Guidance note

Resettlement and livelihoods

September 2015

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Resettlement and livelihoods guidance

This document offers guidance on resettlement in keeping with Rio Tinto’s Communities and Social Performance standard. The purpose of this document is to provide guidance on the nature and purpose of resettlement, in particular: what constitutes resettlement; the key principles of successful resettlement; the risks of poor resettlement; and the key components of a Resettlement Action Plan (RAP). This guidance is steered by the principles and content of the IFC Performance Standard 5 on Land Acquisition and Involuntary Resettlement (IFC PS 5), which provides greater detail. In summary, resettled households must be at least as well off and never worse off after the resettlement than they were before.

1. Why is it important to get resettlement right?

The resettlement of communities and people can have significant adverse impacts on their livelihoods, social cohesion and harmony, and future life. Resettlement is a significant disruption to the impacted people’s lives, with potential for long-term negative consequences. Experience indicates that resettlement also poses significant reputational, financial and community relations risks to Rio Tinto. Long-term operations entail long-term relationships, and resettlement programs, if not adequately designed and executed can create intergenerational risks. These risks have every potential to be class 4, so resettlement programs require both the attention and support of the operation at multiple levels and over years and even decades. Experience indicates that comprehensive planning, guided by best practice guidelines, can alleviate these risks.

Resettlement is complex. Success depends, in part, on getting the details right, including; negotiation with every household; compensation payments made on time; and complaints resolved in a timely manner. This requires resources and adherence to administrative processes. Success in resettlement also comes from an awareness of the “human effects” of the process. It can be very stressful and emotional for people as they come to terms with leaving land and households, and uncertainty over their future. Employees and communities practitioners can also experience stress as they deal with communities under stress and internal pressures to complete the resettlement. Resettlement planning and execution may be further complicated if they are required to be led by governments where there may be inconsistencies between government policies and the international standards Rio Tinto seeks to uphold. Most importantly, resettlement should only be undertaken with the direct involvement of competent professionals who have on-ground and project management experience in resettlement.

The UN Declaration of Human Rights states that all persons have a right to viable livelihoods, an issue that often arises in relation to physical and economic resettlement. Other internationally recognised human rights, including the right to education, the right to clean drinking water and sanitation, freedom of movement and the right to food may also come into play in a resettlement situation. There is evidence that resettlement impacts can reach, or be perceived to reach the level of human rights impacts. As such, the human rights implications of resettlement need to be fully understood, and scrutiny by third party stakeholders, including leading NGOs is to be expected.

Overall, resettlement carries significant risks for the Group, not just the individual business. Therefore, resettlement plans must be reviewed and signed-off in writing by the global practice leader Communities and Social Performance and the relevant Product Group chief executive.
2. **What constitutes resettlement?**

Resettlement occurs as a result of project-related land acquisition, permanent or temporary, and restrictions on community use of land and associated natural and customary resources. The disruption or displacement can be physical and/or economic, and voluntary or involuntary.

**Voluntary resettlement** occurs when communities accept displacement of their own free choice. This implies there is an option not to be resettled. There is also an implication that the communities concerned have a comprehensive understanding of the possible consequences of resettlement. To be considered voluntary, formal proof of these conditions is required.

Resettlement is considered **involuntary** when “affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in physical or economic displacement” (IFC PS #5, 2012, p.1). This includes cases where land is expropriated or its use is restricted under legal permit. Wherever possible Rio Tinto should only acquire land through negotiated settlement, as opposed to expropriation.

The IFC defines **physical displacement** as the “relocation or loss of shelter” (ie: physical residence) and **economic displacement** as the “loss of assets or access to assets” associated with income source or means of livelihood (IFC PS5, 2012, p. 1). Economic displacement can be both permanent (eg: when arable land is acquired for the permanent placement of project infrastructure) and temporary (eg: when crops are damaged during exploration activities). Physical and economic displacement can occur together or separately (eg: when a project impacts on productive land bordering a settlement, but does not affect people’s residences).

3. **Key principles of successful resettlement**

Resettlement should always be considered as a high impact event for affected persons. Success requires the attention and understanding of the whole of the site team, the CSP function alone cannot ensure success. The extent and duration of resettlement impacts can be reduced through the careful and consistent application of a number of core principles. (IFC, 2012):

**Avoid or minimise**
- Avoid or minimise the displacement of people through the careful consideration of alternative project designs.
- To the greatest extent possible avoid evicting people, even if there is a legal permit to do so.

**Livelihoods and living standards**

The Rio Tinto Communities and Social Performance standard requires businesses to ensure that resettled people, families and communities and their immediate neighbours maintain their social harmony and have their standard of living and livelihood sustainably restored or improved over the long term as a result of resettlement. To meet this requirement the following things should be undertaken;

- Provision of security of tenure over new land and housing.
- A detailed livelihood census of the community to be resettled and host communities is conducted prior to resettlement. Livelihood improvement programmes are agreed with resettled and host communities prior to resettlement.

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1 Security of tenure means that resettled individuals or communities are resettled to a site that they can legally occupy and where they are protected from the risk of eviction (IFC 2012)
• Real time monitoring of livelihood activities and production during the resettlement period to ensure no income/production/food security gap emerges.
• After resettlement, livelihood monitoring by independent experts occurs for a minimum of five years. The monitoring programme should be both quantitative (measurable outcome/impact indicators) and qualitative (opinion/satisfaction surveys). The frequency of monitoring activities and the measurement indicators will be driven by the local context (e.g., annual agricultural production), however annual data collection and analysis should be conducted at a minimum. A detailed monitoring and evaluation plan is a key component of the RAP.

Eligibility
• Make sure that all displaced persons receive compensation, regardless of their formal land tenure status or otherwise, excluding people who stay on the land after a suitably publicised cut-off date (to be determined in accordance with local legislation and not always applicable).
• Displaced people are not a homogenous entity. Where applicable, develop different categories of compensation for different categories of impacted people, in accordance with local legislation and consenting authorities. Give particular attention to vulnerable groups who may feel the impacts of resettlement more severely than others.
• Include the host communities (communities to which displaced people are relocated) in the resettlement planning.

Consultation and engagement
• Both the displaced people and the host community should be engaged before, during and after resettlement occurs. Relevant and adequate information needs to be provided ahead of time so that people can participate in an informed manner. Engagement should be inclusive (sensitive to gender roles and to vulnerable groups), accessible (communication adapted to the language and literacy levels of the target audience), and culturally appropriate.
• Provide displaced people with a choice of resettlement options, in accordance with local legislation and consenting authorities.
• Make sure that an effective complaint, disputes and grievance process is in place as early as possible in the resettlement process. Where possible and practical, this should be integrated with existing operational and/or CSP processes. The resettlement programme’s grievance mechanism should be compliant with the effectiveness criteria for non-judicial grievance mechanisms set out in the U.N.’s Guiding Principles on Businesses and Human Rights (see Community complaints, disputes and grievance guidance)
• A resettlement negotiation process must culminate in an agreement with the affected communities, government and host communities, wherein the respective roles, responsibilities, obligations and commitments are clearly described.

Compensation
• It is essential that internal approvals and alignment are secured and maintained through a project Steerco of senior leadership for all compensation principles and schedules: consistency in the delivery of compensation is crucial. Compensation is a commitment and a responsibility of the whole business, the CSP function ensures the interface with the project and business team(s) necessary to effectively execute agreed compensation programs.
• Provide just and fair compensation for all lost assets, at full replacement cost (See Compensation and benefits for land access guidance). At a minimum, the compensation should recognise local legislation requirements and enable the affected households to fully restore their standard of living and their income-earning capacity to pre-resettlement levels. Wherever possible, in kind compensation should be provided instead of cash compensation (e.g.: like for like replacement of land and buildings). If households earn their living off the
land, preference should be given to land-based compensation. For those whose livelihoods depend on natural resources, continued access to those resources should be provided for, or alternative resources that will provide the same amount of income or livelihood-earning potential. It is important to realize that household livelihood strategies are multi-faceted and may depend on both urban and agrarian activities, formal and informal sector participation, and are shared between generations and genders within a household.

- The affected people should receive all or a significant proportion of compensation for their assets and be resettled before work begins on the acquired land. In some instances, it will be appropriate to pay compensation at regular intervals for the life of the project, recognising that resettled people may be unfamiliar with large amounts of cash and/or regard the compensation as ‘rent’ for on-going use of land. In all cases, compensation packages and payments need to be clearly documented and signed by all relevant parties in the appropriate language (see Guidance compensation for land access and livelihoods).

- Support should also be provided for the period of time it takes for the affected persons to re-establish their livelihoods in their new location.

### Resettlement planning and responsibility

- A Resettlement Action Plan (RAP) should be sufficiently comprehensive that all resettlement impacts are managed and monitored. Note: In most jurisdictions the implementation of the environment and social impact assessment (ESIA – see Projects ESIA guidance) process will need to be integrated with the RAP development and implementation. Expert consultant advice is recommended.

- Rio Tinto should consider itself responsible for the resettlement process, even when it is government-run. Working alongside the relevant government authorities and highlighting Rio Tinto’s approach and expectations regarding resettlement outcomes is particularly important when government capacity is limited and/or the national resettlement legislation lags behind international best practice (as captured within IFC PS 5).  

### Internal processes

Resettlement is hard to get right not only because of the risks and complexities involved with moving people from their homes and lands, successful resettlement also requires a number of internal processes to be implemented successfully.

In order to make land available, resettlement needs to be completed well ahead of construction activities. To reduce stress on communities and project teams, ideally resettlement will remain off the critical path, though this can be difficult to achieve. The problem is that the project’s land disturbance area or final project footprint is often not fixed until the end of feasibility, which leaves too little time for the long lead process of resettlement planning and implementation. The following sequence needs to be followed:

- PFS-A: data acquisition and baseline surveys
- PFS-B: development of the Resettlement Action Plan (RAP)
- FS: implementation of the RAP.

In order to achieve this challenging objective a high degree of integration, between CSP and engineering / design teams, is required. Failure to coordinate project planning and decision-making on design options can result in a number of problems, most of which will pose a risk to costs and schedule, and to the potential for a successful resettlement program. (See CSP Roadmap for Projects, for more information)

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2 See the joint Oxfam, IMC CSRM, University of Queensland report - Mining, resettlement and lost livelihoods
Listening to the voices of resettled communities in Mualadzi, Mozambique – for more information about the challenges in this area.
The Communities and Social Performance and project team needs to be resourced adequately, particularly during prefeasibility and feasibility. The implementation of the RAP during feasibility entails activities such as replacement land acquisition, negotiated settlements, the construction of houses and social infrastructure, the physical relocation of households, etc. The Communities and Social Performance team will require both human and financial resources to manage data, administration and records, and a field team accountable for engagement and negotiations with affected persons. Consultants will be required for both planning and specific technical implementation tasks.

Given resettlement requires detailed, household-by-household census of livelihoods, land and assets, projects are advised to implement a database that:

- holds all documents, records, agreements and data for the life of project and life of the operation. The memories of the resettled communities are longer than those of the business;
- records all commitments and promises, and flags due dates for payments
- records payments, details on how payments were calculated and evidence of the payments being made; and,
- supports long-term (5 to 10 years) monitoring, in order to demonstrate livelihood improvement over time.

(see Compensation and benefits for land access guidance)

Detailed cultural heritage surveys should be done ahead of resettlement. Management of cultural heritage features, such as graves, monuments or ethnographic sites should be included in the RAP.

Implementation of the RAP is not simply completing a checklist of requirements, rather it is a commitment to an ongoing process that ensures stated outcomes are achieved with the support of those impacted.

4. **Risks of poor resettlement planning**

Involuntary resettlement poses a number of risks to the displaced people and to Rio Tinto.

**Risks to Rio Tinto**

A poorly managed resettlement process can have far-reaching implications for a project and Rio Tinto:

- Damage to Rio Tinto’s relationships with its communities, generating disputes and grievances that may take years and significant resources and effort to resolve
- Dissatisfied stakeholders/communities may obstruct or delay future Rio Tinto projects.
- Local, national and international reputational risks.
- Financial costs for legal proceedings and protracted negotiations with aggrieved communities.
- Delays to project implementation.
- Conflict has the potential of increasing costs in the long-term
- Scrutiny and criticism by Human Rights groups seeking to advocate for resettled communities.

**Risks to displaced persons/communities**

In the absence of proper resettlement planning, the risks to displaced people include, but are not limited to:

- Long-term hardship and impoverishment of the affected communities, households and individuals.
- Loss of community cohesion and harmony due to the disruption or splitting up of communities and the associated loss of social support networks.
• Community **conflict and division** due to in-fighting over resettlement benefits.
• **Loss of** formal and informal sources of **livelihood**.
• **Influx of job-seekers** into host communities,
• **Loss of access to cultural sites** including graves.
• **Squandering of cash compensation** payments with resultant impoverishment.
• Psychological **depression and associated social ills** due to the emotional impact of resettlement.

Mitigation strategies must recognise the multi-year nature of the risks above, especially in relation to livelihood restoration activities.

Vulnerable groups, including minorities, historically disadvantaged, children, the elderly, women and indigenous peoples may feel these risks most acutely. Avoiding risk requires comprehensive and integrated planning, and disciplined implementation according to the letter of the Resettlement Action Plan.

**Advantages of a well-planned and well-executed resettlement**

- Resettlement risks can be transformed into opportunities for improving the living standards and livelihoods of affected communities.
- The above outcome can improve the social stability and sustainability of surrounding communities, and assist in reducing community dependence on Rio Tinto.
- Improved relationships and levels of trust with local communities, government and other stakeholders.
- Improved employee relations, especially when employees are drawn from the surrounding communities.
- A partnership and capacity building opportunity with government and development agencies, which can have benefits for other on-going operations.
- Enhanced positive corporate reputation.
- Increased confidence in completing project execution on time and on budget.

5. **Developing a Resettlement Action Plan**

A Resettlement Action Plan (RAP) seeks to identify and manage the impacts and risks associated with a resettlement. A comprehensive RAP requires consideration and documentation of a number of key elements:

- project impacts and affected populations;
- the legal framework for land acquisition and compensation;
- a compensation framework, which details which groups of affected people are entitled to which forms of compensation;
- a description of resettlement assistance and livelihood restoration activities;
- a detailed budget;
- an implementation schedule, which details a critical path timeline and key milestones;
- a description of organisational responsibilities for the different aspects of a resettlement;
- a framework for stakeholder engagement and development planning;
- a description of the procedures for addressing complaints, disputes and grievances; and
- a framework for monitoring, evaluation and reporting, with provision for corrective actions to address issues as they arise.

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The RAP should be completed prior to the actual relocation of affected people, and implementation should only be considered complete once all negative impacts of resettlement have been addressed. Although expert advice and consultants may be enlisted in the development and execution of the RAP, it is essential that resettlement not be outsourced, nor too much reliance placed on external "experts". The whole of the project and operation must assume long-term ownership for the business, including the process and outcomes of the resettlement program. The negative consequences of a poorly designed or executed RAP accrue to the business, not to the content specialists who aid in its development. For this reason, Rio Tinto makes reference to work within the Group for advice on good practice and lessons learned.

Most of the critical resettlement planning tasks need to be completed during the prefeasibility and feasibility phases. Care is required to not over-emphasize the technical and logistical aspects of the RAP at the expense of the personal and community relations elements. Community and stakeholder engagement and relationship maintenance is fundamental to successful resettlement.

There may be situations when it is not possible to develop a fully-fledged RAP (eg, if the exact nature or extent of the land acquisition is unknown). In such cases, it is best to develop a high level planning document (referred to by the IFC as a Resettlement or Livelihood Restoration Framework). This outlines the general principles of the intended resettlement process and provides a helpful initial planning tool until the information required to complete the RAP becomes available.
Definitions

(Adapted from the IFC’s Handbook for Preparing a Resettlement Action Plan, 2002.)

**Affected person/people or affected community:** any community or person who can no longer use, own or benefit from a built structure, from land (residential, agricultural, or pasture), from annual or perennial crops and trees, or from any other fixed or moveable asset because of a project’s implementation. This loss may be in full, or in part, and may be temporary or permanent.

**Compensation** - payments made by those causing specified and agreed loss to those who suffer the impairment of access to land, waters and other critical natural resources or livelihoods, or damage to, or destruction of, community members’ individual or collective assets of any kind, whether accidental or planned. For further information, see the Rio Tinto Compensation and benefits for land access guidance.

**Cut-off date:** This is the date when the census and the inventory of assets of the people affected by the project are completed. People occupying the project area after the cut-off date are not eligible for compensation and/or resettlement assistance. In the same way, fixed assets (like built structures, crops, fruit trees and woodlots) that appear after this date, or an alternative mutually agreed on date, will not be compensated.

**Economic displacement:** Economic displacement occurs when people’s means of earning an income is lost because of the construction or operation of a project. This includes situations where people lose their access to resources (land, water, forest or markets) that they depend upon for their livelihood.

**Eminent domain** in the USA is an action of the state to seize private property, expropriate property, or seize a citizen's rights in property with due monetary compensation, but without the owner's consent. The property is taken either for government use or by delegation to third parties who will devote it to public or civic use or, in some cases, economic development. Elsewhere, the doctrine is known by other names, such as compulsory purchase (UK, NZ, Ireland), resumption/compulsory acquisition (Australia), or expropriation (South Africa and Canada).

**Host community/population:** Host communities are those who receive project-affected, resettled people either on their land or in their geographical and economic area of influence/jurisdiction.

**Indigenous:** refers to people, communities and nations who claim a historical continuity and cultural affinity with societies endemic to their original territories, which developed prior to exposure to colonisation or formation of a nation state. Indigenous communities can be referred to in many ways (such as tribal, aboriginal, first nation and, most correctly, by the name they ascribe to themselves in their own language) and usually consider themselves distinct from mainstream society with whom they contest their cultural sovereignty and rights of self-determination. Their strong customary affiliation to ancestral lands and waters is where major conflicts can occur with resource developers.

**Involuntary resettlement:** Resettlement is involuntary when people are not given a choice in the matter and/or if they are compelled to agree to resettlement under governmental compulsory acquisition and the doctrine of ‘eminent domain’.
**Land acquisition:** A company can acquire land by purchasing the land or by gaining the right to access that piece of property (e.g., through easements or rights of way). If this is undertaken in an open market on a willing-seller/willing-buyer basis it is not considered resettlement.

**Land expropriation:** This process dispossesses a person, household or community of their land. It is usually done by a public authority and may be in return for compensation.

**Livelihood** - the occupational activities associated with the maintenance of material life. In industrial society livelihoods are typically associated with formal employment and cash remuneration; in other societies livelihood can be dependent on subsistence hunting and gathering, arable farming and animal husbandry. Hybrid livelihoods are common, relying on a mixture of occupational elements, including the cash economy.

**Physical displacement:** This occurs when people have to move to another location because a project acquired the land where they lived. It entails the loss of shelter and associated assets.

**Replacement cost:** In the absence of in-kind recompense, when calculating the compensation amount, lost assets must be calculated at full replacement cost. This is the deemed market value of the assets plus transaction costs.

**Resettlement Action Plan (RAP):** The document in which a company specifies the resettlement procedures that it will follow and the actions that it will take.

**Resettlement assistance:** Support provided to people who are physically displaced by a project. Assistance may include transportation, food, shelter and social services that are provided to affected people during their relocation. Assistance and/or money that is paid to cover transition expenses (e.g., moving costs and lost work days) is also considered part of this.

**Vulnerable groups:** These are people who are potentially more negatively impacted by resettlement than others because of their gender, ethnicity, age, physical or mental disability, or historical, economic or social status. These people have the same rights to resettlement assistance as other persons, but may need additional help to access the assistance.
References

Rio Tinto The way we work
Rio Tinto Communities and Social Performance standard
Rio Tinto Communities and Social Performance planning guidance
Rio Tinto Community complaints, disputes and grievances guidance
Rio Tinto Community consultation and engagement guidance
Rio Tinto Community initiatives and activities guidance
Rio Tinto Compensation and benefits for land access guidance
Rio Tinto Cultural heritage management guidance
Rio Tinto Social risk analysis guidance
Rio Tinto Social and economic knowledge base guidance
Rio Tinto Human rights policy and guidance
Rio Tinto Projects Environment and social impact assessment guidance
Rio Tinto CSP Roadmap for Projects
Why gender matters: A resource guide for integrating gender considerations into Communities work at Rio Tinto
Why cultural heritage matters: A resource guide for integrating cultural heritage management into Communities work at Rio Tinto
Why human rights matter: A resource guide for integrating human rights into Communities and Social Performance work at Rio Tinto

External references

The following external references provide useful additional information on the resettlement process:


