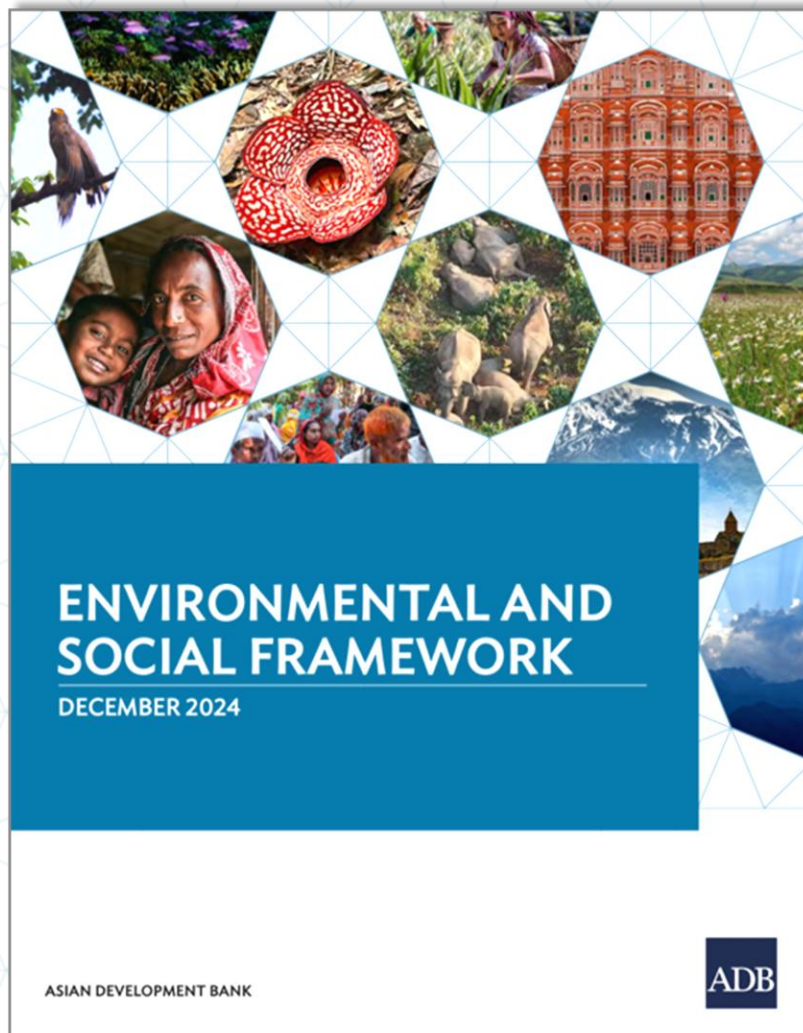


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OFFICE OF SAFEGUARDS

Capacity Building Workshop 7-9 October 2025





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ESS5

Land Acquisition and Land Use Restriction (LA/LUR)

7 October 2025

Session's Objectives



- ✓ Provide an overview of ESS5
- ✓ Outline key requirements
- ✓ Highlight linkages with other ESSs

Mapping ESS5:

Understanding the Architecture of ESS5



1

Introduction

2

Objectives

3

Scope of Application

4

Requirements



A. General Requirements

Applicable for both involuntary and voluntary transactions



B. Requirements for Involuntary LA/LUR

Additional requirements for involuntary LA/LUR outlining the required mitigation of risks and impacts



C. Requirements for Voluntary LA/LUR

Additional requirements for voluntary LA/LUR outlining general requirements + specific requirements for each type of voluntary transaction



ESS 5 Objectives

- **Mitigation hierarchy:** Avoid economic and physical displacement, **minimize** through project design
- Avoid (“do not resort to”) **forced eviction:** Follow the host country's applicable laws **and ESS5** requirements
- **Mitigate:** (i) Provide compensation at replacement cost; (ii) **assist** PAPs in improving or at least restoring livelihoods
- **Improve livelihood opportunities and, if physically displaced, improve living conditions, of disadvantaged or vulnerable:** adequate housing with essential services, utilities, and security of tenure.
- **LA/LUR** activities are to be planned and implemented with **appropriate stakeholder engagement, information disclosure, meaningful consultations, and grievance management.**

Scope of Application:

Methods of Acquiring Land or Imposing Land Use Restriction



Involuntary

- ✓ **Expropriation** based on eminent domain or other compulsory acquisition procedures
- ✓ **Negotiated settlement** expropriation or other procedures under compulsory acquisition initiated in case negotiation fails
- ✓ **Land Use Restriction:** Compulsory easement and right of way clearance, other LUR

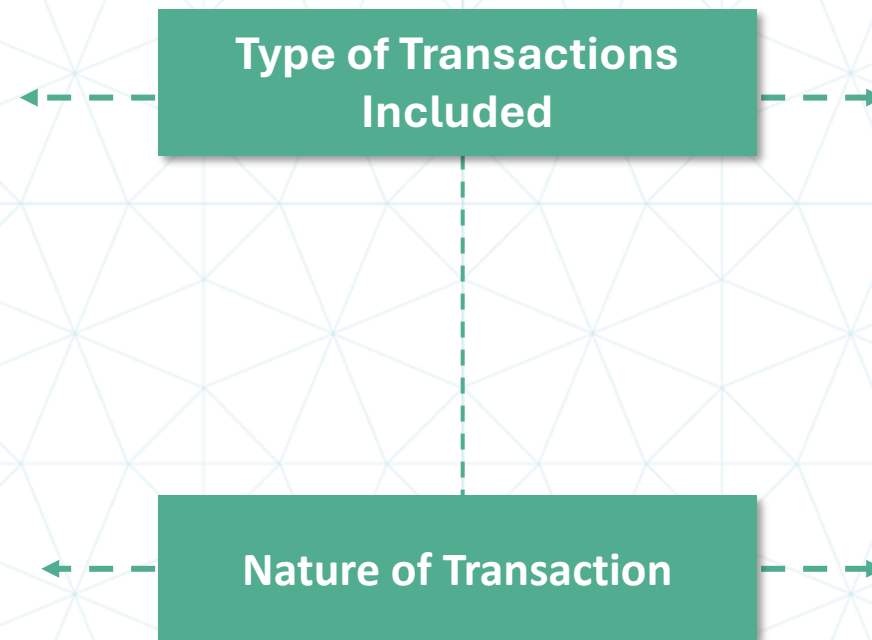
PAPs **do not have the right to refuse** LA/LUR

Voluntary

- ✓ **Donation**
- ✓ **Land pooling**
- ✓ **Voluntary land use restriction**
- ✓ **Voluntary lease and easement**
- ✓ **Voluntary sale and purchase** between **willing buyers and sellers** (limited ESS 5 applicability)

Right to refuse transaction

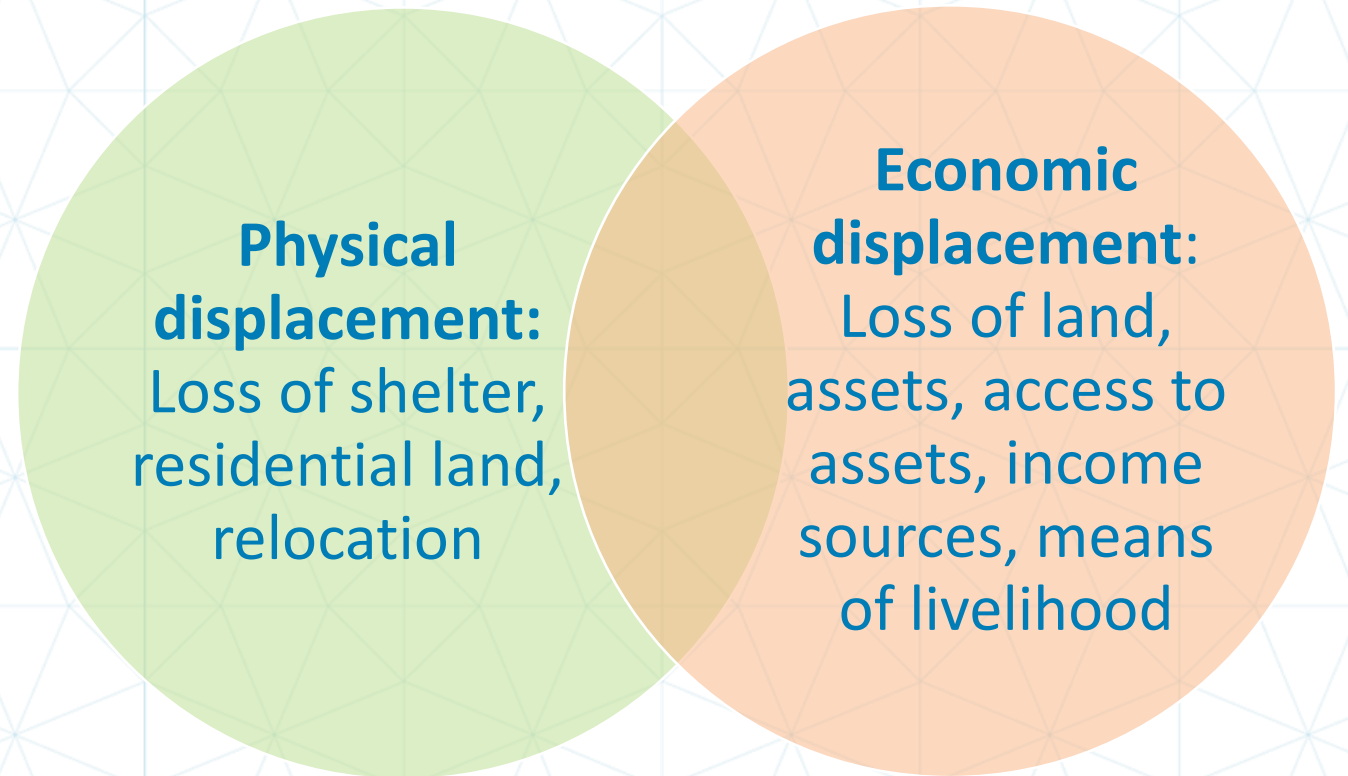
Ensure transactions are **fair, consensual, and informed**



Negotiated settlement is differentiated from voluntary sale and purchase

Types of Impacts

- ✓ **By time of occurrence:** Past, present, and future
- ✓ **By Duration:** Temporary and permanent
- ✓ **By scope:** Full and partial
- ✓ **By severity:** Significant and not significant



What is Land Use Restriction?

It's a direct impact under ESS5



ROW clearance and repossession of public and private land without any formal land acquisition process/expropriation

Imposition and/or enforcement of legal restrictions within a declared ROW or project area resulting in (business) income and livelihood losses (e.g., suspension of licenses)

Project impacts resulting in land being submerged or rendered unusable or inaccessible (including water bodies)

Restriction of access to natural resources: buffer zones, removal of access to pastures, forests, water bodies, common property resources, etc.

Imposition of easements, “red zones,” safety zones, restricted access zones, Corridor of Impact (COI) vs. Right of Way (ROW)

Types of Project Affected Persons: All are Covered under ESS5

- Persons who have formal right to land and assets, including customary and traditional rights
- Persons who do not have formal legal rights to land/assets but have a **recognizable claim** under the national laws
- Persons who have neither formal legal rights nor recognizable claims: **informal users**



Disadvantaged and Vulnerable:

ESS1 plus ESS5



Elderly, disabled, under poverty threshold, informal users of land, single-headed households, children, by type of economic activity (economic insecurity), IDPs, migrants.

Requirement 1: Stakeholder Engagement & Information Disclosure

Stakeholder Engagement

- ESS 5 strengthens and clarifies **stakeholder engagement (SE)** in accordance with ESS 10
- Plan and implement LA/LUR activities based on appropriate **stakeholder engagement**
 - » Information disclosure
 - » Meaningful consultation
 - » Grievance management
- Comprehensive planning and documentation of SE



- Ensure **participation** of stakeholders in
 - Negotiations
 - Monitoring
 - Planning
 - Evaluation
 - Implementation
 - Reporting



- **Disclose** relevant information about LA/LUR to PAPs
- **Submit** all LA/LUR-related **E&S assessment and management documents** to **ADB** for disclosure

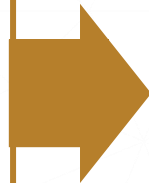


- Establish **grievance mechanism** early
- **Receive, facilitate, resolve** and **monitor** concerns and grievances due to LA/LUR

Requirement 2: Assessment of LA/LUR Impacts

Census and socio-economic baseline studies

- Social, economic and cultural characteristics
- Legal status of assets
- Eligibility for compensation
- Qualified and experienced social specialists
- Quantitative and qualitative social research methods



Declare cut-off date

- According to applicable laws or start of census
- Public notification and dissemination
- Limited validity



Inventory of lost assets and access to assets (Inventory of Losses or IoL)

- Land, other assets, livelihood resources
- Property, use and access rights

Detailed Measurement Survey (DMS)

- Exact quantitative and qualitative information
- Identify conflicting claims and disputes
- Involve PAPs

Requirement 2: Assessment of LA/LUR Impacts (cont'd)



Valuation

- **Detailed engineering design** - all PAPs can be identified
- Engagement of competent and qualified valuation **experts**
- Documentation of valuation **methodology**
- **Updating** of replacement rates
- Staff with **operational understanding** of valuation process
- Include all mitigation measures in **project cost**



Replacement cost

- A value **sufficient to replace assets and livelihood resources (market value)**, plus necessary **transaction costs**, including administrative charges, taxes, legal, land survey and title registration fees, transition costs, and any other applicable payments and provisions associated with **asset or livelihood resource replacement**
- **Depreciation cannot** be deducted (when using a cost method for structures)
- Land: market comparison method plus negotiation
- Use of independent valuation expertise

Requirement 3: Planning of LA/LUR => Land Acquisition Plan

ESS 5 provides detailed clarification of requirements for **land acquisition plans (LAP)**, **due diligence reports (DDR)** and **land acquisition frameworks (LAF)**

Land Acquisition Plan (LAP)

Based on detailed engineering design (DED) AND COMPLETE assessment

- Applies mitigation hierarchy
- Clarifies design alternatives
- Complete LA/LUR assessment including census, SE studies, DMS and valuation
- Stakeholder engagement
- Legal and policy gap analysis
- Mitigation measures and entitlement matrix
- Relocation measures
- Livelihood restoration program
- Implementation arrangements
- Identify planned **LA/LUR outcomes**
- Monitoring, evaluation and reporting
- Implementation timeline
- **Budget for all LA/LUR costs with contingencies**
- Procedures and flow of funds to PAPs
- **Integration with procurement and implementation of civil works**

Requirement 3: Planning of LA/LUR

Land Acquisition Framework (LAF)

- **DED** for projects or subcomponents **not completed during project preparation**
- **Principles, approach and procedures** for the preparation of future LAP
- **Scoping**, arrangements and tentative **budget with adequate contingencies**
- Demonstrate availability of monetary and institutional resources and commitment
- If LAF is updated, **standards** of original entitlement matrix **cannot be lowered**

Due Diligence Report (DDR)

- For civil works projects assessed to be without LA/LUR
- Confirms absence of respective risks and impacts

Unanticipated Impacts

- LA/LUR risks and **impacts occurring during project implementation**
- Prepare LAP addendum or new LAP
- Do not lower **standards** of original entitlement matrix

Synchronization with project design and civil works

Clear **integration** of LA/LUR assessments and scheduling with

- Preparation of **detailed engineering designs**
- Civil works **procurement** arrangements
- Civil works **contract** management

Award of civil works contracts and commencement of civil works

- **Employer design:**
 - » Award contract after **LAP** is **prepared** and **cleared** by ADB
 - » Implement LAP before commencement of civil works
- **Contractor design** (contract includes development of DED):
 - » Measures in LAP and procurement documentation to avoid displacement prior to mitigation
 - » Implement LAP before commencement of civil works

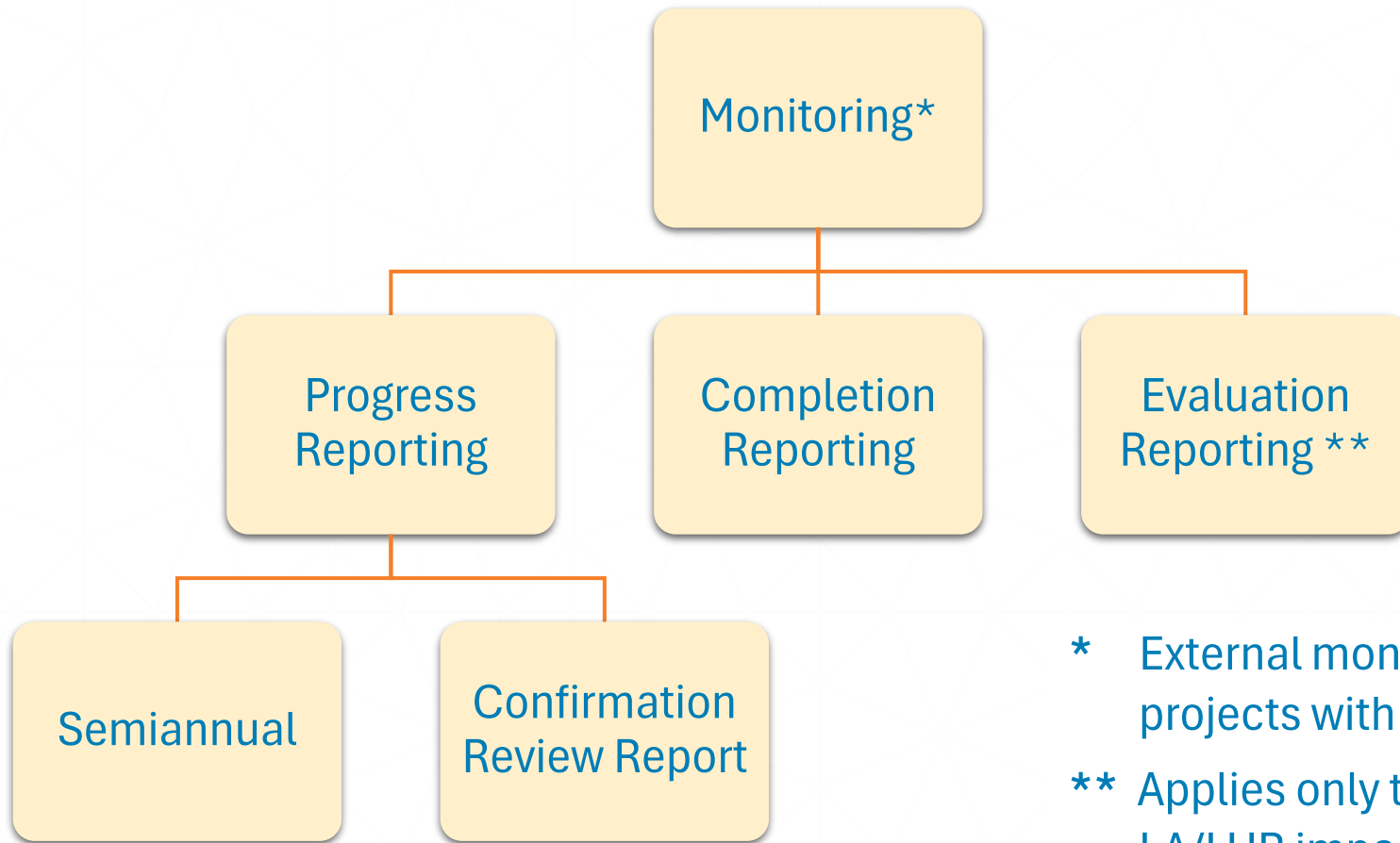
Retroactive financing and advanced procurement

- Ensure that LAP and LAF provisions apply

Bidding documents and civil works contracts

- Include all relevant provisions relating to LA/LUR risk and impact management

Requirement 4: Monitoring, Evaluation and Reporting



- * External monitor is required for all projects with significant LA/LUR impacts
- ** Applies only to projects with significant LA/LUR impacts

Requirements for Mitigation of Involuntary LA/LUR (1)

Compensation

All compensation at **replacement cost** and **value**

Titled PAPs and non-titled PAPs with recognizable claim

- Equivalent replacement **land** and other **assets** or **cash** compensation **at RC**
- Assistance and livelihood restoration, as applicable
- **Free legal support** to obtain formal recognition of recognizable claim

Non-titled PAPs without recognizable claim who occupy/use land prior to established cut-off date

- Compensation for **lost non-land assets at RC**, not for land
- **Access** to adequate housing/facilities with **secure tenure** to reestablish residence and/or business
- Resettlement assistance **in lieu of compensation** for land sufficient to restore livelihoods at adequate alternative site

Requirements for Mitigation of Involuntary LA/LUR (2)

Relocation

- Consult PAPs on preferences
 - » Resettlement sites
 - » Individual residential and business premises
 - » Self-relocation
- Replacement property of equal or higher value with security of tenure
- Cash compensation
- Adequate advance notice
- Improve living conditions of disadvantaged and vulnerable PAPs

Transitional support

- Compensate livelihood and income losses due to relocation
- Temporary relocation to intermediate premises
 - » Exception requiring justification
 - » Limited period of up to one year
 - » Commitment to permanent relocation
- Assistance for all transitional costs of relocation

Requirements for Mitigation of Involuntary LA/LUR (3)

Livelihood Restoration

- Assessment of **livelihood resources**
- The **full range of ways and means** that PAPs and communities utilize to make a living
 - » **Wages** from **employment**;
 - » **Cash income** earned through an **enterprise** or through sale of **produce, goods, handicrafts or services**;
 - » **Rental income** from land or premises;
 - » **Income** from a **harvest** or **animal husbandry**, **share** of a harvest (such as various **sharecropping** arrangements), or **livestock** production
 - » **Self-produced goods** or produce used for self-consumption, exchange, or barter
 - » **Self-consumed goods** or produce
 - » **Food, materials, fuel, and goods** for **personal or household use** or **trade** derived from **natural or common resources**
 - » **Pensions** and various types of **government allowances**

Livelihood Restoration Program

- **Assist** all project-affected persons in **their efforts** to improve or at least restore their livelihoods and standards of living
- Supported by **competent expertise**
- Prior to taking possession of land and other assets
 - » **Eligible PAPs** identified **irrespective** of the status of **legal rights** to lost land or assets
 - » **Adequate budget** allocated and available
- **Reflect** an **assessment** of **opportunities** for livelihood restoration and improvement as applicable and **proportionate** to LA/LUR impacts
- A **combination** of, but not limited to, employment and business development, credit facilities, supply of agricultural or manufacturing inputs, skills training, additional revenues and services through benefit sharing schemes where applicable, and cash compensation

Requirements for Mitigation of Involuntary LA/LUR (4)

Preference for land-based compensation strategies for land-based livelihoods

Land-based livelihoods

- Including **subsistence** agriculture and related value addition activities, rotational cropping, and grazing of **livestock** as well as **harvesting of natural resources**

- **Demonstrate** and document **insufficient availability** of suitable replacement land

Replacement land and assets

- At least **equivalent** in material characteristics and use value
- Quality, productive potential, quantity and purpose
- With **security of tenure**

- Assess and **acquire entire land** if partial acquisition would render **remainder unviable, unsafe or inaccessible**

Requirements for Mitigation of Involuntary LA/LUR (5)

Host communities

- Assess and mitigate risks and impacts of relocation
- In accordance with ESS 5 and other applicable ESS

E&S Assessment of resettlement site

- Preparation, construction and occupation
- In accordance with ESS 5 and other applicable ESS

Essential services and utilities

- Replace lost community facilities, utilities or public amenities
- Comparable or better services and utilities
- Consult PAPs, host communities and government
- Project costs

Requirements for Mitigation of Involuntary LUR (6)

Land Use Restriction

- Permit **continued, regulated, and/or restored access** to project-affected land and resources
- or
- Provide **access** to culturally appropriate **alternative resources** with equivalent livelihood- and income-earning potential and accessibility
 - **Enhance the productivity** of the remaining land and resources

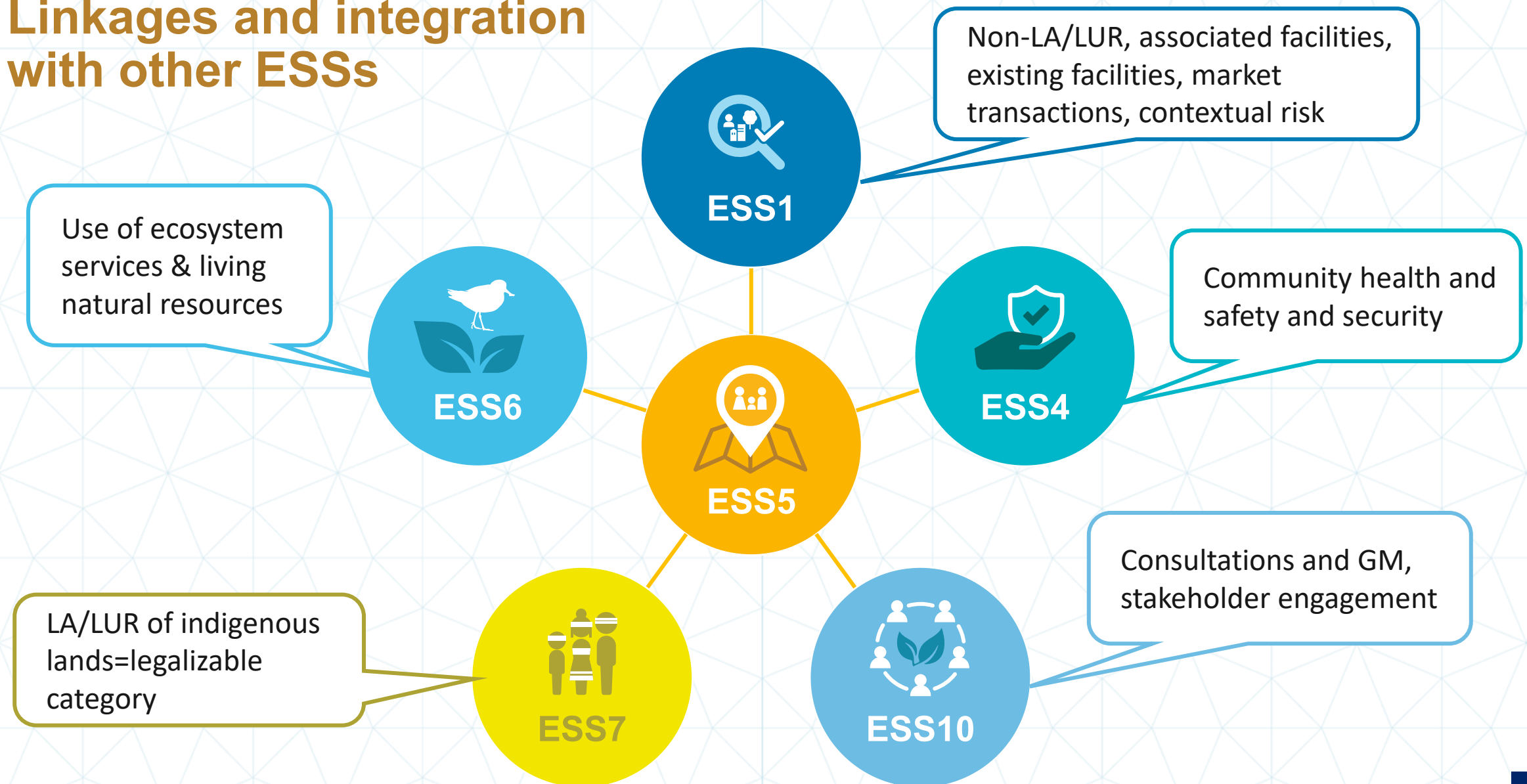
Temporary access restriction

- provide **alternative access routes** with appropriate community safety measures
- **compensate** the temporary loss of income for project-affected persons due to unavoidable access restrictions at **replacement cost** for the duration of the restriction

Physical displacement due to LUR

- Mitigate in accordance with ESS 5

Linkages and integration with other ESSs



Common Gaps between Pakistan Legislation and ESS5

Key policy features	Pakistan's Land Acquisition Act 1894	ADB ESF-EESS5 and SPS
Purpose	The colonial era 1894 Act is the primary national legal framework for acquisition of private land for public purposes and determining compensation.	The best international practice framework that seeks to avoid or minimize and mitigate involuntary land acquisition and resettlement impacts through design alternatives and ensures compensation and livelihood restoration of those affected by the project.
	Acquires land without taking into economic and physical displacement of APs	Covers physical and economic displacement, including loss of access to resources, communal property, and livelihoods and land use restriction.

Common Gaps between Pakistan Legislation and ESS5

Key policy features	Pakistan's Land Acquisition Act 1894	ADB ESF-EESS5 and SPS
Scope and inclusivity	Covers only those having title to land. Does not cover those without legal titles e.g. informal settlers, tenants, encroachers and squatters, and providing no protection or compensation/assistance.	ADB policy covers informal settlers and displaced persons, ensuring compensation and support, promoting equitable development and preventing impoverishment.
Mode of acquisition	Allows forced acquisition under eminent domain (section 17/4/6) bypasses consultations and objection raising by APs.	Strong safeguards against forced eviction and required voluntary land donations that must be informed, consensual, and documented

Common Gaps between Pakistan Legislation and ESS5

Key policy features	Pakistan's Land Acquisition Act 1894	ADB ESF-EESS5 and SPS
Valuation/Compensation Basis	Transaction-based average market value (often outdated and not consistent with real market rate.	Requires compensation at full replacement cost, including livelihood restoration and transitional support. Requires qualified and experienced experts to undertake valuation based on best international practice, e.g. IVS/IVSC procedures and standards.
Consultations	Consults only legal titleholders	Meaningful consultations mandatory with all types of APs titled and untitled. Formal and informal.

Common Gaps between Pakistan Legislation and ESS5

Key policy features	Pakistan's Land Acquisition Act 1894	ADB ESF-EESS5 and SPS
Livelihood restoration and support for vulnerable and disadvantaged people	Does not require: No provision for livelihood restoration.	Requires: ensuring full replacement cost compensation, restoring livelihoods, and protecting vulnerable groups. Programs include income restoration, training access, and support for vulnerable groups to improve living standards.
Environmental and Social Considerations	The Act does not consider environmental and social impact assessments including resettlement of APs needing to be relocated	Embedded within ESF, which requires Environmental and Social Impact Assessments (ESIA) and mitigation plans, EMPs and SSEMPs and Land Acquisition Plans.

Common Gaps between Pakistan Legislation and ESS5

Key policy features	Pakistan's Land Acquisition Act 1894	ADB ESF-EESS5 and SPS
Disclosure of Information	No explicit requirement for proactive or public disclosure of project impacts or resettlement plans.	Requires timely, accessible, and understandable disclosure of relevant information to affected persons and stakeholders.
Grievance Redress Mechanism	Legal appeals through LAC or courts; often slow and inaccessible and one sided.	requires project-level grievance redress mechanisms and monitoring systems

Common Gaps between Pakistan Legislation and ESS5

Key policy features	Pakistan's Land Acquisition Act 1894	ADB ESF-EESS5 and SPS
Monitoring & Evaluation	LAA does not require monitoring/evaluation of acquired land and resettlement and payment of compensation to APs.	Requires periodic monitoring, reporting, and institutional accountability. ADB requires strong monitoring systems to track implementation and compliance of resettlement plans. Effective monitoring supports learning, ensures objectives are met, and helps affected persons rebuild their lives.
Institutional setup and Responsibilities	Vague setup and unclear roles and responsibilities	Clear institutional roles and mandatory periodic reporting ensure timely identification of issues and corrective actions.

Q&A



Supplemental Slides

C. General Requirements for Voluntary LA/LUR

- The use of voluntary LA/LUR requires an **agreement with ADB**
- **Criteria for consideration**
 - » Open and **transparent** transaction with timely and complete information
 - » **Right to refuse** LA/LUR
 - » **No coercion**, intimidation, bribery, or undue influence
 - » **No threat of expropriation**
 - » **PAPs benefit** from transaction and **receive fair value**
 - » PAPs **not rendered disadvantaged** or vulnerable
 - » Land is **not vacated** and land right not relinquished **until full compliance** with requirements is **confirmed**
- **Evidence** that the **requirements** for voluntary LA/LUR have been **met** must be provided by the borrower
- **Displacement** of persons, **other** than the **parties** to the **transaction**, is considered **involuntary**

C. Additional Requirements for Voluntary LA/LUR

Voluntary Land Donation

- Project components involving donation are **not site-specific**
- **Amount** of donated land is **minor**
- Donation **does not reduce** capacity of PAP to maintain **livelihood**
- **No physical displacement**
- Direct project **benefit** for donor
- Donation of **community/collective land** requires **consent** of **all individuals** using or occupying land
- Maintain **transparent record** of all **consultations** and **agreements**
- ESS 5 General Requirements and criteria for consideration apply

Land Pooling and Readjustment

- **Rationalization** of **urban space** or enhanced **agricultural productivity**
- **Acceptance** among PAPs of **partial loss** of land and/or **localized relocation**
- Improvements **increase value** of properties
- **Demonstrate voluntariness** and increase in value
- Adequate **financial resources**
- **Avoid physical displacement**
- If unavoidable, **compensate** the loss of assets in accordance with **ESS 5**
- ESS 5 General Requirements and criteria for consideration apply

C. Additional Requirements for Voluntary LA/LUR

Voluntary LUR in Community-Based Natural Resource Management

- **Collective agreement** by community to **restrict access** to resources being managed
- Participatory **consensus-based** process to establish LUR and **alternative land use** practices
- Simultaneously **protect natural resource bases** and the **livelihoods** of PAPs
- **Document** community commitment and their voluntary informed consensus
- Clarify how **livelihoods** will be **protected, restored and improved**
- **Mitigate adverse impacts** on disadvantaged and vulnerable PAPs
- ESS 5 General Requirements and criteria for consideration apply

C. Additional Requirements for Voluntary LA/LUR

Voluntary Sale and Purchase of Land Through Legally Recorded Market Transactions

- Transfer of formal ownership rights through the sale and purchase of land and other assets between a **willing seller** and a **willing buyer**
- **Right to refuse** transaction
- General Requirements and Requirements for Mitigation of Involuntary LA/LUR **do not apply**
- Provided that the following **conditions** are met:
 - » E&S assessment in accordance with ESS 1
 - » Transparent documentation of process and outcomes
 - » Free consent of sellers documented
 - » Seller will not be rendered disadvantaged or vulnerable

C. Additional Requirements for Voluntary LA/LUR

Voluntary Sale and Purchase of Land Through Legally Recorded Market Transactions

- **Agree with ADB on**
 - » **Meaningful consultation** processes
 - » **Policies**
 - » **Applicable** host country **laws**
 - » Qualified **third-party validation**
 - » Mechanisms for calculating the **replacement cost** of land and other assets
 - » **Record-keeping** requirements
- Market transactions **prior** to **ADB involvement** in a project require **due diligence** confirming consistency with these requirements

Treatment of Willing Buyer Willing Seller Transactions (Market Transactions)

Does ESF apply
to market
transactions?

• • • YES, ESS1 applies to all land
transactions, including WBWS

Do voluntary criteria
set out in ESS5 apply
to WBWS

• • • YES, criteria apply plus para 64

Is LAP required?

• • • NO, assessment can
be done as a DDR or
a chapter in ESIA