide for emergencies on a lesser scale.</p>	<ul style="list-style-type: none"> ▪ Amend the Environment Act 2007 to establish a system for preparedness and response to environmental emergencies that are not of a scale that would qualify them as national

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<p>measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks to the health and safety of local communities.</p>	<p>destroys or damages, or threatens to destroy or damage, any property in Kiribati, arising from -</p> <ul style="list-style-type: none"> (a) a cyclone, (b) a flood or tidal waves, (c) a tsunami, (d) an earthquake, (e) a volcanic eruption, (f) a drought, (g) an air disaster, (h) a maritime disaster, (i) a major civil accident (such as a major fire or bush fire or explosion), (j) a plague or epidemic, or (k) any other similar natural or manmade event;... <p>National Disaster Plan</p> <p>12. (1) There shall be a National Disaster Plan, which shall be prepared and formulated by the National Disaster Council and approved by the Cabinet.</p> <p>(2) The National Disaster Plan shall define the action to be taken to deal with disasters in Kiribati, covering -</p> <ul style="list-style-type: none"> (a) all national land and sea areas; and (b) requirements for disaster mitigation, preparedness, response and recovery.... <p>Plans and arrangements by all agencies</p> <p>14. All Government agencies and non-government agencies which are formally allocated roles under the National Disaster Plan shall make their own plans and other arrangements necessary to fulfil such roles.</p>		<p>disasters covered under the National Disaster Act 1993.</p> <ul style="list-style-type: none"> ▪ Amend the Environment Act 2007 and/or issue EIA regulations to require a mandatory EMP that includes an emergency prevention and preparedness plan appropriate to the characteristics of the proposed project.
<p>Policy Principle 11: Conserve physical cultural resources and avoid destroying or damaging them by using field-based surveys that employ qualified and experienced experts during environmental assessment. Provide for the use of “chance find” procedures that include a pre-approved management and conservation approach for materials that may be discovered during project implementation.</p>			
<p>Key element (1) Conserve physical cultural resources and avoid destroying or damaging them</p>	<p>Environment Act 2007 Interpretation 2. In this Act, unless the context otherwise requires-... “heritage” includes a...structure or object that has... archaeological, historic, cultural,... significance or other special value for the present community and for future generations;... "sustainable development" means the management or the human</p>	<p>Full Equivalence.</p>	<p>None required</p>

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	<p>use, development, conservation, protection, maintenance and enhancement of the...cultural resources of Kiribati...</p> <p>3. The objects of this Act shall be-... (j) to protect, conserve and promote heritage.</p> <p>32. Consideration of application (2) The Principal Environment Officer may only grant an environment licence under subsection (1) if- (a) the possible environmental impacts of the proposed activity... will not harm area [sic] of...cultural or historic significance...</p> <p>Mineral Development Licensing Ordinance 1978 42...(2) Where the holder of a mineral right...makes any find of historical or archaeological significance or discovers any wreck he shall promptly inform the Minister and the Minister may give such directions for the preservation or disposition of such find or wreck as he may consider to be appropriate...</p>		
<p>Key element (2) Use field-based surveys that employ qualified and experienced experts during environmental assessment.</p>	<p>No corresponding legal provision.</p>	<p>No Equivalence.</p>	<p>Amend the Environment Act 2007 and/or issue EIA regulations to specify that all experts participating in the EIA process must have qualifications and experience appropriate for the assessment tasks assigned to them.</p>
<p>Key element (3) Provide for the use of "chance find" procedures that include a pre-approved management and conservation approach for materials that may be discovered during project</p>	<p>No corresponding legal provision.</p>	<p>No Equivalence.</p>	<p>Amend the Environment Act 2007 and/or issue EIA regulations to --require that a mandatory EMP must provide for the use of "chance find" procedures for physical cultural resources, which include a pre-approved management and conservation approach for materials that may be discovered during project implementation.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures to Attain Full Equivalence
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