

**Asian Development Bank Accountability Mechanism  
Compliance Review Panel**

**REPORT ON ELIGIBILITY**

**To the Board of Directors  
on  
Compliance Review Panel Request No. 2018/1  
on the  
Sustainable Urban Transport Investment Program Tranche 3 in Georgia  
(Asian Development Bank Loan 3063)**

**21 August 2018**



## ABBREVIATIONS

ADB	–	Asian Development Bank
BCRC	–	Board Compliance Review Committee
CRP	–	Compliance Review Panel
IEE	–	initial environmental examination
MDF	–	Municipal Development Fund of Georgia
MFF	–	multitranche financing facility
RAP	–	Remedial Action Plan
RAP-FS	–	Remedial Action Plan-Final Solution
SPF	–	Special Project Facilitator
SPS	–	Safeguard Policy Statement
SSEMP	–	site specific environmental management plan

## WEIGHTS AND MEASURES

dBa	–	A-weighted decibels
km	–	kilometer
km/h	–	kilometer per hour
m	–	meter

## NOTE

In this report, “\$” refers to United States dollars.

In preparing any country program or strategy, financing any project, or by making any designation of or reference to a particular territory or geographic area in this document, the Asian Development Bank does not intend to make any judgments as to the legal or other status of any territory or area.

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## I. BACKGROUND

1. A request for compliance review was forwarded to the Compliance Review Panel (CRP) on 21 June 2018 for Asian Development Bank (ADB) Loan No. 3063: Sustainable Urban Transport Investment Program Tranche 3 (Project) in Georgia.<sup>1</sup> This is the third request for compliance review for the same section of the Project. In accordance with the Accountability Mechanism Policy (AMP) and its operational procedures,<sup>2</sup> the CRP initially assessed the complaint and determined that it was within the mandate of the compliance review function. Thus, the CRP proceeded to determine the eligibility of the complaint for compliance review.<sup>3</sup>

2. This report summarizes the CRP's findings on its determination of the eligibility of this request for compliance review.

## II. THE PROJECT

3. The Project is part of an overall investment program valued at \$1.1 billion to be implemented from 2010-2020 which aims to improve the reach, quality, and continuity of urban transport in Georgia. To partially fund it, a multitranche financing facility (MFF) with a maximum financing amount of \$300 million was approved by ADB in July 2010. Said MFF which is to be implemented from 2010 to 2018, is for the (i) extension, rehabilitation, and improvement of urban transport infrastructure in Anaklia, Batumi, Kutaisi, Poti, Rustavi, and Tbilisi; (ii) increased institutional effectiveness, including the reorganization and reforms at the Tbilisi municipality, other municipalities and urban transport service providers; and (iii) establishment of program management team with a capability and funds to handle project preparation, technical design, contract bidding, evaluation and award, contract supervision, progress monitoring and reporting.<sup>4</sup> Investments funded under the MFF will improve the transport system and infrastructure in urban areas. They include two subprojects: (i) section 2 (km 4.0-10.8) of the international standard Tbilisi-Rustavi Urban Road Link; and (ii) phase 2 of Anaklia Coastal Improvement.

4. The Project is funded under Tranche 3 of the MFF, which was approved on 25 November 2013. The total project cost is \$118.2 million and ADB funds \$73 million under this tranche. The borrower is the Government of Georgia and the Municipal Development Fund (MDF) of Georgia is the executing agency. The Project, which is supervised from ADB Headquarters by the Urban Development and Water Division of the Central and West Asia Department, is categorized as B for environmental impacts; A for involuntary resettlement impacts; C for indigenous peoples' impacts. Construction work under the project is ongoing except for the section of the road in Ponichala. A draft initial environmental examination (IEE) for the Project was completed and posted on the ADB website in September 2013. This draft IEE was revised as vibration and noise impacts need to be studied. A revised IEE was posted on the ADB website in December 2015. The construction of Section 2 of 6.8 km will involve acquisition of 312 land plots with 29.5 hectares of land areas, demolition of 692 structures (82 residential structures, 90 industrial and commercial structures, and 520 minor structures). A total of 282 households and 33 businesses will be affected. Per ADB Safeguard Policy Statement (SPS),<sup>5</sup> a land acquisition and resettlement

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<sup>1</sup> Details of this Project are available at <https://www.adb.org/projects/42414-043/main>.

<sup>2</sup> Asian Development Bank (ADB). 2012. *Accountability Mechanism Policy*. Manila and ADB. 2012. *Operations Manual Section on Accountability Mechanism* (OM Section L1: Bank Policies and Operational Procedures), issued on 24 May 2012. Manila.

<sup>3</sup> The eligibility determination was led by CRP Part time Member Ajay Deshpande, with support from CRP Chair Dingding Tang and CRP Part time Member Arntraud Hartmann (until the end of her term on 11 August 2018).

<sup>4</sup> Important data on the Project are available at <http://www.adb.org/projects/42414-013/main#project-pds>.

<sup>5</sup> ADB. 2009. *Safeguard Policy Statement*. Manila.

framework (LARF) was prepared prior to the approval of the MFF and implemented prior to start of construction works.

5. This third complaint refers again to subproject 1: Tbilisi-Rustavi Urban Road Link (section 2) of the Project which involves the modernization of an existing and construction of a new road from Ponichala to Rustavi. When finished, the total road length for this Project will be 6.8 km, of which 3.8 km is new road construction along and into the Mtkvari River. When completed, the road is expected to be of international standard, Category I highway, with four to six lanes and with a general design that can accommodate vehicles with speed of 80km/h to 120km/h.

6. During the CRP's visit, it was observed that the construction of Section 2 has started except in Ponichala area. The CRP was informed that the construction in the populated area of Ponichala will start after the implementation of Board-approved Remedial Action Plan (RAP), including the Remedial Action Plan Final Solution (RAP-FS), which among other things include (i) removal of loose parts from buildings subject to result of vibration impact study; (ii) adequate securing of all annexes; (iii) completion and approval of site-specific environmental management plan; (iv) information dissemination and further consultations with affected persons, particularly the vulnerable and vision-impaired on project impacts; and (v) finalization of measures to assist/support the needs of vulnerable population thereat, particularly those who are vision-impaired.<sup>6</sup>

### III. THE COMPLAINT

7. The complaint was submitted by Laura Shikhashvili and Nana Bezhashvili by themselves and on behalf of 28 other residents of a 5-storey building identified as 28a of Rustavi Highway, Tbilisi, Georgia. The complainants raised grievances about inadequate disclosure of project information to them as they believe their building and neighborhood will be negatively impacted by the Project. While they are not in the main cluster of residential buildings in Ponichala, the complainants stated that their building is in the same debilitated physical condition as the buildings of the first and second set of complainants. Further, these third set of complainants claim that their building is more decayed or more dilapidated than other buildings near the road construction site as there is water intrusion from the Mtkvari River in their basement/building foundation, thereby making their building more unstable and at risk of collapse or landslide during road construction and/or operation. The complainants were also very much worried that since their building is the only structure situated in an area where there will be cutting of cliff to adjust the level of the road to its other sections, they believe that the vibration from the cutting equipment will certainly make their building collapse. The complainants indicated in their complaint that they would like the Project to consider the noise, vibration, and other health impacts of road construction and operation to their daily lives particularly on the safety of their residence and their well-being and expressed their desire to be resettled as a remedy.

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<sup>6</sup> Following the CRP's findings of noncompliance by the Project, ADB Management formulated and submitted to the ADB Board of Directors a Remedial Action Plan (RAP) for the Project in June 2017. After doing additional studies on noise and vibration impacts, ADB Management subsequently submitted to the CRP and the Board Compliance Review Committee (BCRC) a RAP Final Solution (RAP-FS) which provided more details on how the Project will address the noncompliances. The RAP and RAP-FS are available at [https://lnadbg4.adb.org/dir0035p.nsf/attachments/GEO-Board%20Approved-RAP-30June2017-ForWeb.pdf/\\$FILE/GEO-Board%20Approved-RAP-30June2017-ForWeb.pdf](https://lnadbg4.adb.org/dir0035p.nsf/attachments/GEO-Board%20Approved-RAP-30June2017-ForWeb.pdf/$FILE/GEO-Board%20Approved-RAP-30June2017-ForWeb.pdf) and [https://lnadbg4.adb.org/dir0035p.nsf/attachments/GEO-SUTIP3-RAP-Final%20Solutions%20\(Post%20CRP%20and%20BCRC%20Review\)\\_3May2018.pdf/\\$FILE/GEO-SUTIP3-RAP-Final%20Solutions%20\(Post%20CRP%20and%20BCRC%20Review\)\\_3May2018.pdf](https://lnadbg4.adb.org/dir0035p.nsf/attachments/GEO-SUTIP3-RAP-Final%20Solutions%20(Post%20CRP%20and%20BCRC%20Review)_3May2018.pdf/$FILE/GEO-SUTIP3-RAP-Final%20Solutions%20(Post%20CRP%20and%20BCRC%20Review)_3May2018.pdf), respectively.

**Figure 1: Front and rear view of Building 28a.**



Source: CRP

8. The complaint listed actions by the complainants to raise their concerns since 2016 to their local authorities (i.e., relevant offices at the Tbilisi City Hall), to their national government entities, including the Ministry of Environment Protection and Natural Resources and Ministry of Infrastructure and Roads Development) up to their Parliament, and to ADB operations department (i.e., to ADB project team from headquarters and to representatives ADB Georgia Resident Mission). Due to reasons such as lack of jurisdiction; their building being outside the Project's buffer zone; or that their case is still being examined, the complainants claim that no concrete action has ever been done by those agencies, including ADB to address their concerns.

9. Thus, in July 2017, this complaint was submitted to the Special Project Facilitator (SPF) of ADB but was deemed ineligible for problem solving by the SPF on 07 August 2017 since the issues of the complaint have been raised already by the first and second complaints on the Project and which was then under the compliance review.<sup>7</sup> In assessing the eligibility of the complaint for problem solving, the Office of the Special Project Facilitator conducted a site visit and met with the complainants, project team members from ADB's Central and West Asia Department, relevant staff of MDF and the CRP Chair. The SPF's memorandum to the President on the Eligibility of Complaint included agreements and concrete follow up actions that will be done by the ADB Management and MDF.

#### **IV. PREVIOUS COMPLAINTS**

10. In 2016, the CRP received two requests for compliance review of this Project, with the first being filed in March and the second in November.<sup>8</sup> The first complaint was from 81 residents of a 9-storey building identified as 12 v/g (first complaint) while the second was from 72 residents of building 16 a/b (second complaint). Both buildings are in Ponichala area of the Rustavi Highway in Tbilisi, Georgia. The second complaint was received by the CRP on 10 November 2016, i.e., a few days after the CRP sent its draft report on compliance review to the borrower, the complainants of the first complaint, and ADB Management for a 45-day comment period.

<sup>7</sup> Footnote 2, paragraph 143 states that "The problem solving function will also exclude matters being dealt with or already dealt with by the CRP (including those that have completed the compliance review process), except those complaints considered ineligible for compliance review by the CRP."

<sup>8</sup> Details of the first and second complaints to the CRP on this Project are available at <https://lnadbg4.adb.org/dir0035p.nsf/alldocs/JABM-A848U5?OpenDocument> and <https://lnadbg4.adb.org/dir0035p.nsf/alldocs/JABM-AFR657?OpenDocument>, respectively.

11. Following the procedures in the AMP, the CRP conducted a compliance review of the Project based on the first complaint and an eligibility determination assessment of the second complaint. Since the second complaint raised issues that are similar to those raised in the first complaint and these issues are already covered under the compliance review of the first complaint, the CRP did not recommend to the ADB Board of Directors (Board) the conduct of a compliance review for the second complaint. Instead, the CRP recognized in its compliance review report on the first complaint that the harm and noncompliance issues in the second complaint are also covered in the CRP's final report.

12. The CRP submitted to the Board, a report on the eligibility determination of the second complaint<sup>9</sup> on 16 January 2017 and the CRP's final report on the compliance review of the Project on 13 February 2017. On 6 March 2017, the Board considered the CRP's findings in its final compliance review report and requested ADB Management to submit a Remedial Action Plan (RAP) for the Project to address the noncompliance found by the CRP. Following the prescriptive period and procedure in the AMP, ADB Management submitted to the Board its proposed remedial actions on 8 June 2017. Subsequently, the Board considered and approved the RAP for the Project on 30 June 2017. Since the RAP does not specify actions that would still need decisions based on studies, ADB Management submitted a RAP-FS to the CRP and BCRC on 15 December 2017 after dialogues with the project executing agency; consultations with affected persons; further studies; and inputs from consultants/technical experts. The RAP-FS was reviewed by the CRP and submitted to the Board Compliance Review Committee (BCRC) with the CRP's comments on 21 December 2017. The RAP-FS, with the Board-approved RAP has been posted on the CRP website from 3 May 2018.

## V. MANAGEMENT'S RESPONSE

13. As the present complaint is found to be within the remit of the compliance review function, CRP Chair informed ADB Management of the receipt of complaint by the CRP on 27 June 2018 with specific request that ADB Management send its response to the CRP by 26 July 2018. The CRP received ADB Management's response on 26 July 2018 which summarized the actions taken and will be taken by the Project to address the concerns raised by the complainants. (See Appendix 2.) It also detailed actions relating to information and consultations done by the Project to keep the residents of Building 28a aware of project impacts during road construction and operation.

14. ADB has given details of the environmental and social due diligence process carried out for this Project and also asserted that the building 28a is indeed within the affected area due to proposed road construction in Ponichala stretch. ADB further confirmed that the Building 28a was included in the additional studies on noise and vibration impacts conducted in 2017 and also included in the community level consultations. Further, Building 28a is also included in Board-approved RAP and RAP-FS which were posted on the CRP website in May 2018.

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<sup>9</sup> See the Compliance Review Panel's (CRP's) *Report on Eligibility, To the Board of Directors on Compliance Review Panel Request No. 2016/3 on the Sustainable Urban Transport Investment Program Tranche 3 in Georgia (Asian Development Bank Loan 3063)*, 16 January 2017 available at [https://lnadbg4.adb.org/dir0035p.nsf/attachments/GEO-SUTIP%20T3-2ndComplaint-Eligibility%20Rpt\\_16Jan\\_ForBoard.pdf/\\$FILE/GEO-SUTIP%20T3-2ndComplaint-Eligibility%20Rpt\\_16Jan\\_ForBoard.pdf](https://lnadbg4.adb.org/dir0035p.nsf/attachments/GEO-SUTIP%20T3-2ndComplaint-Eligibility%20Rpt_16Jan_ForBoard.pdf/$FILE/GEO-SUTIP%20T3-2ndComplaint-Eligibility%20Rpt_16Jan_ForBoard.pdf)

15. ADB further mentioned that while preparing and implementing the RAP-FS, more than 14 meetings have been held between the residents of Building 28a, MDF and ADB staff. ADB informed that these meetings included individual household interviews; targeted focus group discussions; and open public consultations at locations close to the residential buildings of the affected people. ADB further submits that the proposed mitigation measures and action plans have been discussed and presented to the local community. ADB, together with MDF is also trying to engage or work in conjunction with the local NGO for the social assistance program for the vulnerable people identified in the field surveys. ADB informed that after the disclosure of RAP-FS in May 2018, ADB has issued no objection to provide contractor access to the Ponichala section for the preparation of Site Specific Environmental Management Plan (SSEMP) and also for the development of monitoring programs. The final approval for the construction in this section has not been given so far and will be subjected to the submission of about documents.

## VI. ELIGIBILITY

16. The CRP is now required to determine the eligibility of this complaint according to para. 179 of the AMP, as referred below;

*“179. Within 21 days of receiving the Management’s response, the CRP will determine the eligibility of the complaint. The CRP will review the complaint, Management’s response, and other relevant documents. To find a complaint eligible, the CRP must be satisfied that the complaint meets all the eligibility criteria, satisfies the scope, and does not fall within the exclusions (para. 142 and paras. 145-149). The CRP must be satisfied that (i) there is evidence of noncompliance; (ii) there is evidence that the noncompliance has caused, or is likely to cause, direct and material harm to project-affected people; and (iii) noncompliance is serious enough to warrant a compliance review.”*

17. During the CRP’s first monitoring mission to determine the progress of implementation of Board-approved RAP and the RAP-FS after the completion of the compliance review of the Project,<sup>10</sup> the CRP assessed whether there is *prima facie* evidence of harm and noncompliances as has been raised in this complaint. The CRP also checked the identity of the complainants; and specifically ascertained if there is any demonstrable causality between alleged harm/likely harm and noncompliance by ADB with its operational policies and procedures to determine the eligibility of this third complaint. The CRP met with the complainants on 08 July 2018 and verified the identity of the complainants, as well as, visited Building 28a during said mission. The CRP also reviewed recent project documents particularly those that refer to the actions relating to the ADB Management’s remedial action plan and final solutions. The CRP mission also met with the MDF, including its consultants and contractors to ascertain the exact location of the cliff cutting relative to Building 28a and understand the noise and vibration impacts of the road construction to said building. The CRP also reviewed the noise and vibration studies conducted by the MDF and hosted on the ADB website in compliance with the Board-approved RAP. The CRP also reviewed the consultation report prepared by MDF which was submitted to the CRP through ADB.

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<sup>10</sup> The CRP held its monitoring mission on the implementation of remedial actions, including final solutions, for the Project from 8 to 11 July 2018 in Tbilisi, Georgia which was led by Ajay Deshpande (Part-time CRP member) and participated by Dingding Tang (CRP Chair), Arntraud Hartmann (Part-time CRP member), Josefina Miranda (Senior Compliance Review Officer, OCRP), and Vijay Joshi (OCRP environment consultant).



**Figure 2:** The CRP discussing the project layout with project consultants and topography of the road alignment near Building 28a



Source: CRP

18. The paragraphs below discuss in detail the findings of the CRP on the eligibility determination of this third complaint.

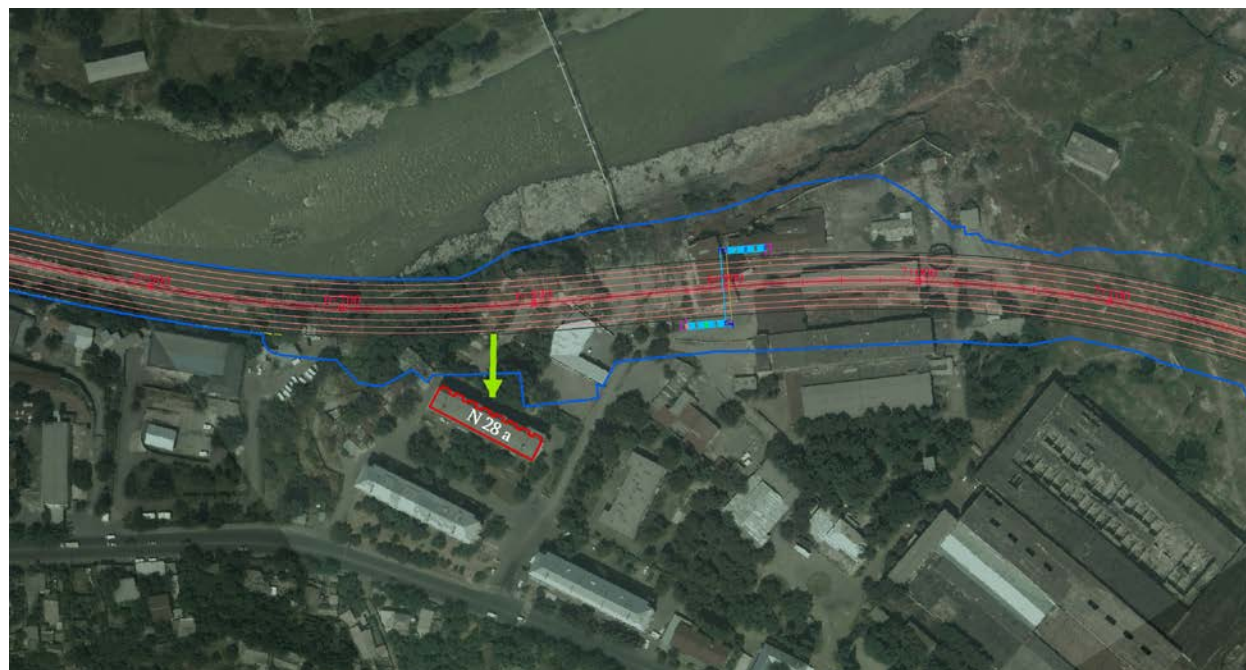
#### **A. Exclusions**

19. Per its initial assessment, the CRP considered the present complaint within the domain of the compliance review function of the AMP and noted that the issues raised by the complainants were very much like those raised in the first and second complaints on the Project. The CRP examined the applicability of provisions on exclusion listed in paragraphs 142 and 148 of the AMP and found that those do not apply to this complaint. The CRP finds that para. 148(v) exclusion is not applicable in this case as there is some specific new evidence that is elaborated in subsequent sections of this report. In its complaint form and during the meeting with the complainants, the CRP had convinced itself that there were sufficient good faith efforts on the part of the complainants to have their concerns addressed prior to submitting their complaint to the CRP.

#### **B. Evidence of Noncompliance and Related Harm**

20. The CRP during its site visit and discussions with the ADB project team, including MDF and consultants and further based on the site maps shown during the visit, finds that Building 28a is located within the area that will be impacted by the Project construction and operation. The project supervision contractor confirmed that Building 28a is about 14m from the road boundary from where the construction work (cutting, as the road is at lower level than the building level) will start though the carriage way will be about 30m from the nearest corner of the building at about 9m below the ground level of the building.

**Figure 3:** Project alignment showing the location of the Building 28a



Source: Municipal Development Fund of Georgia (MDF)

21. The CRP notes that the issues complained about in this third complaint are similar to that in the first and second complaints, i.e. noise and vibration impacts; disclosure of information; and inadequate meaningful consultation. The earlier two complaints received by the CRP have been considered and the compliance review report for those earlier complaints has been disclosed already. ADB has formulated and disclosed the RAP which includes some specific studies on vibration, noise, and public consultations. Based on the findings of these studies, ADB has further formulated the RAP-FS which have been reviewed by the CRP and BCRC and finally disclosed in May 2018.

22. **Noise impacts:** The compliance review of the first complaint found noncompliances as noise impacts had been inappropriately assessed resulting in noncompliance with SPS, Appendix 1. Under the RAP, an additional noise assessment study was conducted and subsequently, based on this study, MDF committed itself to construct a noise tunnel/gallery complemented by noise barriers, under the final solution memorandum disclosed in May 2018, which would bring the noise levels in accordance with ADB policies and procedures. The noncompliances found in the compliance review are being corrected through the RAP complemented by the specific mitigation program laid out under the RAP-FS. Based on documents reviewed by the CRP, these prescribed noise standards and also, noise abatement measures (i.e. noise tunnel/gallery complemented by noise barriers) will also be applied to the road stretch near Building 28a. The RAP enumerated actions that will assure that the noise mitigation measures as specified will be implemented.

23. The CRP, while referring to noise impact assessment report of October 2017,<sup>11</sup> particularly Fig-2.3 and Table 3.1 where key buildings in the study area and the sampling locations have been described, do not find reference to Building 28A. The CRP further finds that though

<sup>11</sup> Hagler Bailley Pakistan. *Noise Modeling of Tbilisi-Rustavi Highway (Section 2) Draft Report*. 25 October 2017, available at [https://www.adb.org/sites/default/files/project-documents/42414/42414-043-sddr-en\\_3.pdf](https://www.adb.org/sites/default/files/project-documents/42414/42414-043-sddr-en_3.pdf).



noise abatement measures have been proposed in the road stretch near building 28a, no scientific analysis, particularly considering topographical features of the area has been done for Building 28a while proposing the noise barrier system. The CRP, therefore, finds that Building 28a was not specifically and appropriately included in the noise impact assessment study which is deemed by the CRP as a *prima facie* evidence for noncompliance relating to the requirements of SPS, Appendix 1.

24. **Vibration impacts:** The compliance review of the first complaint found noncompliances with SPS, Appendix 1 with reference to vibration impact. Additional vibration impact assessments have been conducted under the remedial action program which concluded that vibration impacts during construction and operation will not exceed internationally applied standards and will not endanger buildings provided that annexes are appropriately secured and loose parts are removed from buildings prior to construction and further, subject to ensuring the project construction activity levels are followed per prescribed plans so that the vibration impacts remain within the assumed levels during construction phase.

**Figure 4:** Project alignment and the distances from Building 28a.



Source: MDF

25. The CRP finds that the project documents and studies done after the CRP's compliance review, particularly the studies conducted for the formulation of the RAP-FS by ADB Management, indicate the inclusion of Building 28a. The CRP was informed that the complainants' building (i.e. Building 28a) is referred to as building number 6 in the (i) *Ambient vibration survey and dynamic identification of residential buildings Phonichala, Tbilisi* done by Diagnostic Research Company in April 2017<sup>12</sup> and (ii) *Additional Assignment 2: A Round of Modeling of Road and Noise Barrier Construction-Related Vibration Impact on 9 Residential Buildings In Ponichala Tbilisi* (September

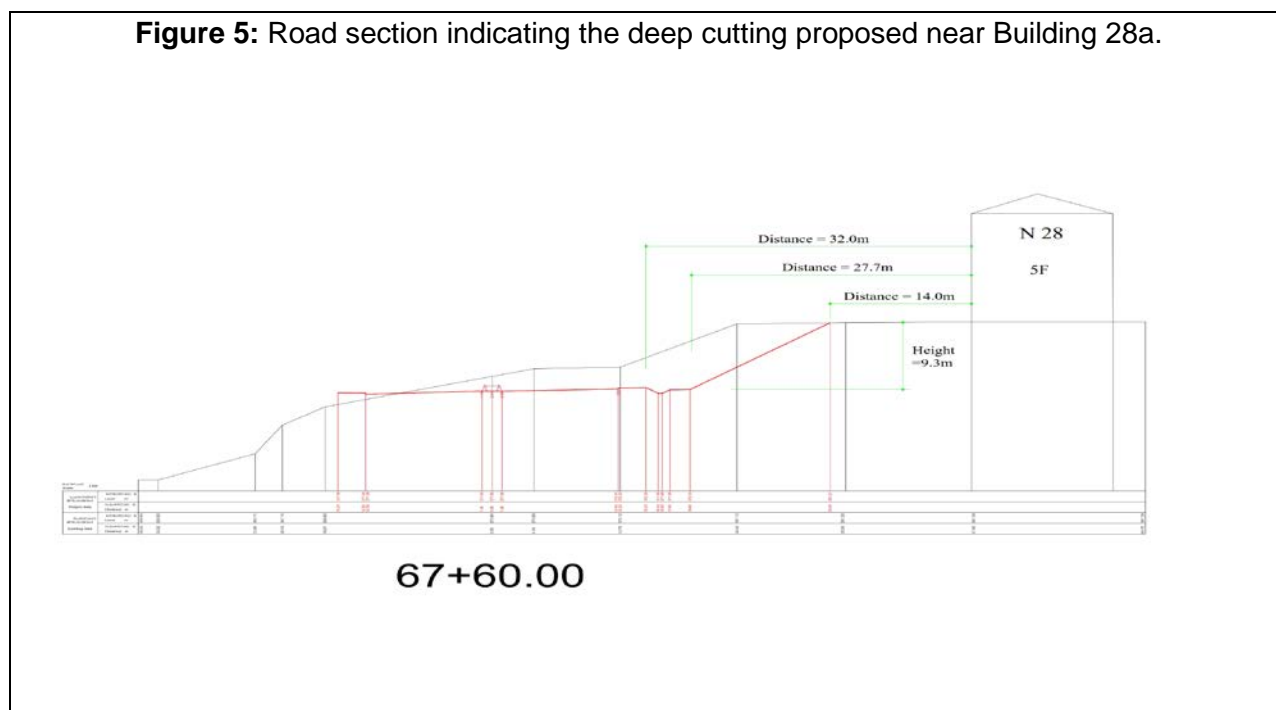
<sup>12</sup> Diagnostic Research Company, *Ambient vibration survey and dynamic identification of residential buildings Phonichala, Tbilisi*, April 2017 available at [https://www.adb.org/sites/default/files/project-documents/42414/42414-043-sddr-en\\_0.pdf](https://www.adb.org/sites/default/files/project-documents/42414/42414-043-sddr-en_0.pdf).



2017).<sup>13</sup> The CRP also finds that Building 28a is also referred to in the RAP-FS, pages 13, 15, 19-21, and 23 where households for those who are vulnerable and visually impaired have been identified.

26. The CRP also has reviewed the project layout and construction design along Building 28a. The cross section of road indicates that there is significant excavation starting at 14.3m from edge of Building 28a. The proposed road alignment is 9.3m below the building level, which would necessitate deep cutting in this stretch. The Project design envisages about 10%-12% of hard rock and about 45%-50% of soft rock will need to be cut. In any case, such excavation would necessitate use of heavy machinery including bulldozers and pneumatic hammers, causing significant noise and vibration impacts. The CRP, *prima facie*, finds that such impacts have not been dealt with in detail in the vibration studies for this building as it is evident that the September 2017 report that only a road carriage way (30m from the building) and a noise barrier piling (27m from the building) have been considered.<sup>14</sup>

27. The CRP therefore finds that though the vibration impact assessment studies refer to Building 28a, these did not appropriately assess the vibration impacts holistically considering project level operations especially the rock cutting in this stretch which would necessitate use of heavy machinery. The CRP therefore finds a *prima facie* evidence for noncompliance with regards to vibration impact assessment.



Source: ADB Management response dated 25 July 2018

28. **Consultations:** The complainants state that they have not been provided project details and specifics of construction activities that will likely affect their daily lives and therefore, were unable to meaningfully interact with project authorities during meetings and consultations. Similar

<sup>13</sup> Diagnostic Research Company, *Additional Assignment 2: A Round Of Modeling Of Road And Noise Barrier Construction-Related Vibration Impact On 9 Residential Buildings In Phonicala*, September 2017 available at [https://www.adb.org/sites/default/files/project-documents/42414/42414-043-sddr-en\\_1.pdf](https://www.adb.org/sites/default/files/project-documents/42414/42414-043-sddr-en_1.pdf).

<sup>14</sup> Footnote 13, Table 17, p. 51.

concerns have been raised under the two previous complaints and the compliance review found noncompliances with SPS, Appendix 1, para. 19 and ADB Operations Manual Section F1/Operational Policy (October 2013), para. 19 (refer to Part F of the CRP compliance review report dated 6 March 2017).<sup>15</sup> Under the Board-approved RAP, additional consultations have been conducted but important consultations remain still outstanding, especially the consultations with the vulnerable people (including vision impaired) and on the final mitigation measures proposed as part of Environmental Management Plan (EMP). The CRP, *prima facie*, finds that potential affected residents in Ponichala have not been adequately informed yet about the detailed alignment of the road and the mitigation measures chosen. While the studies presented in the consultations during November 2017, presented different options for mitigation of noise and ecological impacts and vibration monitoring, residents do not yet know what specific mitigation measures have been chosen. As there is much uncertainty about the exact alignment of the road and details about the noise tunnel/gallery and the location and nature of the noise barriers, there is much anxiety and misunderstanding among the affected residents about efforts expected to be made by ADB and MDF to mitigate noise impacts and to assure that vibration impacts will remain within the acceptable limits. The CRP also note the submission of ADB team that ADB had not given no-objection certificate (NOC) to the contractor for accessing the site for layout marking and pre-construction related activities, in view of the pending final solutions of the RAP and as now the RAP-FS is disclosed, ADB issued the no-objection in May 2018 to provide access to the contractor to Ponichala section (6+900km to 7+400km). The approval is for the preparation of surveys and updating of Site Specific Environmental Management Plan and development of monitoring programs.

29. The CRP finds evidence in the consultation records, that residents of Building 28a were participating in consultations conducted. The CRP, however, finds that ADB and MDF have been in regular contact and discussions with the complainants and much of the data on project details have been shared with the complainants. Notwithstanding the above, the CRP still finds there is absence of adequate consultations with affected residents as the specific mitigation measures for the noise and vibration impacts as well as the exact road alignment have not been disclosed to the them. The CRP therefore finds that though there are ongoing consultation efforts being done by ADB, through MDF, and some progress has been made, there remains evidence of noncompliances as not all remedial action measures as proposed under the RAP have, as yet, been implemented.

30. **Assessment of harm and likely harm:** According to para.179 of the AMP, “*The CRP must be satisfied that .... (ii) there is evidence that the noncompliance has caused, or is likely to cause, direct and material harm to project-affected people;...*” The CRP *prima facie* finds that the apprehensions of complainants regarding likely harm due to vibration impacts, noise impacts, nondisclosure of information, inadequate consultation, and lack of assessment of impacts of noise and vibration during the construction and operation of the road to their residential building are *prima facie* valid for the reasons described in above paragraphs. If vibration impacts are significantly greater than as assumed in the vibration report for Building 28a, there could be harm as vibration impacts could damage the building and possibly constitute risks to the welfare of the residents. If the proposed noise barriers are not able to achieve the required noise levels, it may result into harm to local residents. The absence of mitigation measures for vulnerable people, may also result to likely harm. The CRP finds that there is *prima facie* evidence that if the actions

<sup>15</sup>The CRP's *Final Report on Compliance Review Panel Request No. 2016/1 on the Sustainable Urban Transport Investment Program (Tranche 3) in Georgia (Asian Development Bank Loan 3063)* dated 13 February 2017 is available at [https://lnadbg4.adb.org/dir0035p.nsf/attachments/GEO-CRP-Final%20Report-6March-Board.pdf/\\$FILE/GEO-CRP-Final%20Report-6March-Board.pdf](https://lnadbg4.adb.org/dir0035p.nsf/attachments/GEO-CRP-Final%20Report-6March-Board.pdf/$FILE/GEO-CRP-Final%20Report-6March-Board.pdf).

initially described in ADB Management's RAP, including the RAP-FS, will not be effectively implemented, including their succeeding/follow-up actions (e.g., effective noise barriers, vibration impact mitigation measures, a specific social assistance plan for the vulnerable and visually impaired), there will be likely harm to the complainants. The CRP further notes that as harm would be caused by noncompliance with certain provisions of the SPS, there is a causal link between the likely harm and the noncompliance.

31. According to para. 180 of the AMP, the CRP is required to review and determine whether the complainants have made prior good faith efforts to resolve the issues with relevant operations department. In this case, there are several documents which shows that the complainants have raised their complaints and concerns with the operations department and with the project level grievance redress mechanism. In fact, their earlier complaint was also submitted to the SPF and was found ineligible for problem solving under para. 143 of the AMP as the complaint is already being dealt with by the CRP. The CRP therefore finds that the complainants have made prior good faith efforts as they have approached the CRP after raising their grievances and concerns with ADB operations department and management.

32. Considering that there are remedial actions already included in the ADB Management's RAP and RAP-FS, what seems to be lacking is a site-specific assessment of noise and vibration impacts and mitigation plan pertaining to the cutting of the cliff near Building 28a. The CRP, in the compliance review of the first complaint, already noted the noncompliance with the consultation requirements of the SPS, more particularly with vulnerable groups.

## VII. CONCLUSION

33. With the above, the CRP finds *prima facie* evidence of noncompliance with ADB's operational policies and procedures; and *prima facie* evidence that this noncompliance with ADB policies may lead to harm or is likely to lead to future harm. The CRP notes that compliance review of the Project in the Ponichala section, triggered by the first complaint was already conducted and the RAP and RAP-FS have already been formulated by ADB, and covers Building 28a. Thus, the CRP takes the position that this complaint is about concerns that are already considered in the previous compliance review but there is some new evidence presented by the complainants for this third complaint on noncompliance that has not, as yet, been addressed by the RAP and RAP-FS (i.e., on inadequate assessment of noise and vibration impacts for Building 28a). Thus, this complaint does not fall under exclusions referred in para. 148(v) and is, theoretically, eligible for compliance review. However, the CRP, under para. 179 (iii) of the AMP, finds that this additional evidence is not serious enough to warrant a compliance review', as according to ADB, the project area is already committed to be covered under the RAP, including the RAP-FS.

34. The CRP determines, pursuant to paragraph 179 (iii) of the AMP that the complaint does not warrant a fresh compliance review. The CRP notes, however, that ADB Management and the CRP interpret that the Board-approved RAP, including the RAP-FS disclosed on 03 May 2018 to encompass remedial actions to bring the issues raised by the complainants into compliance with the SPS and applicable ADB operational policies and procedures. Accordingly, the CRP will construe the RAP, including the RAP-FS to cover Building 28a.

35. In conclusion, pursuant to paragraph 179 of the AMP, the CRP deems the complaint eligible but does not warrant a separate compliance review.

**/S/Dingding Tang**

Chair, Compliance Review Panel

**/S/Ajay Deshpande**

Part-time Member, Compliance Review Panel



**D. Project**

Name	Georgia Construction of the Highway
Location	Second Phase of Tbilisi-Rustavi Highway
Brief description	<p>We embrace the construction of the given highway, but it happens at the expense of infringing our civil rights. On 22.06.2017 we wrote a complaint to Asian Development Bank <b>Special Project Facilitator</b> as the construction of the highway 15-20 meters away from our residential building and 10 meters away in case of 4<sup>th</sup> entrance, contains threat. Our complaint has been reviewed and forwarded to <b>Compliance Review Panel</b> for compliance analysis. Before then, the representatives of the Manila Office visited us and met the local residents, the trilateral meeting was held at the Municipal Development Fund (MDF) between MDF representatives, the residents and the representatives of ADB's Manila Office. In case of interest, we can provide the Protocol of the meeting later.</p> <p>Hereby we provide small extracts from the Protocol of the meeting. <b>"Complainants have very general and scarce information about the project. They want more clarity. They have obtained the map from their own sources. They should know about the project plan and location. According to the given map, they know that the road passed in the very close vicinity to their residential building."</b> Nothing has changed since then, we still have the same information we had before OSPF's arrival. We have addressed MDF and requested to provide us the maps and project parameters in regards to our residential building. MDF provided us the map with microscopic size of font and incomprehensible signs. No one thought of meeting with us and explaining the maps to us. We could not use this kind of information neither for the public awareness not for appealing to the Court. On the same meeting, after many legitimate questions with which the complainants requested the examination of building sustainability and provision of written guarantees whether the building would be demolished, D. Tabidze replied <b>"The State takes full responsibility for its actions and its mandate is taking care of its citizens"</b> and <b>"It would be preferable to organize separate meeting on technical issues, which will be attended by more representatives of complainant side. The separate meeting will enable them to discuss all the details of the project and get answers to their questions"</b>. It was decided the meeting with the population would be held in September 2017 where the residents would be provided detailed information about everything, including the demolishing and security. Please be informed that this meeting has not been held separately with the residents of our residential building. We've had several phone conversations with MDF representative and they always tried to avoid the question regarding the meeting, stating that Board Meeting should be held first and that nothing was decided yet (We are aware of the Board decision from the website).</p> <p>In August 2017, the case for forwarded to Compliance Review Panel. Compliance Review Panel might be working on the case of Residential Building 28a, but the reports that we have seen on the web-site are about the other residential buildings, particularly Rustavi highway 12, 16 ab and other buildings. We also think that your department has been reviewing other buildings' cases for a long time and you might have more detailed information regarding the 28 a residential building. We have read your reports of January 16, 2017 and February 13, 2017. As we understand the given reports apply to our – 28a residential building as well. As you probably know one more meeting was held by the initiative of the Asian Development Bank between the engineers and the population, at Tbilisi Krtsanisi Gamgeoba. Here as well, the topics discussed covered the cases of other</p>

	<p>residential buildings, ecological situation and mitigating measures. Here we mention only the meetings that have been attended by our representatives.</p> <p>We want to clearly state from the beginning, that our building's conditions are different than the conditions of other residential buildings of Rustavi highway and we are very concerned in this regard. Installation of the equipment, monitoring and in case of threat cancellation of the construction is long-term process. The building might collapse one day, causing the death of the people as a result of ignoring these circumstances. So we write this complaint for the purpose of protecting our fundamental right of life. We hereby list the differences between the residential buildings:</p> <ol style="list-style-type: none"><li>1. The number of the resident families in the residential building 28a of Rustavi highway is 60, it was built in 1966. Its operation term has expired. Within several years after construction of the building, the 4<sup>th</sup> porch of the building lowered and the walls were deformed and it is still visible, the walls have been cracked. Back then the foundation of the building was strengthened and further deformation and demolish process was stopped (1971-72). But this is comparative as well, the residents notice more cracks and deformations everyday which is hard to be proved.</li><li>2. The building was constructed on the territory of former cemetery and we think that unstable ground makes building more unsustainable. There are many additional extensions in the building which make building more unstable and it may collapse not while construction of the Tbilisi-Rustavi highway but during its operation as well;</li><li>3. In July 2015 the expert evaluation of the building was conducted and we have received the experts' conclusion from MDF, which certifies that our residential building's ground has been moved towards the river. As for the waters in our basements the experts verbally confirmed that these are ground waters and not the water leaks due to malfunction of the communications, but this opinion was not included in the conclusion. Movement of the ground might be the old process so additional evaluation should be conducted within 12-18 months from the previous experts' evaluation (Such evaluation was not conducted) to find out whether the process continues. In case of interest we can send you the scanned copy of the experts' conclusion. We are extremely concerned that no one checked the ground movement and underground water issues and if we take into consideration the fact the ravine located in 10 meters from the building will be cut off and the road will possibly pass below the ravine, along Mtkvari River, then our residential building with its moving grounds and underground waters may possibly collapse over the road along with its residents. If we are not mistaken, this is called landslide.</li></ol> <p>On the given photo you see the basement with wet land – ground water, level of which sometimes increases.</p>
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4. The land in front of the building is also loose and moving. Before we had garages constructed over there and many of them required strengthening with concrete as the land lowered.
5. Additional extensions are not constructed vertically and attached to the building but horizontally between the loggias of opposite neighbors, which practically are impossible to be strengthened. Please see photo below



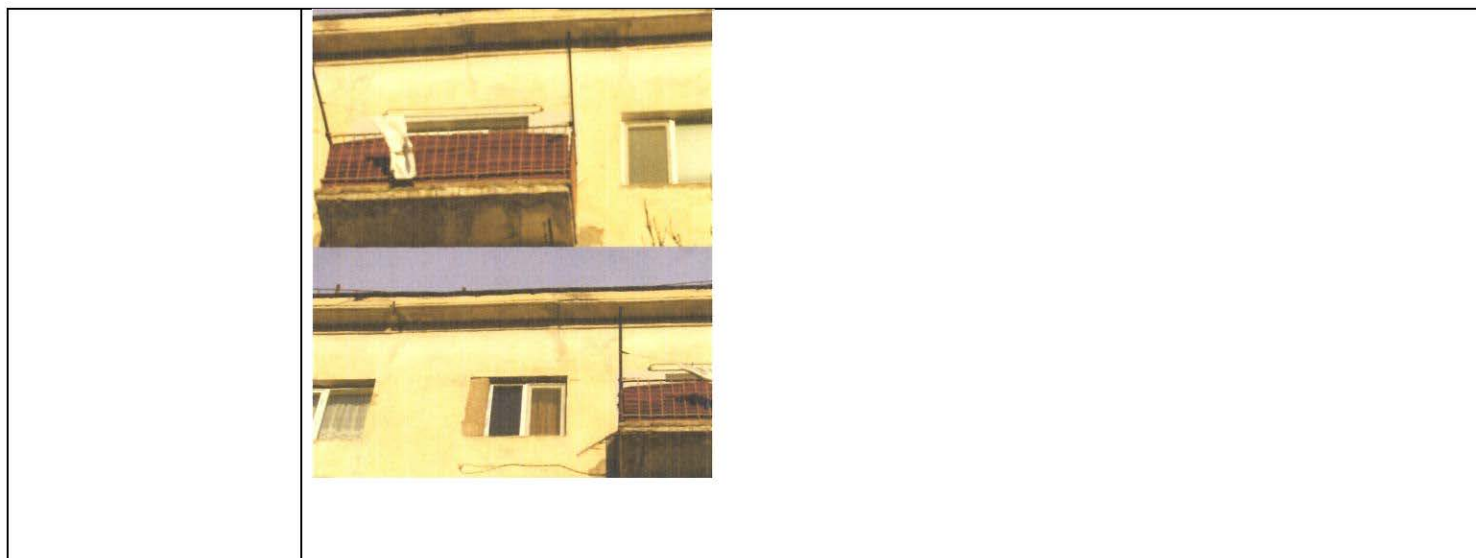
6. During the last meeting which was held at Krtsanisi Gamgeoba, between MDF, the residents of the buildings and engineers, the MDF representative told us to decide regarding the compensation amount for square meter and resettlement, so that the decision to be united.



D. Tabidze talked to us about this issue in informal environment, during the meeting. We stated there that we wanted no less than 1000 USD per square meter, this amount was unacceptable for him, he declined our request and smiled. Despite of this, we called the residents assembly, contacted the neighbors that currently don't live in the building and agreed on the compensation amount – 900 USD per square meter and on the request, which covered many issues and provided the arguments. It should be noted that the request was signed by almost 100% of the residents (1 resident passed away and successor did not obtain the right to the heritage, 2 residents were abroad but we had their verbal consent). 100% consent of the residents means that the concerns about the building's collapse are serious, otherwise no one is happy about changing the place of residency and none of us are focused on getting benefits from this situation and improve our conditions; on the contrary, we worsen our conditions.







#### E. Complaint:

What direct and material harm has the ADB-assisted project caused, or will likely cause, to the complainants?

Our rights are violated:

1. Right to live: Our residential building might be demolished during construction or exploitation of the highway, which might cause the death.
2. Right to live in sound environment: 24-hour noise, vibration, polluted air
3. Our real estate property (if it survives demolishing) has depreciated and will further depreciate, as the residential building the exploitation term of which has long expired will soon become unsuitable for habitation due to the operation of the road.
4. Right to health – Because of this noise and dust, allergic and malignant diseases will increase, children will not be able to grow in a healthy environment. It should also be noted that our residential building is 150-200 meters away from the current road and we are under the bipolar vibration, noise and pollution.

Have the complainants made prior efforts to solve the problem(s) and issue(s) with the ADB operations department including Resident Mission concerned?

■ **Yes.** If YES, please provide the following: when, how, by whom, and with whom the efforts were made. Please describe any response the complainants may have received from or any actions taken by ADB.

Asian Development Bank Georgia Resident Mission – 11.10.2016  
 Ministry of Environment Protection and Natural Resources – 29.11.2016  
 Ministry of Infrastructure and Regional Development – 06.12.2016  
 Chairman of the Parliament – 29.11.2016  
 Chairwoman of Committee on Legal Issues of the Parliament – 29.11.2016;  
 Member of the Parliament, Beka Odisharia – 29.11.2016;  
 Public Defender of Georgia – 06.03.2017;  
 Member of the City Assembly of Tbilisi – Alexandre Elisashvili – 06.03.2017;  
 Prime Minister of Georgia – 11.10.2016;  
 Municipal Amenities Department of Tbilisi City Hall – 06.12.2016  
 Municipal Development Fund of Georgia – 06.12.2016

From most of the above-listed agencies we have received the response with more or less same content: Confirming that they have received our complaint but at the given period they are unable to solve our requirements, as the issues mentioned in the complaint do not fall under their competences, or they are examining our case or/and that our residential building is outside the buffer zone.

On November 17, 2016 the engineers of the Asian Development Bank, particularly Michael J Beauchamp and Project Officer Tiruche Bum (the name can be misspelled) and several other persons came to see the residential building. From their conversation, we found out that as the building is outside the buffer zone, these problems did not concern them anymore. But they assured us the monitoring will be conducted during the construction and if the stability of the building is under the threat, then the construction will be suspended.

We have submitted our complaint to the MDF with signatures of 57 resident, that we require 900 USD per square meter and that some of the residents want a new living space in return of their space and that we want resettlement as our lives are under threat. We can send you the scanned copy of the given document as well.

☐ No

#### F. Optional Information

1. What is the complainants' desired outcome or remedy for the complaint?

Our goal is that our rights to live, health, dignity and other rights not to be violated.

In our opinion there are several alternatives to solve our problems:

1. Getting relevant compensation - 1. Receive the appropriate compensation - With the help of the Asian Development Bank to be allowed to buy apartments of same area and condition in the district with same market value (but all possible expenditures related to material and moral damage and resettlement should be taken into account) and individual contract should be signed with each family.

<p>2. To be offered the alternative living space in one of the districts of the city, possibly in the same district and with the same market condition, as ours. The living space should be in the white carcass and we should also be provided material resources to bring it to the condition of our current apartments (part of the population may agree to be placed in the nearby residential building which is currently constructed).</p> <p>3. In order to prove the legitimacy of the abovementioned 2 requests, based on the peculiarities of our building, we kindly ask you to examine and evaluate the sustainability of our building and not to apply automatically the data of other buildings to our residential building.</p>
<p>2. Anything else you would like to add?</p> <p>Since the meeting held in 2017, we, the residents of the residential building of 28a, have a verbal agreement with MDF and no construction machineries will work near our residential building, until there is agreement reached with the residents.</p> <p>We want to assure you that due to the threat to our lives, we will do our best to prevent construction works and entering of the construction machinery in the area adjacent to the 28a building until there is agreement reached with us.</p>

**Name of the person who completed this form:** **Name withheld as requested by the complainants**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Please send the complaint, by mail, fax, e-mail, or hand delivery, or through any ADB Resident Mission, to the following:

**Complaint Receiving Officer (CRO), Accountability Mechanism**  
 ADB Headquarters, 6 ADB Avenue, Mandaluyong City 1550, Philippines,  
 Telephone number: +63-2-6324444 local 70309, Fax: +63-2-6362086,  
 E-mail: [amcro@adb.org](mailto:amcro@adb.org)

## ADB MANAGEMENT'S RESPONSE



Asian Development Bank

## Memorandum

Central and West Asia Department  
Office of the Director General

25 July 2018

To: Dingding Tang  
Chair, Compliance Review PanelThrough: Wencai Zhang  
Vice President (Operations 1)From: *for* Werner E. Liepach  
Director General, CWRDSubject: **L3063-GEO: Sustainable Urban Transport Investment Program – Tranche 3**  
**— Management's Response**

1. The Compliance Review Panel (CRP) requested Management's Response regarding the request for compliance review forwarded by the Complaint Receiving Officer (CRO) to the CRP on 25 June 2018 on the above subject.
2. This complaint is the third complaint to the CRP and relates to the 6.8 km Tbilisi Rustavi Urban Road Link (TRURL) Section 2 subproject, which is financed under Sustainable Urban Transport Investment Program (SUTIP) Tranche 3 (Loan 3063), approved on 25 November 2013. The tranche is categorized as A for resettlement, B for environment and C for indigenous people.
3. Under SUTIP, the entire TRURL was originally designed as one project to be financed under Tranche 2. However, at the appraisal stage in 2012, it was decided to sequence the implementation of the project to allow sufficient time to study alignment alternatives and hold meaningful consultations in the Ponichala District (Section 2) where the upgrade of the existing road would have led to extensive involuntary resettlement. As a result, only Sections 1 and 3 were financed under SUTIP Tranche 2, approved in August 2012. As part of SUTIP Tranche 3 preparation, a multi-criteria analysis on the alignment alternatives of TRURL Section 2 was performed and the government selected in April 2013 the current alignment, which has collectively the least social and environmental impacts.
4. This complaint is from building 28a, which is from the same neighborhood, and similar in nature to two earlier complaints submitted to the CRP dated 14 March 2016 and 10 November 2016, and one earlier complaint submitted to the Office of Special Project Facilitator (OSPF) on 10 July 2017. Further background information on previous complaints is provided below. This residential building 28a is within 900m of the 9-story building 12 v/g and was constructed during the same period and lies within the same area where the safeguards due diligence was undertaken for the tranche 3 project.
5. On 14 March 2016, the CRP received a complaint in relation to the 9-story building 12 v/g (the first complaint). The CRP determined the complaint eligible for compliance review and on 14 June 2016, the ADB Board of Directors authorized a compliance review.



6. On 10 November 2016, the CRP received a new complaint in relation to the 5-story building 16 a/b (the second complaint). On 16 January 2017, the CRP delivered a Report on Eligibility under which it found that the issues raised under the second complaint were almost the same as those raised in the first complaint and could be consolidated into the first complaint. The CRP determined the second complaint was ineligible for compliance review and that any concerns raised under the second complaint in respect of noncompliance with ADB's operational policies and procedures would need to be addressed as part of the remedial actions for compliance review of the first complaint.

7. On 13 February 2017, the CRP presented its Compliance Review Panel Report (CRP Report) to the ADB Board of Directors. On 30 June 2017, the ADB Board of Directors approved the Remedial Action Plan (RAP) for the consolidated complaints and broadly for the tranche 3 project area and requested submission of a final action plan to the Board Compliance Review Committee (BCRC) for review. The Remedial Action Plan – Final Solutions (RAP-FS) was reviewed by the BCRC on 6 March 2018 and disclosed in May 2018.

8. Shortly after ADB Board approval of the RAP on 30 June 2017, the OSPF received a complaint on 10 July 2017 in relation to building 28a. We note this is the same building that has submitted the current request for compliance review. The OSPF determined that the issues raised in this complaint were similar to those already dealt with by the CRP in the CRP Report for the first complaint. After review of documents and consultations with the complainants, on 7 August 2017, the OSPF concluded that this complaint was ineligible for problem solving under paragraph 143 of the Accountability Mechanism (**Attachment 1**) on the basis that it was a matter that had already been dealt with by the CRP. This complaint from building 28a is the third complaint to the CRP and is provided as **Attachment 2**.

9. At the time of project preparation for the tranche 3, ADB had performed the required environment and resettlement safeguards due diligence. Evidence of compliance at the time of project preparation, with the relevant ADB policies and procedures, specifically Safeguards Requirements 1: Environment, and Safeguards Requirements 2: Involuntary Resettlement of the Safeguard Policy Statement (2009); and its Operation Manual Section F1 is presented as **Attachment 3** to this Memorandum. Following the CRP Report findings that the tranche 3 project was found to be out of compliance with certain ADB's operational policies and procedures, the RAP-FS included actions and timelines to bring the project back into compliance by undertaking an integrated approach involving additional studies for noise impact, vibration impact, impact on the river ecology and targeted consultations at the community level. Building 28a is included in the area covered by the RAP-FS and, in addition to other buildings in the Ponichala area, building 28a was included in the additional studies on noise and vibration impacts and included in further community-level consultations. Attachment 3 includes a **table D** providing a general update on the due diligence performed through additional studies and a summary of meetings and consultations held, including with representatives of building 28a, in connection with the implementation of the RAP-FS.

10. In addition, in preparing and implementing the RAP-FS more than 14 meetings have been held between the residents of building 28a, MDF and ADB teams. These meetings include (i) individual household interviews; (ii) targeted focus group discussions; and (iii) open public consultations at locations close to the affected people. People were consulted on the anticipated impacts in relation to the construction and operation phases of the Project as well as on the challenges of their current day to day lives, and on potential mitigation measures identified during additional studies. In building 28a, two visually impaired people have been identified in 2

households, and an additional 3 households were identified belonging to other categories of vulnerability, namely (a) poor people, having under 65,000 points based on Government of Georgia social security scoring system (1 household); (b) internally displaced persons (IDPs) and refugees (1 household); (c) female led households (1 household). The apartments housing the visually impaired face both the river and the proposed road, and the old road or the sides. The representatives of building 28a were also present at all the public consultations held between 17 and 20 November 2017. CSOs that attended the public meetings include: Union of Blind, Friends of Earth/Green Movement, REC-Caucasus, and Green Alternative. During the public meetings, ADB and MDF presented key findings of all technical studies, including results of targeted consultations with the vulnerable people, and explained the proposed solutions to bring the project into full compliance with ADB policy. The presentation was followed by extended discussions, where specific mitigation measures, monitoring requirements, and assurances were reviewed.

11. Following the selection of the final design options by MDF, and completion of detailed design, a new round of individual consultations, focusing on the visually impaired, will commence in July/August 2018. These consultations will focus on the construction phase: noise, dust, and vibration impacts, together with mitigation measures and a discussion on the expected schedules, specifically with the visually impaired people on an individual basis. Specific support needed will be identified and delivered by social workers, possibly engaged through or in conjunction with a local NGO.

12. Following disclosure of the RAP-FS in May 2018, ADB issued a no-objection to provide the contractor with access to the Ponichala section for the preparation of surveys, updating of Site Specific Environmental Management Plan and development of monitoring programs. The final approval for construction has not yet been granted and will be subject to submissions of the above documents. Construction on the other sections of the road is progressing satisfactorily.

13. We provide the following additional information in support of management's response: project background information, current status and summary consultations report (**Attachment 4**) and location map and schematics (**Attachment 5**).

14. The ADB team will continue dialogue and open consultations with the complainants. Management stands ready to provide further clarification and materials to CRP upon request.

#### **Attachments:**

1. Memo from Office of Special Project Facilitator
2. CRP Memo on the third complaint dated 27 June 2018
3. Compliance with ADB's Safeguard Policy Statement and Operation Manual Section F1
4. Project Background Information, Current Status and Summary Consultations Report
5. Location Map and Schematics: Complainants' Building, Subproject 3D Renderings and Pictures of Existing Situation

cc: Anthony McDonald, Executive Director  
 Hong Wei, Deputy Director General, CWRD  
 Yong Ye, Director, CWUW  
 Nianshan Zhang, Advisor and Head, CWOD-PSG  
 Yesim Elhan-Kayalar, Country Director, Georgia Resident Mission



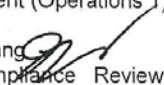
Attachment 2



## Memorandum

CRP2018DT033  
27 June 2018

To: Wencai Zhang  
Vice President (Operations 1)

From: Dingding Tang   
Chair, Compliance Review Panel and concurrently Head, Office of the Compliance Review Panel

Subject: **GEO: MFF-Sustainable Urban Transport Investment Program Tranche 3 (Loan No. 3063)—Request for Management's Response**

1. The Complaint Receiving Officer forwarded to the Compliance Review Panel (CRP) on 21 June 2018 the attached request for compliance review on the above project. Names and identities are withheld upon request of the complainants.
2. Following paragraph 71 of the Operations Manual Section L1/OP on the Accountability Mechanism (AM), the CRP carried out an initial assessment and confirmed that the complaint falls within the mandate of the compliance review function.
3. As such, Management is requested a response by **26 July 2018** which should "(i) provide evidence that ADB has complied with the relevant ADB policies and procedures; or (ii) acknowledge that there have been failures in ADB's compliance with its policies and procedures, and express its intention to take actions to ensure compliance to the extent possible."
4. The CRP has separately informed the Government of Georgia, through its Ministry of Finance, and the Alternate Executive Director of ADB representing Georgia about this complaint.

Attachment: as stated

cc: Scott Dawson, Alternate Executive Director Representing Australia; Azerbaijan; Cambodia; Georgia; Hong Kong, China; Kiribati; Micronesia; Nauru; Palau; Solomon Islands; and Tuvalu  
Werner Liepach, Director General, Central and West Asia Department





*Nded W*  
*Nianshan*  
*Jep*  
 CC: SD, CWTG;  
 CRP2018DT030  
 25 June 2018  
 JUN 26 2018

Nikoloz Gagua  
 Acting Minister  
 Ministry of Finance  
 Government of Georgia

**Subject: GEO: MFF-Sustainable Urban Transport Investment Program Tranche 3  
 (Loan No. 3063)—Third Request for Compliance Review**

Excellency,

This is to inform that 30 individuals from 28a Rustavi Highway, Tbilisi, Georgia complained about Asian Development Bank's (ADB) noncompliance about the above project and submitted a request for compliance review to our office. The attached complaint was forwarded to the Compliance Review Panel (CRP) on 21 June 2018 by our Complaint Receiving Officer. In their request, the complainants requested that their identities be kept confidential.

The CRP is an independent body tasked by the ADB Board of Directors to investigate alleged noncompliance by the Asian Development Bank (ADB) with its operational policies and procedures in the formulation, processing, or implementation of its project that directly, materially, and adversely affects local people. Compliance review does not inquire about the conduct of the borrower unless it is directly relevant to assessing ADB's compliance with its operational policies and procedures. In accordance with paragraph 178 of the Accountability Mechanism Policy, the CRP is currently assessing the complaint to determine if it is within the scope of the compliance review function.

We assure you that the CRP observes strict confidentiality in its work and keeps a low profile in the conduct of compliance reviews. Please do not hesitate to reach us, if you have any queries on this matter.

Thank you very much.



Sincerely,

Dingding Tang  
 Chair, Compliance Review Panel

6 ADB Avenue, Mandaluyong City  
 1550 Metro Manila, Philippines

Tel (632) 632 5275  
 Fax (632) 636 2088

Email: [crp@adb.org](mailto:crp@adb.org)  
[www.compliance.adb.org](http://www.compliance.adb.org)

Attachments:

- 1- Complaint letter (names and other information withheld upon request of the complainants)
- 2- Accountability Mechanism Policy

Copied to:

Giorgi Shengelia  
Executive Director  
Municipal Development Fund of Georgia

Scott Dawson, Alternate Executive Director Representing Georgia, ADB  
Wencai Zhang, Vice President (Operations 1), ADB  
Werner Liefpach, Director General, Central and West Asia Department, ADB  
Yesim Elhan-Kayalar, Country Director, Georgia Resident Mission, ADB



Office of the Special Project Facilitator

Office of the Compliance Review Panel

## Asian Development Bank (ADB), Accountability Mechanism, Complaint Form

(Add rows or pages, if needed)

**A. Choice of function - problem solving or compliance review (Choose one below)**

- ☐ **Special Project Facilitator** for problem solving (Assists people who are directly and materially harmed by specific problems caused, or is likely to be caused, by ADB-assisted projects through informal, flexible, and consensus-based methods with the consent and participation of all parties concerned)

- **Compliance Review Panel** for compliance review (*Investigates alleged noncompliance by ADB with its operational policies and procedures in any ADB-assisted project in the course of the formulation, processing, or implementation of the project that directly, materially, and adversely affects, or is likely to affect, local people, as well as monitors the implementation of remedial action relates to the harm or likely harm caused by noncompliance*)

## B. Confidentiality

Do you want your identities to be kept confidential? ☒ Yes ☐ No

**C. Complainants** (*Anonymous complaints will not be accepted. There must be at least two project-affected complainants.*)

Name and designation (Mr., Ms., Mrs.)	Signature	Position/ Organization (If any)	Mailing Address	Telephone number (landline/mobile)	E-mail address
Names withheld as requested by the complainants					

Names withheld as requested by the complainants

Authorized Representative or Assistant (if any). (Information regarding the representatives, or persons assisting complainants in filing the complaint, will be disclosed, except when they are also complainants and they request confidentiality.)

Complainant represented	Name and designation (Mr., Ms., Mrs.)	Signature	Position/ Organization (if any)	Mailing Address	Telephone number (landline/mobile)	E-mail address
Names withheld as requested by the complainants						

Names withheld as requested by the complainants

## D. Project

Name	Georgia Construction of the Highway
Location	Second Phase of Tbilisi-Rustavi Highway
Brief description	<p>We embrace the construction of the given highway, but it happens at the expense of infringing our civil rights.</p> <p>On 22.06.2017 we wrote a complaint to Asian Development Bank <b>Special Project Facilitator</b> as the construction of the highway 15-20 meters away from our residential building and 10 meters away in case of 4<sup>th</sup> entrance, contains threat.</p> <p>Our complaint has been reviewed and forwarded to <b>Compliance Review Panel</b> for compliance analysis.</p> <p>Before then, the representatives of the Manila Office visited us and met the local residents, the trilateral meeting was held at the Municipal Development Fund (MDF) between MDF representatives, the residents and the representatives of ADB's Manila Office. In case of interest, we can provide the Protocol of the meeting later.</p> <p>Hereby we provide small extracts from the Protocol of the meeting. <b>"Complainants have very general and scarce information about the project. They want more clarity. They have obtained the map from their own sources. They should know about the project plan and location. According to the given map, they know that the road passed in the very close vicinity to their residential building."</b> Nothing has changed since then, we still have the same information we had before OSPF's arrival. We have addressed MDF and requested to provide us the maps and project parameters in regards to our residential building. MDF provided us the map with microscopic size of font and incomprehensible signs. No one thought of meeting with us and explaining the maps to us. We could not use this kind of information neither for the public awareness not for appealing to the Court. On the same meeting, after many legitimate questions with which the complainants requested the examination of building sustainability and provision of written guarantees whether the building would be demolished, D. Tabidze replied <b>"The State takes full responsibility for its actions and its mandate is taking care of its citizens"</b> and <b>"It would be preferable to organize separate meeting on technical issues, which will be attended by more representatives of complainant side. The separate meeting will enable them to discuss all the details of the project and get answers to their questions"</b>. It was decided the meeting with the population would be held in September 2017 where the residents would be provided detailed information about everything, including the demolishing and security. Please be informed that this meeting has not been held separately with the residents of our residential building. We've had several phone conversations with MDF representative and they always tried to avoid the question regarding the meeting, stating that Board Meeting should be held first and that nothing was decided yet (We are aware of the Board decision from the website).</p> <p>In August 2017, the case for forwarded to Compliance Review Panel. Compliance Review Panel might be working on the case of Residential Building 28a, but the reports that we have seen on the web-site are about the other residential buildings, particularly Rustavi highway 12, 16 ab and other buildings. We also think that your department has been reviewing other buildings' cases for a long time and you might have more detailed information regarding the 28 a residential building. We have read your reports of January 16, 2017 and February 13, 2017. As we understand the given reports apply to our – 28a residential building as well. As you probably know one more meeting was held by the initiative of the Asian Development Bank between the engineers and the population, at Tbilisi Krtsanisi Gamgeoba. Here as well, the topics discussed covered the cases of other</p>

	<p>residential buildings, ecological situation and mitigating measures. Here we mention only the meetings that have been attended by our representatives.</p> <p>We want to clearly state from the beginning, that our building's conditions are different than the conditions of other residential buildings of Rustavi highway and we are very concerned in this regard. Installation of the equipment, monitoring and in case of threat cancellation of the construction is long-term process. The building might collapse one day, causing the death of the people as a result of ignoring these circumstances. So we write this complaint for the purpose of protecting our fundamental right of life. We hereby list the differences between the residential buildings:</p> <ol style="list-style-type: none"> <li>1. The number of the resident families in the residential building 28a of Rustavi highway is 60, it was built in 1966. Its operation term has expired. Within several years after construction of the building, the 4<sup>th</sup> porch of the building lowered and the walls were deformed and it is still visible, the walls have been cracked. Back then the foundation of the building was strengthened and further deformation and demolish process was stopped (1971-72). But this is comparative as well, the residents notice more cracks and deformations everyday which is hard to be proved.</li> <li>2. The building was constructed on the territory of former cemetery and we think that unstable ground makes building more unsustainable. There are many additional extensions in the building which make building more unstable and it may collapse not while construction of the Tbilisi-Rustavi highway but during its operation as well;</li> <li>3. In July 2015 the expert evaluation of the building was conducted and we have received the experts' conclusion from MDF, which certifies that our residential building's ground has been moved towards the river. As for the waters in our basements the experts verbally confirmed that these are ground waters and not the water leaks due to malfunction of the communications, but this opinion was not included in the conclusion. Movement of the ground might be the old process so additional evaluation should be conducted within 12-18 months from the previous experts' evaluation (Such evaluation was not conducted) to find out whether the process continues. In case of interest we can send you the scanned copy of the experts' conclusion. We are extremely concerned that no one checked the ground movement and underground water issues and if we take into consideration the fact the ravine located in 10 meters from the building will be cut off and the road will possibly pass below the ravine, along Mtkvari River, then our residential building with its moving grounds and underground waters may possibly collapse over the road along with its residents. If we are not mistaken, this is called landslide.</li> </ol> <p>On the given photo you see the basement with wet land – ground water, level of which sometimes increases.</p>
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4. The land in front of the building is also loose and moving. Before we had garages constructed over there and many of them required strengthening with concrete as the land lowered.
5. Additional extensions are not constructed vertically and attached to the building but horizontally between the loggias of opposite neighbors, which practically are impossible to be strengthened. Please see photo below



6. During the last meeting which was held at Krtsanisi Gamgeoba, between MDF, the residents of the buildings and engineers, the MDF representative told us to decide regarding the compensation amount for square meter and resettlement, so that the decision to be united.

D. Tabidze talked to us about this issue in informal environment, during the meeting. We stated there that we wanted no less than 1000 USD per square meter, this amount was unacceptable for him, he declined our request and smiled. Despite of this, we called the residents assembly, contacted the neighbors that currently don't live in the building and agreed on the compensation amount – 900 USD per square meter and on the request, which covered many issues and provided the arguments. It should be noted that the request was signed by almost 100% of the residents (1 resident passed away and successor did not obtain the right to the heritage, 2 residents were abroad but we had their verbal consent). 100% consent of the residents means that the concerns about the building's collapse are serious, otherwise no one is happy about changing the place of residency and none of us are focused on getting benefits from this situation and improve our conditions; on the contrary, we worsen our conditions.







**E. Complaint:**

What direct and material harm has the ADB-assisted project caused, or will likely cause, to the complainants?

Our rights are violated:

1. Right to live: Our residential building might be demolished during construction or exploitation of the highway, which might cause the death.
  2. Right to live in sound environment: 24-hour noise, vibration, polluted air
  3. Our real estate property (if it survives demolishing) has depreciated and will further depreciate, as the residential building the exploitation term of which has long expired will soon become unsuitable for habitation due to the operation of the road.
  4. Right to health – Because of this noise and dust, allergic and malignant diseases will increase, children will not be able to grow in a healthy environment.
- It should also be noted that our residential building is 150-200 meters away from the current road and we are under the bipolar vibration, noise and pollution.

Have the complainants made prior efforts to solve the problem(s) and issue(s) with the ADB operations department including Resident Mission concerned?

■ Yes. If YES, please provide the following: when, how, by whom, and with whom the efforts were made. Please describe any response the complainants may have received from or any actions taken by ADB.

Asian Development Bank Georgia Resident Mission – 11.10.2016  
 Ministry of Environment Protection and Natural Resources – 29.11.2016  
 Ministry of Infrastructure and Regional Development – 06.12.2016  
 Chairman of the Parliament – 29.11.2016  
 Chairwoman of Committee on Legal Issues of the Parliament – 29.11.2016;  
 Member of the Parliament, Beka Odisharia – 29.11.2016;  
 Public Defender of Georgia – 06.03.2017;  
 Member of the City Assembly of Tbilisi – Alexandre Elisashvili – 06.03.2017;  
 Prime Minister of Georgia – 11.10.2016;  
 Municipal Amenities Department of Tbilisi City Hall – 06.12.2016  
 Municipal Development Fund of Georgia – 06.12.2016

From most of the above-listed agencies we have received the response with more or less same content: Confirming that they have received our complaint but at the given period they are unable to solve our requirements, as the issues mentioned in the complaint do not fall under their competences, or they are examining our case or/and that our residential building is outside the buffer zone.

On November 17, 2016 the engineers of the Asian Development Bank, particularly Michael J Beauchamp and Project Officer Tiruche Bum (the name can be misspelled) and several other persons came to see the residential building. From their conversation, we found out that as the building is outside the buffer zone, these problems did not concern them anymore. But they assured us the monitoring will be conducted during the construction and if the stability of the building is under the threat, then the construction will be suspended.

We have submitted our complaint to the MDF with signatures of 57 resident, that we require 900 USD per square meter and that some of the residents want a new living space in return of their space and that we want resettlement as our lives are under threat. We can send you the scanned copy of the given document as well.

☐ No

#### F. Optional Information

1. What is the complainants' desired outcome or remedy for the complaint?

Our goal is that our rights to live, health, dignity and other rights not to be violated.

In our opinion there are several alternatives to solve our problems:

1. Getting relevant compensation - 1. Receive the appropriate compensation - With the help of the Asian Development Bank to be allowed to buy apartments of same area and condition in the district with same market value (but all possible expenditures related to material and moral damage and resettlement should be taken into account) and individual contract should be signed with each family.

<p>2. To be offered the alternative living space in one of the districts of the city, possibly in the same district and with the same market condition, as ours. The living space should be in the white carcass and we should also be provided material resources to bring it to the condition of our current apartments (part of the population may agree to be placed in the nearby residential building which is currently constructed).</p> <p>3. In order to prove the legitimacy of the abovementioned 2 requests, based on the peculiarities of our building, we kindly ask you to examine and evaluate the sustainability of our building and not to apply automatically the data of other buildings to our residential building.</p>
<p>2. Anything else you would like to add?</p> <p>Since the meeting held in 2017, we, the residents of the residential building of 28a, have a verbal agreement with MDF and no construction machineries will work near our residential building, until there is agreement reached with the residents.</p> <p>We want to assure you that due to the threat to our lives, we will do our best to prevent construction works and entering of the construction machinery in the area adjacent to the 28a building until there is agreement reached with us.</p>

Name of the person who completed this form: Name withheld as requested by the complainants

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please send the complaint, by mail, fax, e-mail, or hand delivery, or through any ADB Resident Mission, to the following:

**Complaint Receiving Officer (CRO), Accountability Mechanism**  
 ADB Headquarters, 6 ADB Avenue, Mandaluyong City 1550, Philippines,  
 Telephone number: +63-2-6324444 local 70309, Fax: +63-2-6362086,  
 E-mail: [amcro@adb.org](mailto:amcro@adb.org)

## Attachment 3

**COMPLIANCE WITH ADB SAFEGUARDS POLICY STATEMENT (SPS)  
AND OPERATION MANUAL SECTION F1**

**A. Categorization**

ENV	IR
<ul style="list-style-type: none"> <li>- ENV category: B</li> <li>- Draft initial environmental examination (IEE) disclosure on 3 September 2013 on MDF website and on 4 September 2013 on ADB website.</li> <li>- Final IEE disclosure on 28 December 2015 on MDF website and on 26 January 2016 on ADB website.</li> </ul>	<ul style="list-style-type: none"> <li>- IR category: A</li> <li>- Draft land acquisition and resettlement plan (LARP) disclosure on 25 August 2013 on MDF website and on 10 September 2013 on ADB website.</li> <li>- Final LARPa (implementation ready) disclosure on 30 October 2014 on MDF website and on ADB website.</li> <li>- Final LARPB (implementation ready) disclosure on 6 October 2015 on MDF website and on 8 October 2015 on ADB website.</li> </ul> <p><i>Note: Decision in July 2014 to split the LARP into LARPa and LARPB to allow more time for preparation of LARPB (including the Ponichala section, along apartment buildings).</i></p>

**B. Compliance with ADB Environmental Safeguards Requirements and with OM F1**

SPS Policy Principles (Environment)	Comment
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.	<p>REA checklist filled out (9 May 2013). Project categorized as Environment Category B (categorization form dated 9 May 2013) endorsed by Chief Compliance Officer SDCC.</p> <p>The project impacts are site-specific, and can be addressed through mitigation measures.</p> <p>An IEE study was recommended.</p>
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 transboundary and global impacts, including climate change. Use strategic environmental assessment where appropriate.	<p>Environmental assessment conducted.</p> <p>Air quality, noise, and vibration were identified as impacts specific to the socioeconomic environment of the project area and were investigated.</p> <p>The draft IEE was prepared in 2013, disclosed on 4 September 2013 on ADB website.</p> <p>Final IEE (incorporating findings and recommendations of noise and vibration study) was disclosed on 26 January 2016 on ADB website.</p> <p>Both IEEs were also disclosed on the Municipal Development Fund of Georgia (MDF) website.</p>
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.	<p>A detailed analysis for the entire road (TRURL sections 1, 2, and 3 of the road) was performed as part of the feasibility study. However, for the 6.8 kilometer Section 2 (SUTIP Tranche 3), an analysis of the few possible alignments was performed as part of the IEE study. The alignment with collectively the least social and environmental impacts was selected for Section 2.</p>



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<p>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>Impacts assessment performed as part of the IEE and mitigation measures for the generic construction related impacts as well as the specific project related impacts of air emissions, noise and vibration were assessed, including modeling and structural integrity assessments. The site specific environmental management plan (EMP) will address the marginal exceedance of construction stage noise and vibration standards at certain locations.</p> <p>The EMP was prepared as part of the IEE report.</p> <p>As practice, the IEE contains the requirement that the contractor shall prepare a site specific EMP customized to the specifics of the sites and camps (such as update baseline assessment, undertake further consultation, prepare site specific management plans for noise and vibration management during construction, review final design of appropriate noise mitigation measures such as sound barriers, vibration monitoring, and removal of unsafe voluntary additions from the buildings that may be vulnerable to vibration impacts).</p>
<p>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 grievance redress mechanism to receive and facilitate resolution of the affected people's concerns and grievances regarding the project's environmental performance.</p>	<p>Meaningful public consultations were undertaken for the project. As required by SPS, community level consultations were organized both on location, and at the MDF. Consultations started early in 2013 at the time of preparation of the draft IEE. Noise and vibration were identified as impacts, and further consultations were held in 2015 upon completion of the additional noise and vibration investigations to share the findings and impacts with the communities and discuss mitigation measures. The consultations were participatory and were well attended by a representative sample of community members.</p> <p>Dates: July to August 2013 (IEE consultations). December 2014, additional consultations for the IEE. September 2015, consultations with the multi-storey building residents.</p> <p>A Grievance Redress Mechanism (GRM) is already operational for involuntary resettlement impacts. For environment, the establishment of a GRM is included in the IEE and will become operational prior to construction through the EMP implementation.</p> <p>The IEE was finalized after a noise and vibration study was conducted and shared with the affected persons through community consultations. The</p>



	<p>study concluded that the project will have no safety impacts on the residents of the multi-storey building. Additional mitigation measures were recommended to address the community concerns (such as noise barriers). Safety hazards associated with voluntary additions were also proposed (as mentioned above). The IEE was then disclosed as the Final IEE on 28 December 2015 on MDF website and on 26 January 2016 on ADB website.</p>
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.	<p>The draft IEE was disclosed prior to appraisal on 3 and 4 September 2013 on MDF and ADB websites, respectively. The IEE was translated into Georgian and uploaded on MDF website on 15 April 2016.</p> <p>The IEE was finalized after a noise and vibration study was conducted. The final IEE was then disclosed on 28 December 2015 on MDF website and on 26 January 2016 on ADB website.</p>
7. Implement the EMP and monitor its effectiveness. Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.	<p>Project construction has not started. An EMP is included in the IEE. The EMP includes preparation of more detailed site specific EMPs. Monitoring reports will be prepared every 6 months as per the EMP.</p>
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. Use a precautionary approach to the use, development, and management of renewable natural resources.	<p>Project is not located in a critical habitat.</p> <p>The project will not adversely affect any natural habitats. The project impacts are limited to modified habitats. This includes removal of cultivated trees, including some International Union for Conservation of Nature (IUCN) Red List Species, which have been planted on private park. Permits have been issued for the clearance.</p> <p>A 1.66 kilometer section of retaining wall will be constructed 5-6 meters into the Mkravi river. The IEE indicates that the river in a modified habitat with regulated water flow.</p>
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,	<p>The specific project related impacts were identified and assessed for air pollution, noise and vibration. The IEE assessed that the project will comply with the applicable Georgian standards for air quality. This is consistent with European Union standards. For noise, the project was assessed against the Georgian national standards, specific to residential areas adjacent to roads and railways. For vibration, there are no national standards, so the project was assessed and complies with German standards, which can be considered as a good practice benchmark for vibration impacts. Mitigation measures have been</p>

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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.	investigated and proposed to ensure compliance with the standards.
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.	Project construction has not started. Occupational Health and Safety (OHS) measures are included in the EMP.
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.	Not an issue in the project area.

**Compliance with OM F1**

<b>OM F1 Applicable Paras</b>	<b>Compliance</b>
1. Screening and categorization	Performed, project is category B, categorization form dated 9 May 2013.
2. Project Design and Preparation	
a. Preparation and Review of Environmental and Social Assessments and Plans	IEE prepared.
b. Information Disclosure	IEE disclosed.
c. Consultation and Participation	Consultations duly performed and recorded (see dates above).
d. Project Appraisal	The following was confirmed: safeguard measures recommended in the EMP are integrated into the project design; MDF has the capacity to implement the EMP and financing arrangements for implementing the EMP are in place.
e. Report and Recommendation of the President	Para included, IEE annexed (PFR report).
3. Legal Agreements	Clauses included.

**C. Compliance with ADB Social Safeguards Requirements and OM F1:**

<b>SPS Requirement (LARP)</b>	<b>Comment</b>
1. Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.	Undertaken during project preparation and preparation of LARP in accordance with OM Section F1/OP.

<p>2. Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.</p>	<p>Refer to consultation schedule (below). Vulnerable people identified in socio-economic survey and measures specified in LARP. Grievance redress mechanism established by MDF. In accordance with OM Section F1/OP.</p> <p>July 2013 – Five meetings with local residents (8, 9, 10, 12, and 13 July 2013); One meeting with business owners and operators (18 July 2013). 17 August 2013 – meeting with affected individuals. 15 September 2015 – meeting with representatives of multi-storey buildings. 10 October 2015 - meeting with representatives of multi-storey buildings at project site.</p> <p>Public consultations detailed and documented in LARP.</p>
<p>3. Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.</p>	<p>Land acquisition and resettlement framework (LARF) and LARP prepared in accordance with SPS and approved by Environment and Safeguards Division (SDES). LARP under implementation.</p>
<p>4. Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.</p>	<p>LARF and LARP prepared in accordance with SPS and approved by SDES. LARP under implementation.</p>
<p>5. Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.</p>	<p>LARF and LARP prepared in accordance with SPS and approved by SDES. LARP under implementation.</p>



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6. Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.	EA is negotiating settlements in a transparent, consistent, and equitable manner.
7. Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.	LARP includes persons without titles to land or any recognizable legal rights as eligible for resettlement assistance and compensation for loss of non-land assets.
8. Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.	LARP prepared, approved by SDES.
9. Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.	Draft LARP disclosed to affected persons (APs) prior to appraisal on 25 August 2013 by MDF and on 10 September 2013 by ADB. Final LARPa disclosed on 30 October 2014 by MDF and ADB, and final LARPb disclosed on 6 October 2015 by MDF and on 8 October 2015 by ADB.
10. Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.	Resettlement conceived and being executed as part of development project, and full costs of resettlement included in analysis of project's costs and benefits.
11. Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.	No physical or economic displacement has occurred prior to payment of compensation, and supervision has been provided by ADB and by the External Monitor.
12. Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.	External Monitor is mobilized – first semi-annual Social Monitoring Reports (SMR) due for disclosure in 2016.

**D. Additional Studies Undertaken Under Remedial Action Plan and Compliance.**

<b>Additional Studies</b>	<b>Compliance</b>
<b>Noise Impacts Study:</b> Establish noise baseline in Ponichala and model under different scenarios to establish compliance with WHO standards reflected in the WB EHS Guidelines.	Following extensive consultations with the communities and the civil societies by both ADB and MDF, having a 5-meter noise wall with a noise tunnel was considered most efficient and effective in meeting the WHO noise standard and bringing the project back into compliance. This solution will only modify the already designed noise barrier in the existing contract (654.8 meters in length and height varied from 5

	<p>meters to 3 meters depending on the location) to one tunnel and noise walls. The tunnel will be 560m long, covering both carriageways and two noise walls, one 5-m high, 880 m long wall and the second 8-m high and 188 m long wall. The total area of the walls will be about 46% less than that of noise wall only option. As proposed originally, the speed in this section is limited to 80km/hour.</p>
<p><b>Vibration Impacts Study:</b> Measure the natural frequencies of the core and annexes of the buildings in the Ponichala. Model the impacts of the vibrations from the project and provide appropriate mitigation measures.</p>	<p>The measurement of the natural frequencies of the core and voluntary additions of the buildings in the Ponichala area was completed and the impacts from potential construction activities for both core structures and voluntary additions was completed. The study also included mitigation requirements, focusing particularly on the construction period and for the voluntary additions. The vibration modelling was completed based on the measured natural frequencies and vibration impacts that may result from construction of different noise mitigation measures. The report concludes that based on the analysis, vibration impacts are lower than the thresholds assigned by the DIN4150 or International Standard Organization (ISO) 4866 for residential buildings and their annexes.</p>
<p>Conduct targeted consultations with vulnerable groups and people to assess impacts during (i) construction phase, and (ii) operations phase.</p>	<p>MDF and ADB completed the consultations with vulnerable residents in Ponichala, in an effort to explore and identify possible mitigation measures. This effort has been led and coordinated by a Communication Specialist (Georgian National) engaged by MDF, under the close supervision of ADB. The consultations methodology consisted of: (i) individual household interviews; (ii) targeted focus group discussions; and (iii) open public consultations at locations close to the affected people. People were consulted on the anticipated impacts in relation to the construction and operation phases of the Project as well as on the challenges of their current day to day lives, and on potential mitigation measures identified during additional studies.</p> <p>Individual household interviews: A total of 95 visually impaired people in 75 households were identified, and an additional 71 households were identified belonging to other categories of vulnerability, namely (a) poor people, having under 65,000 points based on Government of Georgia social security scoring system (36 households); (b) internally displaced persons (IDPs) and refugees (8 households); (c) disabled and sick (9 households); (d) female led households (13 households); and (e) other mixed category (5 households). The visually impaired and other vulnerable households were identified through: (a) door to door survey of all units in 9 buildings; (b) the list of visually impaired people provided by the Union of Blind; (c) list of vulnerable people provided by</p>

the chairpersons of 9 buildings. The location and numbers by each building of these identified households are provided in Appendix 3 of the RAP-FS. Only 19 number of visually impaired are facing the river or the proposed road, with the balance either facing the old road or the sides.

Individual household interviews commenced in May 2017 and finished in September 2017. Although the target was to interview all visually impaired people, only 87% was covered by the interviews. Some visually impaired persons declined to participate in the process due to their ill health, absence from home, and other reasons. While the target for the poor households was 25%, the interviews covered 67%. Eighty-eight percent (88%) of IDPs were interviewed. Other groups of vulnerable households were covered 100% by interviews. Semi-structured interviews were used, with a set of questions used for guidance and to solicit points of view, while additional questions were asked based on specific responses provided.

As the detailed design is finalized and construction phase approaches, the visually impaired groups in all buildings will be consulted on specific impacts expected during the construction period and a contact/support mechanism put into place.

Focus group discussions (FGD) with different categories of vulnerable people were organized in the Ponichala district during September 2017. In order to ensure easy access and comfortable atmosphere for the representatives of the vulnerable population, FGDs took place in the building of the Cultural Center of Union of Blind in the middle of the district. In total, 5 FGDs were organized with the following vulnerable categories: poor people (under 65,000 points), visually impaired (two FGDs), IDPs/refugees/disabled, and female led households. All FGDs were moderated by the communication specialist. Facilitators acquainted the meeting participants with the preliminary outcomes of the individual household surveys, additional technical studies for noise and vibration, and study of the river ecology. Mitigation options recommended through these additional studies were discussed.

During the FGDs with visually impaired people participants were asked regarding the problems and challenges faced daily. Issues like poor condition of internal roads and sidewalks in the district, drainage system not in a proper condition, heavy traffic (outdated,



overfilled busses) and the need for a functioning underpass and adding of several traffic lights with sound signal in this area were raised by participants. Regarding the proposed project, participants expressed varied opinions. Some people proposed that they be resettled, while others did not. Those who were against resettlement said that they were used to live in a friendly environment, acquainted with neighbors who provide assistance to each other when needed. These people felt that it would be difficult for them to live somewhere else. Participants discussed their concerns regarding the possible noise and vibrations from the new road and expressed fears that buildings may collapse. Facilitators explained that electronic laser accelerometers will be installed in the named buildings in order to detect any unsafe fluctuations in vibration levels.

Overall, some residents from 9 buildings are willing to be relocated, mainly because of perceived noise and vibration concerns. However, peoples' position on resettlement varies significantly. Individual household interviews with 65 visually impaired residents from 9 buildings show a considerable number (46%) of visually impaired households expressing reluctance to be resettled, as they perceive the process to be onerous and stressful. Only 15% wanted unconditional resettlement, while 29% said that only cancelling the project entirely would be an acceptable outcome. Nine percent (9%) of respondents withheld their opinion.

**Open public consultations:** MDF and ADB conducted a series of open public meetings with residents of all 9 buildings between 17 and 20 November 2017. Two public meetings were held with the people from 9 buildings and one meeting held with representatives of civil society organizations (CSOs). All technical studies were disclosed in advance. Full technical reports in English and summary reports in Georgian language were posted on MDF website on 10 November and 13 November 2017, respectively. The printed technical reports in both languages were shared with people ahead of the public meetings. The residents from all 9 buildings were invited to the public meetings in advance; those who were unavailable to join the meeting on 17 November 2017 were offered the opportunity to attend on 20 November 2017.

A total of 67 people participated in the three open public meetings - 39 attending on 17 November 2017 and 28

	<p>on the two meetings on 20 November 2017, respectively. CSOs that attended the public meeting include: Union of Blind, Friends of Earth/Green Movement, REC-Caucasus, and Green Alternative. Transportation was provided by MDF to take residents to the venue of the public meetings and bring them back to Ponichala.</p> <p>During the public meetings, ADB and MDF presented key findings of all technical studies, including results of targeted consultations with the vulnerable people, and explained the proposed solutions to bring the project into full compliance with ADB policy (See Appendix 6 for all technical documents disclosed). The presentation was followed by extended discussions, where specific mitigation measures, monitoring requirements, and assurances were reviewed. The main concerns and questions raised by residents during both public meetings included: (i) exact distance of the proposed road and noise barriers/tunnel to the buildings; (ii) safety of the buildings and voluntary additions during the construction (e.g. use of heavy machinery, construction methods, extent of the road intrusion into the river); (iii) design of noise barriers and tunnel (e.g. height of barriers/tunnel, amount of light that buildings receive); (iv) improvements envisaged under the project for the visually impaired and the other groups of vulnerable people in Ponichala; (v) cost of the noise barriers and tunnel versus relocation of 9 buildings; (vi) compensation for inconveniencing residents, such as new windows, air conditioners, other forms of entitlements; (vii) special considerations in the project design for the visually impaired and other vulnerable people; and (viii) reinforcement of voluntary additions and balconies. Questions and answers are included in the minutes of the meetings. The possibility of conducting a series of follow-up meetings to address specific concerns was offered to participants.</p>
<p><b>River Ecological Impact:</b> Establish baseline survey, conduct ecological screening and impact assessment study to investigate impacts of project construction and operation on the river, with particular attention paid to impacts on protected fish species, if detected.</p>	<p>A river ecology screening and impact assessment study was completed to investigate the ecological sensitivity of the river, assess the magnitude of impacts from the Project, and propose likely mitigation measures. The study was undertaken by qualified national and international experts. The report concludes that impacts from the Project on the Mtkvari river ecosystem will be minor. However, the study does conclude that the Mtkvari River while degraded, is still considered to be a natural habitat. Therefore, to meet the requirements of ADB SPS 2009, the site specific environmental management plan (SSEMP) will be prepared with additional mitigation measures based on the findings and recommendations of the ecology report. Furthermore, to</p>

	mitigate the residual impact on the natural habitat, habitat restoration will be undertaken along the river banks to create additional riparian areas with connection to adjacent parklands and meet no net loss requirements.
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### PROJECT BACKGROUND INFORMATION, CURRENT STATUS AND SUMMARY CONSULTATIONS REPORT

1. **Tbilisi-Rustavi Urban Road Link (Section 2).** The complaint relates to the 6.8-km Tbilisi Rustavi Urban Road Link (TRURL) Section 2 subproject which is financed under Sustainable Urban Transport Investment Program (SUTIP) Tranche 3 (Loan 3063), approved on 25 November 2013. The tranche is categorized as A for resettlement, B for environment, and C for indigenous peoples.
2. **Current Status.** The construction in the Ponichala section (5+100km to 7+400km) of TRURL Section 2 is not started. The Board Compliance Review Committee (BCRC) of the Board of Directors reviewed the Remedial Action Plan – Final Solution (RAP-FS) on 6 March 2018. The RAP-FS was disclosed in April/May 2018. Following the disclosure Municipal Development Fund of Georgia (MDF) and the project team have begun the preparation of detailed engineering and other documents required to process civil works and supervision contract variations. ADB issued the no objection in May 2018, based on the submission of the partial compliance report for land acquisition and resettlement, to provide access to the contractor to Ponichala section. The approval is for the preparation of: surveys and updating of Site Specific Environmental Management Plan and development of monitoring programs. The final approval for construction will be subject to submissions of the above documents. Constructions on the other sections of the road (4+000km to 5+100km and 7+400km to 10+700km) is progressing satisfactorily. On 25 November 2016, in accordance with para. 140 of the Accountability Mechanism Policy 2012, ADB issued a no-objection to contract award subject to partial hand-over of contract sites.
3. **Project Sequencing.** TRURL was originally meant to be financed in its totality under SUTIP Tranche 2. At the appraisal stage in 2012, it was decided to sequence the implementation of the TRURL project to take sufficient time to study alignment alternatives and hold meaningful consultations in Ponichala District (Section 2) where the upgrade of the existing road would have led to extensive involuntary resettlement. As a result, only TRURL Sections 1 and 3 are financed under SUTIP Tranche 2, approved in August 2012.
4. **Alignment Alternative Analysis.** The alignment of TRURL Section 2 was selected by the government in April 2013 based on a multicriteria analysis. The selected option has collectively the least social and environmental impacts.<sup>1</sup> The preferred alternative by-passes the built-up area by creating 3.9 km of new road including a 1.9-km stretch alongside the Mtkvari river. The remaining 2.9 km stretch of Section 2 is outside of the densely build-up area and consists of widening of the existing road.
5. **Finalization of Engineering Design and Safeguards Documents.** Sufficient time and resources have been allocated to prepare the engineering design of TRURL Section 2 and safeguards documents. Since 2013, the project design has been modified and now includes a 1.7 km stretch with reduced speed limit (80 km/h) and also provides an 'urban boulevard' between the road and the apartment buildings, with a landscaped community recreational area and safe environment. The building where the complainants live is located alongside this stretch. Following initial consultations with the residences, the potential impact of the new road on the surrounding buildings was further assessed with additional noise and vibration studies conducted in the first half of 2015 before the completion of the detailed engineering design and safeguards documents (final list of affected persons in the land acquisition and resettlement plan [LARP], refinement of mitigation

<sup>1</sup> 2013. 'Comparison of Alternatives'. Dohwa Engineering.



## Attachment 4

measures in the project design, and the initial environment examination [IEE]).<sup>2</sup> Engineering design and safeguards documents were prepared by an international consulting firm and reviewed by individual consultants.<sup>3</sup> The draft LARP was disclosed on 10 September 2013, LARP Part A was disclosed on ADB website on 30 October 2014, and LARP Part B (including the road stretch along apartment buildings in Ponichala District) was disclosed on 8 October 2015.<sup>4</sup> The Draft IEE was disclosed on 4 September 2013 and the IEE was disclosed on 26 January 2016 on ADB website.

6. In 2017, as part of the preparation of the RAP, additional studies on vibration, noise, river ecology and consultations were conducted. The studies covered the entire Ponichala including the complainant's building 28a. The reports are posted on ADB and MDF websites and hard copies were given to the residents including 28a.

1. Sustainable Urban Transport Investment Program Tranche 3: Draft Report on Noise Modeling of Tbilisi-Rustavi Highway (Section 2)  
<https://www.adb.org/projects/documents/geo-42414-043-sddr>
2. Sustainable Urban Transport Investment Program Tranche 3: Draft Report on Ambient Vibration Survey and Dynamic Identification of Residential Buildings in Phonichala, Tbilisi  
<https://www.adb.org/projects/documents/geo-42414-043-sddr-0>
3. Sustainable Urban Transport Investment Program Tranche 3: Additional Studies on Modeling of Road and Noise Barrier Construction-Related Vibration Impact on Residential Buildings in Phonichala, Tbilisi  
<https://www.adb.org/projects/documents/geo-42414-043-sddr-1>
4. Sustainable Urban Transport Investment Program Tranche 3: Draft Report on Ecological Sensitivity of Mtkvari River and Impact of Section 2 on River Biodiversity  
<https://www.adb.org/projects/documents/geo-42414-043-sddr-2>
5. Sustainable Urban Transport Investment Program Tranche 3: Updated Tbilisi Rustavi Highway Noise Assessment  
<https://www.adb.org/projects/documents/geo-42414-043-sddr-3>
6. Sustainable Urban Transport Investment Program Tranche 3: Proposed Targeted Consultations Methodology  
<https://www.adb.org/projects/documents/geo-42414-043-sddr-4>
7. Sustainable Urban Transport Investment Program Tranche 3: Consultations Report for Ponichala  
<https://www.adb.org/projects/documents/geo-42414-043-sddr-5>

<sup>2</sup> 2015. 'Investigation of Structural integrity of, and impact of vibration and noise on buildings at a segment of Tbilisi-Rustavi Road Project [section 2, km 5.2 -6.9]'. Nord Est Progetti Srl.

<sup>3</sup> Engineering procurement and construction management (EPCM) consultant (international); structural diagnosis of buildings, noise and vibration modeling consultant (international); highway engineer (individual consultant, international), social safeguards specialists (individual consultants, international and national); and building structure, and noise and vibration specialist (individual consultant, international) contracts are financed from SUTIP Tranche 1.

<sup>4</sup> LARP Part A covers PK 4+000 to PK 5+300 and PK 6+800 to PK 10+755, and LARP Part B covers PK 5+300 to PK 6+800 and includes the stretch of new road along apartment buildings in Ponichala District.

8. Translated Georgian summary versions of the noise, vibration, and river ecological reports are attached. Also, these documents were publicly disclosed in MDF's website in November 2017.

<http://mdf.org.ge/?site-lang=ka&site-path=documents/&id=358>

7. **Meetings with the Complainants.** Nearly 14 meetings have been held between the residences of 28a and MDF and ADB teams (**see Attachment 1 for summary**). These meeting include (i) individual household interviews; (ii) targeted focus group discussions; and (iii) open public consultations at locations close to the affected people. People were consulted on the anticipated impacts in relation to the construction and operation phases of the Project as well as on the challenges of their current day to day lives, and on potential mitigation measures identified during additional studies. As part of the preparation of the RAP following meeting were held with the complainants:

- (i) Individual household interviews: In building 28a, a total of 2 visually impaired people in 2 households were identified, and an additional 3 households were identified belonging to other categories of vulnerability, namely (a) poor people, having under 65,000 points based on Government of Georgia social security scoring system (1 household); (b) internally displaced persons (IDPs) and refugees (1 household); (c) female led households (1 household). The visually impaired and other vulnerable households were identified through: (a) door to door survey; (b) the list of visually impaired people provided by the Union of Blind; (c) list of vulnerable people provided by the chairpersons of the building. The visually impaired are facing both the river or the proposed road and the old road or the sides.
- (ii) Focus group discussions (FGD) with different categories of vulnerable people were organized in the Ponichala district during September 2017. Representatives of the building 28a were present in these FGDs. In order to ensure easy access and comfortable atmosphere for the representatives of the vulnerable population, FGDs took place in the building of the Cultural Center of Union of Blind in the middle of the district. In total, 5 FGDs were organized with the following vulnerable categories: poor people (under 65,000 points), visually impaired (two FGDs), IDPs/refugees/disabled, and female led households. All FGDs were moderated by the communication specialist. Facilitators acquainted the meeting participants with the preliminary outcomes of the individual household surveys, additional technical studies for noise and vibration, and study of the river ecology. Mitigation options recommended through these additional studies were discussed. Overall, some residents from 9 buildings are willing to be relocated, mainly because of perceived noise and vibration concerns. However, peoples' position on resettlement varies significantly. Individual household interviews with 65 visually impaired residents from 9 buildings show a considerable number (46%) of visually impaired households expressing reluctance to be resettled, as they perceive the process to be onerous and stressful. Only 15% wanted unconditional resettlement, while 19% said that only cancelling the project entirely would be an acceptable outcome. Nine percent (9%) of respondents withheld their opinion.
- (iii) **Open public consultations:** MDF and ADB conducted a series of open public meetings with residents of all 9 buildings between 17 and 20 November 2017. The residences of the 28a were present in these meetings. Two public meetings were held with the people from 9 buildings and one meeting held with representatives of






## Attachment 4



civil society organizations (CSOs). All technical studies were disclosed in advance. Full technical reports in English and summary reports in Georgian language were posted on MDF website on 10 November and 13 November 2017, respectively. The printed technical reports in both languages were shared with people ahead of the public meetings. The residents from all 9 buildings were invited to the public meetings in advance; those who were unavailable to join the meeting on 17 November 2017 were offered the opportunity to attend on 20 November 2017. A total of 67 people participated in the three open public meetings - 39 attending on 17 November 2017 and 28 on the two meetings on 20 November 2017, respectively. CSOs that attended the public meeting include: Union of Blind, Friends of Earth/Green Movement, REC-Caucasus, and Green Alternative. Transportation was provided by MDF to take residents to the venue of the public meetings and bring them back to Ponichala. During the public meetings, ADB and MDF presented key findings of all technical studies, including results of targeted consultations with the vulnerable people, and explained the proposed solutions to bring the project into full compliance with ADB policy (See Appendix 6 for all technical documents disclosed). The presentation was followed by extended discussions, where specific mitigation measures, monitoring requirements, and assurances were reviewed. The main concerns and questions raised by residents during both public meetings included: (i) exact distance of the proposed road and noise barriers/tunnel to the buildings; (ii) safety of the buildings and voluntary additions during the construction (e.g. use of heavy machinery, construction methods, extent of the road intrusion into the river); (iii) design of noise barriers and tunnel (e.g. height of barriers/tunnel, amount of light that buildings receive); (iv) improvements envisaged under the project for the visually impaired and the other groups of vulnerable people in Ponichala; (v) cost of the noise barriers and tunnel versus relocation of 9 buildings; (vi) compensation for inconveniencing residents, such as new windows, air conditioners, other forms of entitlements; (vii) special considerations in the project design for the visually impaired and other vulnerable people; and (viii) reinforcement of voluntary additions and balconies. Questions and answers are included in the minutes of the meetings. The possibility of conducting a series of follow-up meetings to address specific concerns was offered to participants.



## Consultation Meetings with the residents building #28a

## Tbilisi-Rustavi Urban Road Link Project




Date	Place of Meeting	Stakeholders	MDF Representatives	Discussed topic	Photos
2013 August 17,	MDF office	Representatives multistory Buildings resident of #28: Elkhan Bagirov, Iana Jariashvili, Zurab Dzidzikashvili, Davit Gelenidze and other	Paata Tcharakishvili – Giga Gvelesiani Revaz Gigilashvili – Alexander Dumbadze – Ana Rukhadze – Lela Shatirishvili Medgar Tchelidze –	<p>Discussion was held about the proposed project; residents were given information about the results of the preliminary environmental assessment, mitigation measures.</p> <p>A discussion followed the presentation. The meeting attendees asked questions of the project initiators and shared personal opinions and comments.</p> <p>Representatives of multistory Buildings were informed about environmental assessment and mitigation measures.</p>	
2015 September 15	MDF office	Representatives multistory Buildings Iana Jariashvili, Zurab Dzidzikashvili resident of #28 and other	David Tabidze, David Arsenashvili, Nino Nadashvili, Tengiz Lakerbaia, Paata Iakobashvili, Elguja Kvanchilashvili	<p>The outcome of the studies. The structural integrity of the apartment houses.</p> <p>The residents expressed their positive attitude that boulevard will be arranged in an ecologically acceptable manner. They liked presented design concept of boulevard and agree</p>	

				that it will be environmentally friendly and safe for population.	
February 10 2016	Office member of the parliament	multistory buildings representatives	David Tabidze, Giga Gvelesiani, David Arsenashvili	<p>The member of the parliament invited the residents of the houses and multistory buildings located along or nearby the project road and MDF.</p> <p>representative of MDF presented the details on the road section on Phonichala, including urban boulevard concept, noise barriers and other project features, as well as presented the photos demonstrating three-dimensional view of the road.</p>	
2017  August 1	Phonichala	Visually Impaired People including from Building 28a	Eka Lomsarudze, David Arsenashvili, Giga Gvelesiani, Elguja kvanchilashvili, irakli kaviladze, Nurzhana Dzhumabaev	The individual interviews with visually impaired inhabitants of 9 buildings commenced on May 29th, 2017, using the questionnaire agreed between ADB and MDF. The information regarding all visually impaired inhabitants of the nine buildings was obtained from the Union of Blind, local authorities and door to door survey.	
2017 September 19	Phonichala	Identified Vulnerable Households including from Building 28a	Eka Lomsarudze, David Arsenashvili, Giga Gvelesiani, Elguja kvanchilashvili, irakli kaviladze, Nurzhana Dzhumabaev	During the individual interviews, apart from the visually impaired, the following categories of vulnerable people were identified and consulted within each building and are referred to as "other vulnerable people":	




				<ul style="list-style-type: none"> <li>-Internally displaced people;</li> <li>-Disabled and seriously ill people;</li> <li>-Poor Households;</li> <li>-Female headed households (these are either single mothers or females living alone)</li> </ul>	
2017 26 September	Phonichala	Targeted Focus Group Discussions  Poor people  Building 28a	Eka Lomsarudze, , Giga Gvelesiani, Elguja kvanchilashvili, Nurzhana Dzhumabaev Duncan Lung	<p>Focus group discussions (FGDs) with different categories of vulnerable people were organized in Ponichala district. In order to ensure easy access and a comfortable atmosphere for the participants, these discussions took place in the building of the cultural center of the Union of Blind, situated in the middle of the district and within ready walking distance of all the concerned buildings.</p> 	
2017 28 September	Phonichala	Targeted Focus Group Discussions  Single mother/IDP  Building 28a	Eka Lomsarudze, Giga Gvelesiani, Elguja kvanchilashvili, Nurzhana Dzhumabaev Duncan Lung	<p>The Focus group discussions were moderated by the communications specialist. The ADB representatives acquainted the meeting participants with the preliminary outcomes of the technical studies of noise, vibration and river ecology, and also presented some results from the individual household surveys as a starting point for discussions. Some potential mitigation measures were presented and discussed.</p> 	


2017 November 17	The building of Krtsanisi District governmenta l Entity Gamgeoba)	39 representatives of multistory building including representatives building 28a	Mookiah Thiruchelvam, David Tabidze, Elguja Kvanchilashvili and other.	<p>open public meeting with the residents of 9 buildings from Ponichala.</p> <p>The purpose of the meeting was to present key findings of all technical studies (vibration, noise, river ecology, and targeted consultations with vulnerable people), discuss the proposed solution to bring the project back to compliance and hear people's concerns and suggestions. A total of 39 residents from different buildings in Ponichala attended</p>	 
2017 November 20 <sup>1</sup>	MDF office	Representatives of multistory Building	Mookiah Thiruchelvam, David Tabidze, Elguja Kvanchilashvili and other	<p>The participants of the public consultations asked questions with regard to the age of the buildings (more than 50 years), heavy machinery and its influence on the buildings, cost and technical parameters of the sound barriers, types of consultations arranged for the vulnerable residents of the 9 buildings, methodologies and practices used during involuntary resettlement etc.</p>	



February 6, 2018	Ponichala Settlement	Representatives of Building 28 A Jemal Saprikini and other community members of the building	Resettlement Consultant Mr. David Arsenashvili	<p>Questions raised from community concerned future construction activities and other ongoing issue.</p> <p>Mr. David Arsenashvili gave comprehensive explanation of ongoing issues. Meeting was informative and community members were satisfied.</p>	
April 25, 2018	Ponichala Settlement	Representatives of Building 28a Chikhiashvili Laura, Davitashvili Ketevan and other community members of the building	Head of Environmental and Resettlement Unit. Mr. Guja Kvanchilashvili Communication Consultant Mrs. Nino Paatashvili and Resettlement Consultant Mr. David Arsenashvili	<p>Detailed discussion regarding the Remedial Action Plan activities and CRP final solutions; Based on community's interest, particular attention was paid to reinforcement activities and vibration monitoring issues</p> <p>All stakeholder questions was answered from MDF side Meeting was very informative and detail oriented</p>	
On May 18, 2018	Ponichala Settlement	Representatives of Phonichala multistory Buildings (community) Gulnara Abuladze Tsiala Sigua Dali Vepkhvadze Luka Melashvili Natia Bitskinashvili Manana Panchulaia Jemal saprikin	Head of Environmental and Resettlement Unit Mr. Guja Kvanchilashvili Communication Consultant Mrs. Nino Paatashvili and Resettlement Consultant Mr. David Arsenashvili	<p>The aim of the meeting was to introduce to the building communities, the planned road construction activities. Stakeholders were informed that, construction activities will start at section km 5+840 – 6+640, which is located in the industrial zone, between the buildings 16 a/b and 28 a, from a distance of 120 m from each building. (distance from above mentioned buildings to existing road is about 70 m.). Traffic Management plan was prepared</p>	



				<p>for this section and introduced to the community</p> <p>Community received the information, but despite the several explanations from MDF side, some of the communities, particularly from building 12 vg and 16ab, were still skeptical regarding planned working activities, since, as they stated, resettlement and compensation issues were more essential for them.</p>	
26 June, 2018	Ponichala Settlement	Meeting with representatives 28 ab building: Saprikini, Davitashvili, Bejashvili and others	<p>First Deputy Executive Director Mr. Juansher Burchuladze</p> <p>Head of Environmental Resettlement Unit Mr. Guja Kvanchilashvili and Irakli Licheli Lawyer</p>	<p>Tbilisi-Rustavi Urban Transport Remedial Action Plan activities where during the CRP final solutions; Based on community's interest, particular attention was paid to reinforcement activities, vibration monitoring issues and resettlement.</p> <p>During the meeting was also planned filed visit in Ponichala settlement on 28 June 2018.</p> <p>Community was satisfied with an information received from MDF side</p>	 

28 June, 2018	Ponichala Settlement	Meeting with representatives 28 a building: Saprikini, Davitashvili. Bejashvili and others	<p>Deputy Head of the Executive Director Mr. Juansher Burchuladze</p> <p>Deputy Head of the Executive Director Mr. Ilia kevlishvili</p> <p>Head of Construction Supervision Unit Levan Sukhitashvili</p> <p>SUTIP Project Manager Beka Toria and Head of Environmental and Resettlement Unit Guja Kvanchilashvili</p>	<p>During the field visit discussion was on remedial action plan activities including reinforcement;</p> <p>Question also raised on resettlement issue from the community side;</p>	 
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Attachment 5

Location Map and Schematics:

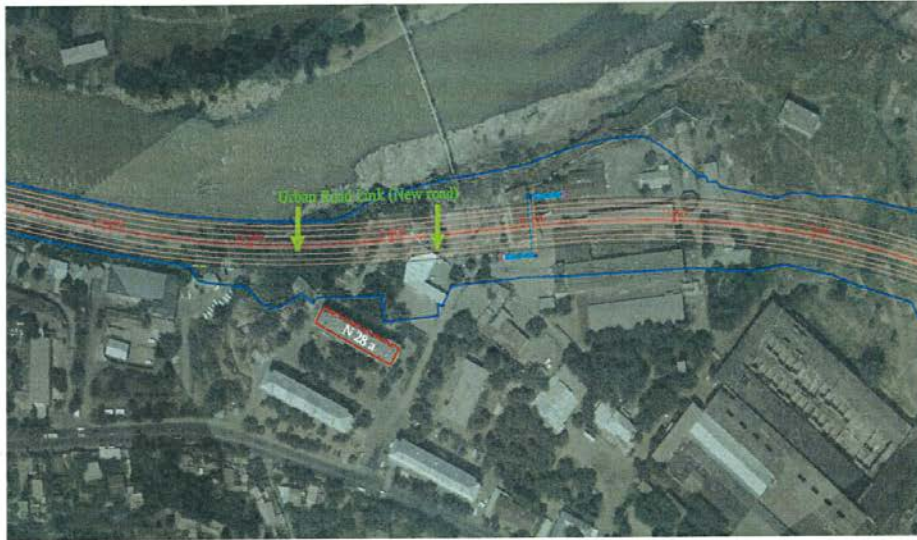
Complainant's building, Pictures of existing situation, Cross Sections, Vibration outputs and Summary of consultations

A. Project (Alignment Drawing, 1:1000)



### B. Existing Situation

Note: The green arrow shows the road alignment relative to the building



Note: The green arrow shows the building where the complainant lives





Note: The green arrow shows the building where the complainant lives



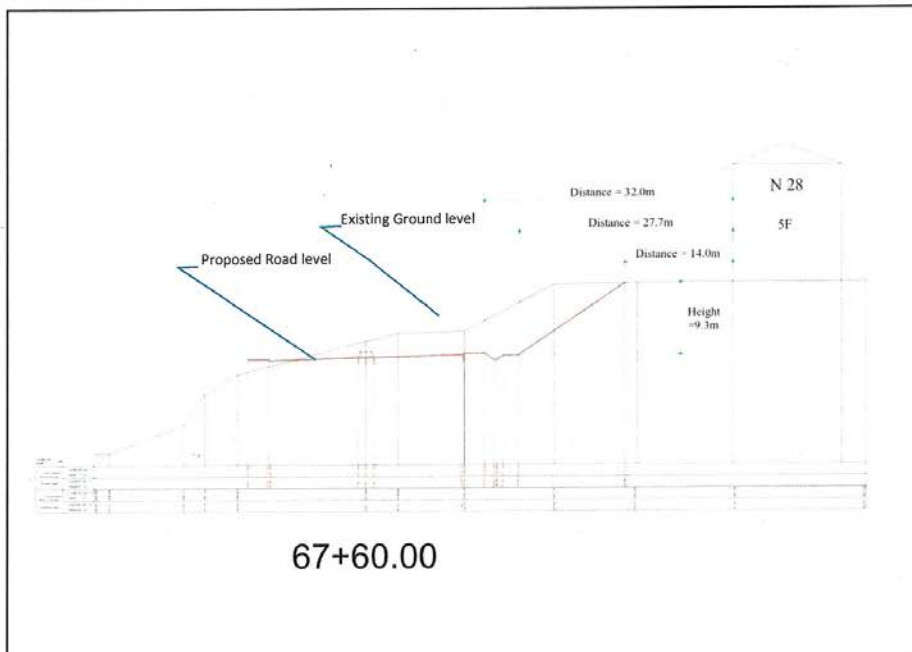


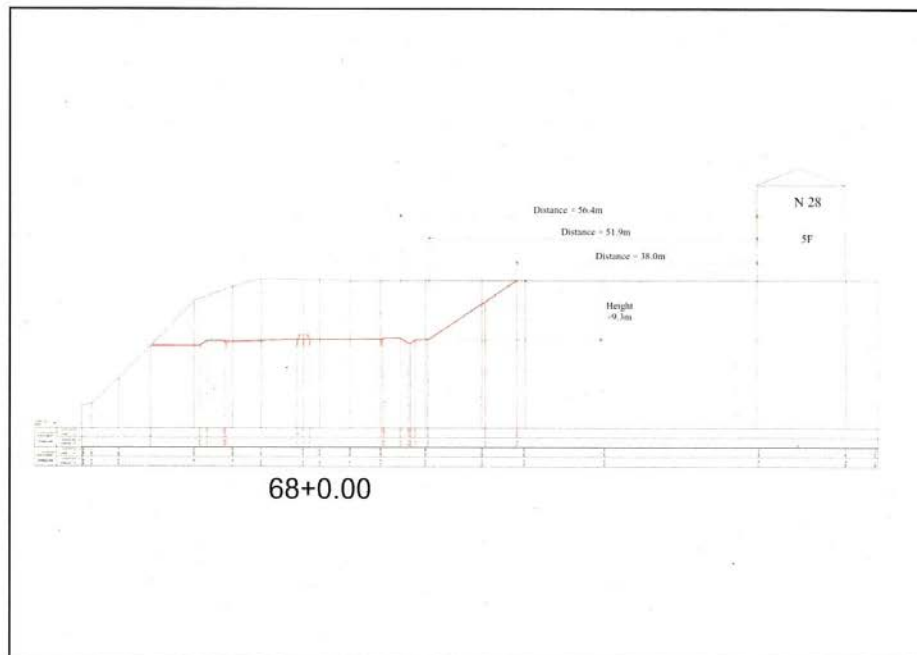
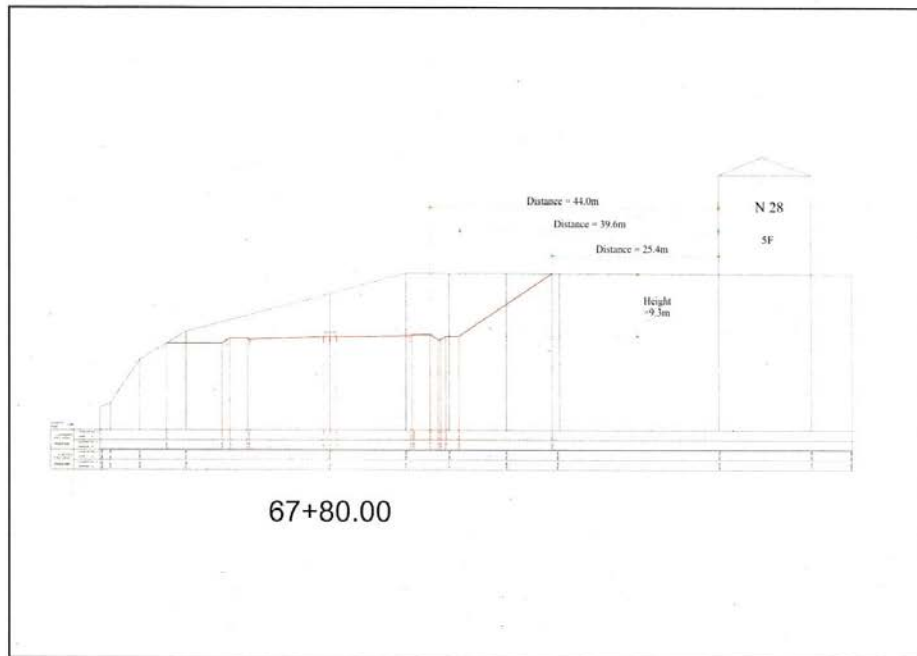
### C. Proposed Road and Cross sections

Note: Proposed Road and Features near to 28 A

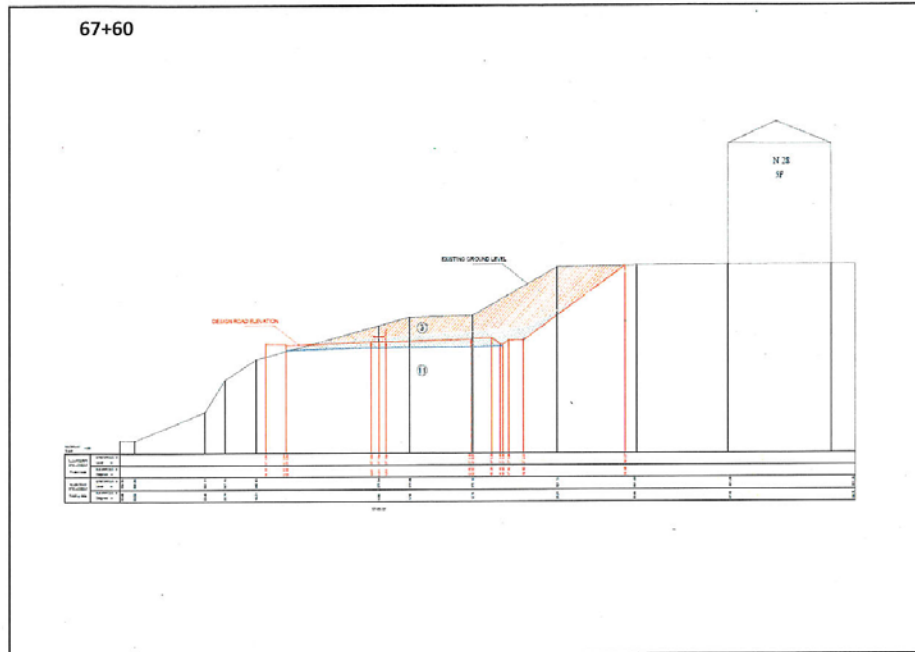


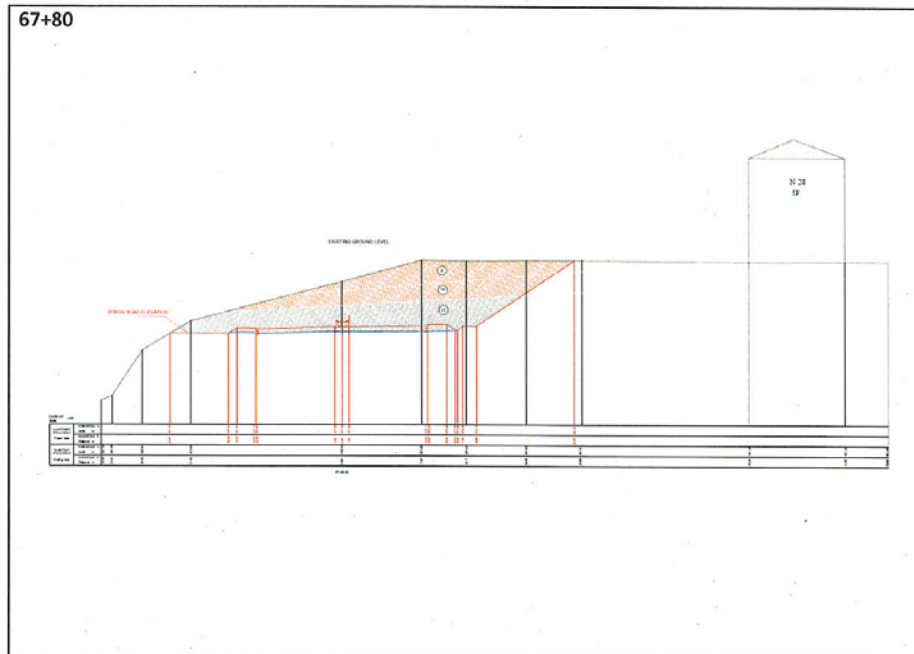
Note: Cross Sections

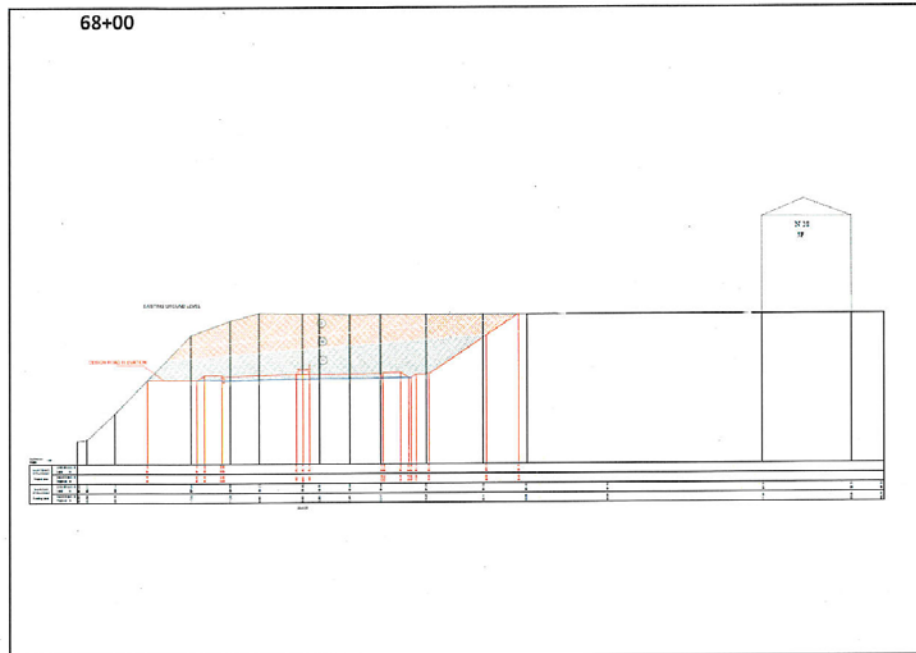




Note: Cross Sections with Soil Data









## Quantity Calculation Sheet

PK	M <sup>2</sup>	Average Cut( 3),(10)	Lenght	M <sup>3</sup>
67+60	107.3 (3)			
		144.6	20	2892
67+80	181.92 (3.10)			
		205.16	20	4103.2
68+00	228.4 (3.10)			
				6995.2

PK	M <sup>2</sup>	Cut(11) Average	Lenght	M <sup>3</sup>
67+60	48.35			
		107.625	20	2152.5
67+80	166.9			
		189.525	20	3790.5
68+00	212.15			
				5943

Symbol and Geological Index		Layer No.	Description (according to the BS)
Genotype	tQ <sub>rv</sub>	3	Slightly moist, slightly sandy, angular GRAVEL with low plastic sandy clay matrix, with angular boulders inclusions, with construction debris content
Marine Sedimentary	Pg <sub>2</sub>	10	Highly and moderately weathered, yellowish-brown, weak and moderately weak SANDSTONE and ARGILLITE
	Pg <sub>2</sub>	11	Slightly weathered, brownish-gray and greenish-gray; moderately strong to strong, medium and thickly bedded, polymictic and tuffaceous SANDSTONE

**ASSESSMENT ON EXCLUSION OF COMPLAINT**  
*(per paragraphs 142 and 148 of the ADB Accountability Mechanism Policy)*

Exclusions	Complaint excluded?
Exclusions per para. 142: Complaints are excluded if they are	
(i) about actions that are not related to ADB's action or omission in the course of formulating, processing, or implementing ADB-assisted projects;	No
(ii) about matters that complainants have not made good faith efforts to address with the operations department concerned;	No
(iii) about matters already considered by the SPF, unless the complainants have new evidence previously not available to them and unless the subsequent complaint can be readily consolidated with the earlier complaint;	No. Complaint was deemed ineligible by SPF per para. 143 of the Accountability Mechanism Policy.
(iv) about an ADB-assisted project for which 2 or more years have passed since the loan or grant closing date;	No
(v) frivolous, malicious, trivial, or generated to gain competitive advantage;	No
(vi) about decisions made by ADB, the borrower or executing agency, or the private sector client on the procurement of goods and services, including consulting services;	No
(vii) about allegations of fraud or corruption in ADB-assisted projects or by ADB staff; (viii) about the adequacy or suitability of ADB's existing policies and procedures;	No
(ix) within the jurisdiction of ADB's Appeals Committee or ADB's Administrative Tribunal, or relate to ADB personnel matters; and/or	No
(x) about ADB's non-operational housekeeping matters, such as finance and administration.	No
Additional exclusions for compliance review per para. 148:	
(i) complaints relating to actions that are the responsibility of other parties, such as a borrower, executing agency, or potential borrower, unless the conduct of these other parties is directly relevant to an assessment of ADB's compliance with its operational policies and procedures;	No
(ii) complaints that do not involve ADB's noncompliance with its operational policies and procedures;	No
(iii) complaints being dealt with by the SPF up to the completion of step 3 under the problem solving function (paras. 164–173);	No
(iv) complaints relating to the laws, policies, and regulations of the DMC government concerned unless they directly relate to ADB's compliance with its operational policies and procedures; and/or	No

(v) complaints about matters already considered by the CRP, unless the complainants have new evidence previously not available to them and unless the subsequent complaint can be readily consolidated with the earlier complaint.	No. New evidence was presented.
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