



---

# MCA Workshop:

## Coordination of Communications, Social and Environmental Activities in the MCA Program

23 September 2008



# Objectives of Session

---

- Develop a shared understanding of the underlying communications, social, and environmental protocols and activities in the MCA program
- Raise awareness of the associated monitoring and reporting requirements, the benefits of compliance, and the risks and penalties for non-compliance
- Strengthen a team and open communication approach, focused on the shared goal/ objectives of the MCA Compact, with a good understanding of the varying roles and responsibilities, the legal context, and the practical experiences in the field

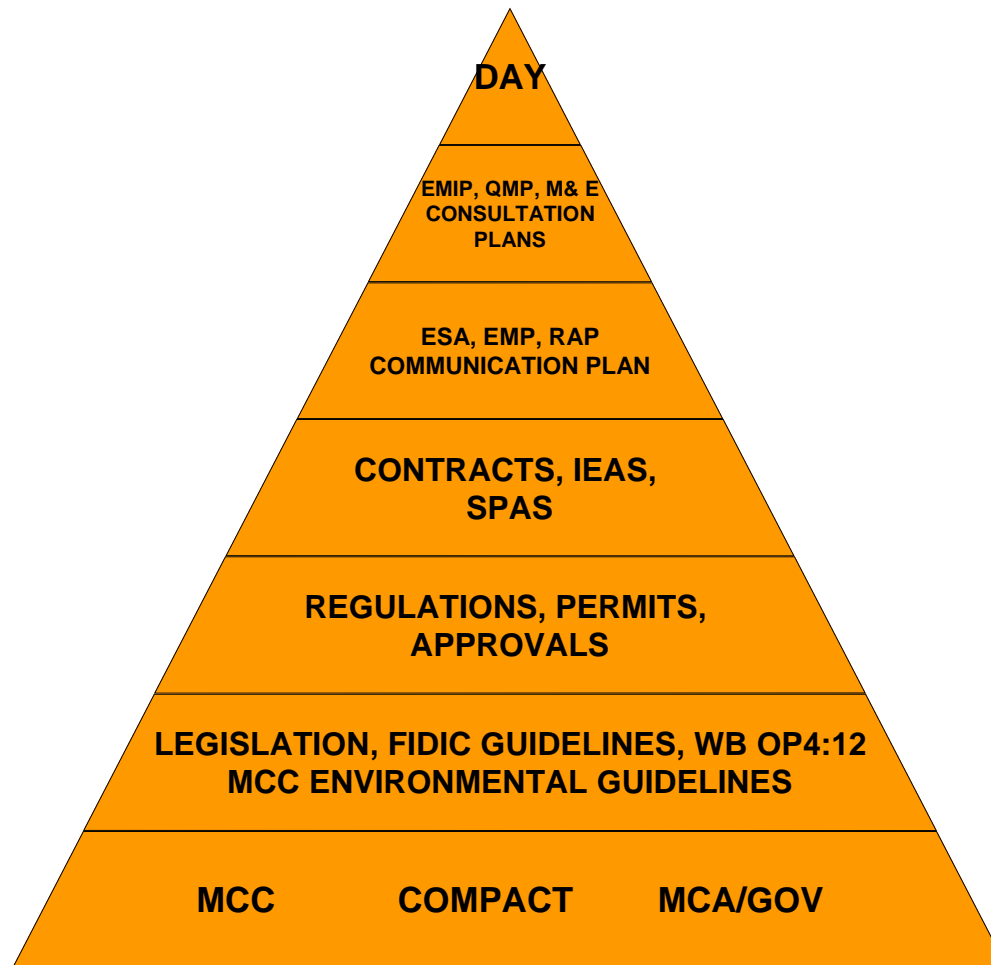
# The MCA Approach: Good Planning

---

- Understand the Compact and associated agreements and requirements
- Compliance with Vanuatu legal framework
- Achieving the “conditions precedent” for funding eg. ESA, EMP, RAP, Approvals and Permits, Communications Plan, and monitoring of the implementation of these plans throughout the Compact
- Accurate and up to date cadastral and land ownership information
- Rolling RAPs recognizing design a bit/ build a bit approach
- Team approach with implementing agencies, other GoV departments, contractors, Shefa Provincial Planning Office, Vaturisu. Trying to find a distinctively Vanuatu way. Learning together. Joint site visits and consultations. Build goodwill and keep information flowing

# Hierarchy Guiding Communications & ESA

---





# The MCA Compact Goal: The Reason We Are Here

---

The Government of Vanuatu (GoV) and the Government of the United States acting through the Millennium Challenge Corporation (MCC) entered into a Compact in 2006. The goal of the Compact is:

To reduce poverty and increase incomes in rural areas by stimulating economic activity in the tourism and agriculture sectors through the improvement of transport infrastructure, which is key to economic growth and poverty reduction in Vanuatu.

# Relevant GoV Legislation

---

The Constitution enshrines many underlying principles. The following legislation deal with environmental and social areas

- Environmental Management and Conservation Act
- Water Resources Management Act
- Land Acquisition Act
- Mines and Minerals Act
- Forestry Act
- Vanuatu National Conservation Strategy and Action Plan
- Vanuatu National Cultural Council Act
- Fisheries Act
- National Parks Act

Vanuatu is also signatory to a number of international treaties which involve social and environmental obligations

# What is FIDIC?: Ask Downer & QCPP!

---

- ❑ FIDIC = Federation Internationale Des Ingenieurs-Conseils/ the International Federation of Consulting Engineers
- ❑ FIDIC is internationally respected for its work in defining Conditions of Contract for the construction industry worldwide
- ❑ FIDIC guidelines are used by most donors
- ❑ FIDIC conditions of contract cover areas from duties, authorities, instructions, compliance with laws, tests, labor, communications, health & safety, variations, defaults, risks, disputes, etc
- ❑ FIDIC has an environmental policy statement for all member firms to adhere to. These policies make recommendations to the consulting engineers that include consideration of all environmental issues related to the project and impacts of the project on the surrounding environment
- ❑ The QCPP contract requires them to inspect and approve Downer's measures to protect the environment and to limit damage and nuisance to people and property

# What is World Bank Operational Policy (WB OP) 4:12?

---

- The Compact is required to adhere to WB OP 4:12 which covers the resettlement of communities as a result of infrastructure projects. Resettlement is defined as including the involuntary taking of land resulting in:
  - Relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or
  - The involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on livelihoods
- MCC guidance requires that loss of assets such as structures, trees and crops, whether temporary or permanent, are considered as economic displacement
- The main point of difference between Vanuatu legislation and WB OP 4:12 is that GoV compensation for permanent loss of land is based on the value of the loss of use rather than market value replacement for the loss of the land. The need for “fairer dealings” in compensating land owners was recognized in the 2007 National Lands Summit. This has been taken into account in the MCA Goodwill Entitlement Table
- OP 4:12 recognizes the rights of Squatters to compensation as much as the rights of kastom landowners and leaseholders



# MCC Environmental Guidelines

---

- ❑ The Vanuatu Compact has category B projects where the potential impacts are site-specific, not irreversible, with readily available mitigation measures
- ❑ The MCC Environmental Guidelines cover all Compact countries and are enforced in disbursement agreements. These guidelines comply with U.S. regulations on the use of U.S. funds.
- ❑ MCA-V is required to provide an ESA, an EMP, and appropriately scaled RAPs. A further “condition precedent” requires MCA to monitor and report on satisfactory implementation of these mitigation measures
- ❑ The Millennium Challenge Act of 2003 prohibits MCC from providing assistance for any project that is “likely to cause a significant environmental, health, or safety hazard”

# MCC Social Guidelines

---

- ❑ All projects should use timely, participatory and meaningful open consultation
- ❑ MCC Gender Policy has a number of requirements to ensure both men and women become full beneficiaries
- ❑ MCA is responsible for integrating gender into the development, design, implementation, and monitoring of a Compact program
- ❑ Consultation and participation are tools for gender integration. Women as well as men should have access to employment and income-generating opportunities
- ❑ MCC requires that the Compact monitoring and evaluation plans have incorporated gender considerations, including the collection of sex- disaggregated data
- ❑ MCA is required to consider the needs of vulnerable persons

# Contractual Obligations & Agreements

---

Environmental and social obligations are included in the contracts and agreements for the project:

- **Clause 4.18 of the D&B Contract: *The contractor shall take all reasonable steps to protect the environment (both on and off the site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operation***
- **QCPP - Terms of Reference include responsibility of Engineer *‘to Inspect and approve Contractors measure to protect the environment and to limit damage and nuisance to people and property’***
- **The IEAs between MCA and Gov Departments:**
  - **IEA with Ministry of Lands - Provision of an ESI Officer *‘to ensure that environmental and social mitigation measures (including resettlement and gender issues) are followed for all activities’***
  - **IEA with PWD - Provision of the ESU, including the responsibility to *‘support the work of the ESA Consultants and monitor EMPs’***
  - **SPA with PWD - Schedule of Actions requires that PWD *‘prepare environmental and social policy and procedures prior to commencement of construction’***



# MCA Communications Plan

---

- ❑ Provide people (men, women, youth, vulnerable people) with the information to encourage and enable them to participate
- ❑ Provide up-to-date information throughout implementation
- ❑ Assist new consultants & workers to understand & value ways of working in Vanuatu eg relationships to land & the rights of custom owners, lessees, & operators; the importance of custom ceremonies; strategies for getting information to villages
- ❑ Create effective and respectful working relationships
- ❑ Respond to views and inputs including mitigating problems and resettlement concerns
- ❑ Promote transparency and information sharing

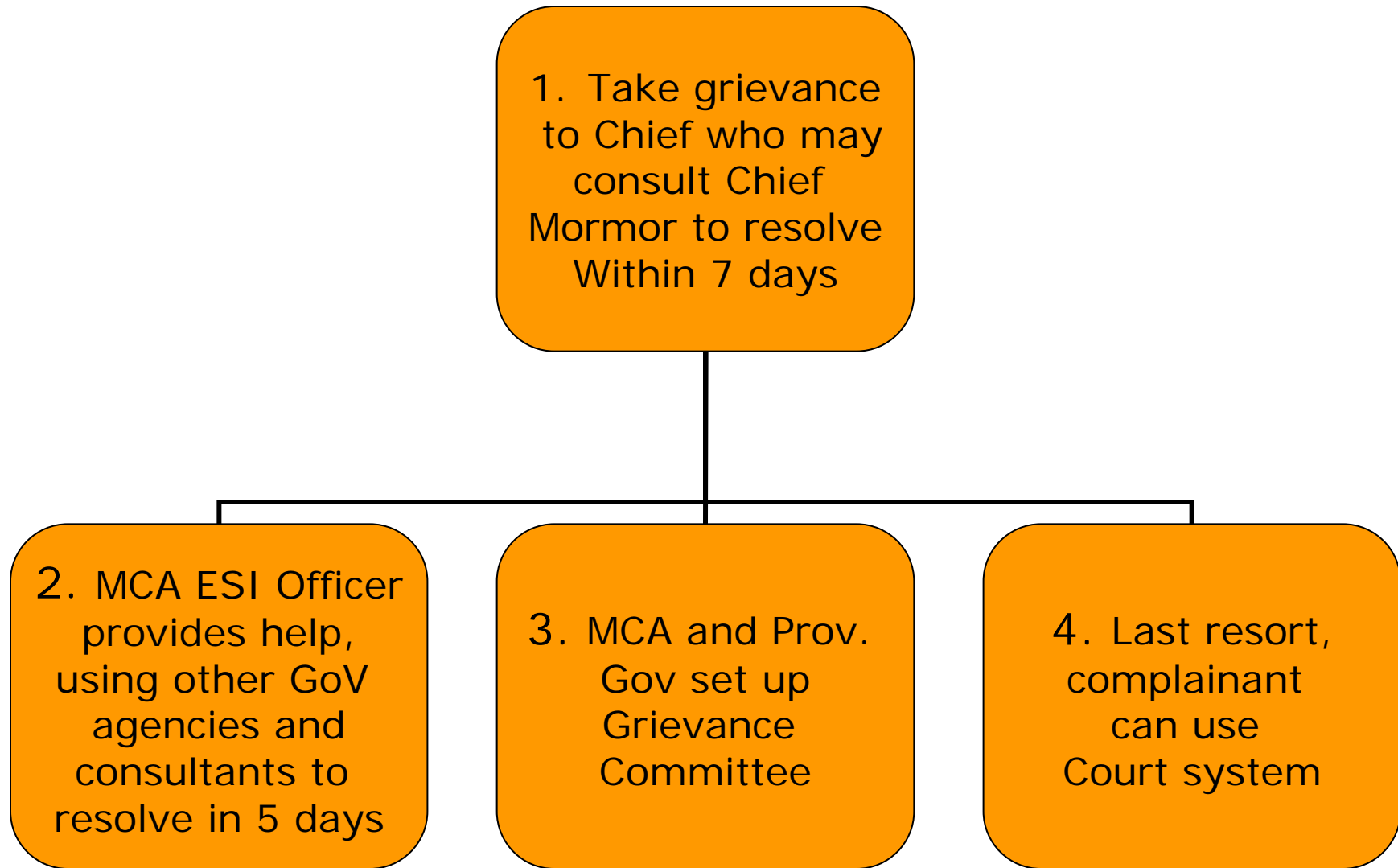
# Key Messages of Communication Plan

---

- ❑ The Compact goal underpins all communications
- ❑ Whole of Government approach, chiefs, implementing agencies, consultants, joint site visits, team approach, united voice
- ❑ Respect for custom and village protocols, from custom welcomes to tabu places
- ❑ Broad understanding of stakeholders, including custom owners and lessees, industry and small enterprises, women and youth groups, vulnerable people
- ❑ Promotion of goodwill
- ❑ Use of appropriate language
- ❑ Documentation of all consultations and complaints

# MCA Grievance Procedure: all stages must be documented and reported to MCA

---



# ESA, EMP, and EMIP

---

- ❑ GoV Legislation and MCC Guidelines require an Environmental and Social Assessment (ESA) of the project to be completed. The ESA examines the environmental and social consequences of the road projects in advance to identify potential issues that need resolution prior to construction to reduce risks
- ❑ The ESA provides the context to prepare an Environmental Management Plan (EMP). The EMP describes mitigation, monitoring and institutional arrangements to be taken to minimize and mitigate adverse impacts and promote sustainable development. The EMP guides the contractor in the implementation of the project and the construction practices as they relate to the environment and communities
- ❑ The ESA and EMP are approved by the GoV and MCC
- ❑ The contractor prepares an Environmental Management Implementation Plan (EMIP) to guide these work practices
- ❑ The EMIP must be approved by QCPC as MCA's agent to assist Downer to meet their environmental and social obligations

# RAP in Summary

---

- ❑ Resettlement Action Plans are required under the Compact and the Disbursement Agreement and must be prepared in accordance with the international guideline World Bank OP 4.12
- ❑ Preparing a RAP is a social obligation under WB OP 4:12 to ensure the lives of those directly affected by infrastructure project are the same or better as a result of the project
- ❑ The definition of Resettlement under this guideline includes loss of assets or income sources, including temporary loss.
- ❑ For this Compact most issues relate to fences, fruit crops and market stalls located within the RoW
- ❑ The RAP identifies those affected and the extent of the impact then applies a consistent approach to “compensation” by promoting goodwill between MCA’s road building team and the communities
- ❑ The Goodwill Entitlement Table (GET) lists the efforts that will be consistently made to reduce negative impacts from the road program



# Goodwill Entitlement Table

---

- The GET uses existing GoV systems such as the DoA's provision of seedlings, PWD's assistance with fences, and DoL cash compensation in rare cases where land must be acquired
- The GET aims to build goodwill with communities living near the road by providing innovative gestures of goodwill and open information
- Part of building goodwill is treating everybody the same, a consistent approach for all, including squatters, kastom owners, leaseholders, businesses and gardeners, women and youth
- The GET approach is important to:
  - Gain and maintain the support of communities and those affected by the proposed road
  - Prevent costly delays related to disputes and conflict and communication misunderstandings
  - Create ownership of the road to ensure maintenance of the road and promote sustainable development
  - Provides a model for other infrastructure projects to consider

# Monitoring Levels

---

Good monitoring and audit practices reduce the risks associated with a project. Effective monitoring of social and environmental practices can prevent additional costs (including social costs) in the long term. There are different levels of monitoring required for the project to ensure that the social and environmental obligations agreed to by all parties are met. These include:

- ❑ Compliance with contracts and agreements
- ❑ Compliance with legislation and the related permit and approval processes
- ❑ Implementation of the Environmental Management Plan (EMP) and Environmental Implementation Management Plan (EMIP)
- ❑ Implementation of other relevant plans, eg the Consultation Plan, RAPs, QMPs, H&S plans, Service Performance Agreements
- ❑ Broader Compact monitoring and evaluation which reports against the Compact goals and objectives and key indicators

# Who monitors who?

---

- QCPP monitors compliance by the contractors to the contract and legislation, international guidelines such as FIDIC. QCPP is also responsible for monitoring the contractor's work against requirements of the EMP, EMIP and the environmental practices
- The GoV monitors specific environmental and social obligations under the legislation through agencies such as the Environmental Unit, the Water Section of DGMWR, the Mines Section of the DGMWR, the Department of Lands, Provincial officers
- MCA has oversight and monitoring responsibilities across the Compact activities and through its IEAs and SPA
- The public have an 'unofficial' role in monitoring the work and reporting concerns relating to environmental and social impacts in accordance with the Grievance Procedure
- MCC monitors to ensure MCC policies and US GoV requirements are met

# Risks and Penalties

---

- ❑ Failure to meet social and environmental requirements can increase the costs, timelines, and risks; reduce the quality and life of the road; undermine the achievement of the Compact Goal and objectives; threaten project completion
- ❑ Environmental problems may result including unnecessary environmental degradation, pollution of water ways, in particularly community water supplies
- ❑ Social problems may include protests, conflict, the placing of namale leaves, loss of trust
- ❑ Any weak link in the MCA road team can cause problems
- ❑ The Compact, GoV legislation, contracts, and agreements provide for penalties should the social and environmental obligations not be met
- ❑ Penalties include: suspension or termination of funding, fines, imprisonment, loss of employment, legal action for breaches of contract. Expensive and time-consuming court cases can be involved



# A risk worth mentioning...

---

The biggest risks to the project may be situations which may result from ‘social’ / ‘people’ obligations not being met.

Consultation and goodwill are our best chance to manage these risks to prevent costly delays.