

Social Impact Assessment Study for Land Acquisition at Bantony Castle Up Mohal Kali Bari, Tehsil Shimla (Urban), District Shimla

[Under HP Right to Fair Compensation and
Transparency in Land Acquisition,
Rehabilitation and Resettlement (Social Impact
Assessment and Consent) Rules, 2015]

(Clear, concise and accessible copy of final report)



Prepared by



PLAN Foundation

(Social Impact Assessment Partner & Practitioner)

Broadway Enclave, Sanjauli, Shimla (H.P.)-171006

Phn: 0177-2841204, 91290-57008, 7827826665

www.planfoundation.org

Submitted to

Social Impact Assessment Unit (SIAU)

HIPA, Fairlawns Shimla (H.P.)-171012

November, 2016



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1 Executive Summary

1.1 Project and Public Purpose

The Government through the Department of Language and Culture (GoHP) intends to acquire Bantony Castle Estate, Up-Mohal Kali Bari, and Tehsil Shimla (Urban) District Shimla measures 3874-39 sq. meters (5-3) Bighas, comprising of Khasra Nos. 886, 887, 888,889, 890, 891, 892,893, 894, 895, 896, 897 and 898 to be acquired by the Language and Culture department of the state government with the objective of setting up of Urban Museum for the use of General Public for promotion of Art & Tourism in the State besides conservation and preservation of Heritage properties of the state for posterity and which will also be helpful in creating a larger awareness among the society.

1.2 Location

The land at the Bantony Castle, Up Mohal Kali Bari, Tehsil Shimla (Urban) District Shimla, has been selected for this purpose. The castle is located at 39° 06' 22.3" N latitude & 73° 10' 10.31" E longitude. It stands as one of the premium properties of Shimla, i.e. the core mall road between Scandal Point and Kali Bari Temple. The estate shares its western boundary with the Grand Hotel which is also one of the historically important buildings to Shimla and was built during the British Era. About 250 m from Bantony is situated the famous Kali Bari Temple.

1.3 Size And Attributes of Land Acquisition

The selected land measures 3874-39 sq. meters (5-3) Bighas, comprising of Khasra Nos. 886, 887, 888,889, 890, 891, 892,893, 894, 895, 896, 897 and 898.

1.4 Alternatives considered

As per letter no. Bhasni-8/2013-Bantony Castle 7644 dated 26.7.2016 by the Language and Culture Department (GoHP) no alternative land is available in the city for this purpose.

1.5 Social Impacts

The social impact for the acquisition of land at Bantony castle for the proposed urban museum project has been classified as

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- (i) Impact during pre- construction stage
- (ii) Impact during construction stage
- (iii) Impact during operation stage

Some of the impacts that would be associated with the project have been given in the table below.

The main aim of the Social Impact Management Plan is to ensure that the various adverse impacts are mitigated and the positive impacts are enhanced. The social impact management measures shall be implemented during the various stages of the project viz. pre-construction stage, construction stage and operational stage. A description of the various impacts identified during different stages of construction which is presented in Table 1.

Table 1: Assessment of social impacts at different phases of project

S.No	Pre-construction	Construction	Operation
1	Acquisition of land	Dust pollution	Creation of a tourist attraction
2	Acquisition of built-up property (dilapidated buildings)	Noise pollution	Creation of a knowledge hub for cultural preservation of Himachal Pradesh
3		Employment during construction	Garbage, toilets, sewerage and solid waste management

The main impact of the acquisition will be on the owners and their families. According to the latest land records there are at present 13 primary stakeholders to the property out of which names of 10 have been recorded in the Jamabandi while the remaining 3 claim their partnership in the property namely Sh. Sanjay Trehan, Sh. Rajesh Sood and Sh. Manu Sood.

Presently, there is no person residing on the premises of the Bantony Castle and none were found deriving any direct/indirect dependency of livelihood from the land proposed to be acquired. Moreover, the property has remained unutilized for more than 4 years now. From the survey analysis it was found that 58% of the total respondents expressed a positive view point about the proposal as they found it relevant to city which will add another attraction to the tourists as well as local residents. Beside the conservation of the rich culture of State, it

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will increase the income of local business entities especially tourism related industry. However, 26% of the total respondents found the proposal to be a duplication of the State Museum which is already located at Chaura Maidan and therefore were not at all in favor of the project proposal. 16% of the total respondents did not have any views about the project.

Many of the respondents were also of the view to add a public park for the children and the elderly in the proposal as it would serve as an added attraction and a major necessity as Shimla lacks such public spaces. Some also suggested that the existing State Museum can be shifted to this new location as it would avoid the duplicity of museums and their consequent maintenance costs besides serving as a major tourist attraction.

No major negative impacts were found regarding the secondary and institutional stakeholders.

Surveys and interactions with the primary stakeholders revealed that their condition for complying with the acquisition was that the entire Bantony Estate should be acquired by the Government and not a part of it. Their argument was that, by the presently proposed acquisition, only the best part of their property is being acquired. Consequently the remaining property would not be left of much value to owners as there would be no access left to the remaining property once the acquisition has taken place.

A few other negative impacts that are likely to occur during the operational phase of the project would be generation of garbage, sewage, solid waste etc. However there would also be positive impacts such as the project is likely to attract tourists and therefore enhance local economy, generation of employment during the construction and operational phase, increase in property value of the surroundings, creation of a knowledge platform, and cultural preservation.

1.6 Mitigation Measures

It appears from the analysis and overview of the act that the provisions of compensation for land acquisition under the Right To Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement (RTFCTLARR) Act, 2013 will be sufficient to manage the social issues. Moreover, since there is no rehabilitation or resettlement involved in the acquisition therefore there is no requirement to prepare any Rehabilitation and

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Resettlement (R&R) plan and consequently no benefits under the R&R policy need to be provided.

Table 2: Analysis of the various possible social Impacts, and their proposed mitigation measures

S. No.	Type of Impact	Status	Proposed Mitigation Measure
1	Loss of land	Yes there will be loss of land	Compensation as per RTFCTLARR Act, 2013
2	Loss of Built-up Property	Yes, although the buildings are presently in an advance state of decay, yet they may hold some cultural and architectural significance	Compensation as per RTFCTLARR Act, 2013
3	Loss of productive assets	No	-
4	Loss of livelihood	No	-
5	Loss of public utility lines	No	-
6	Loss of common property resources	No	-
7	Loss of access to civic services and common property resources	No	-
8	Loss of cultural properties	No	-
9	Displacement of vulnerable groups	No	-

However, a few other mitigation measures that can be considered are:

1. Based on the analysis of surveys of the secondary stakeholders which included hotels, tours and travel agencies, business entities in the concerned area, civil societies/political/religious/NGOs/unions/women groups etc., tourists and local residents of the area and also from the inputs provided by the primary stakeholders, the government may consider acquiring the entire property of Bantony Estate measuring approximately 18,193 sq. m instead of the earlier proposed land requirement of 3874.39 sq. m for the project as the remaining piece of land would not be left of much value to the stakeholders once the main part of it is acquired.
2. If the government considers to acquire the complete estate and consequently with the extra land at disposal, the proposal of the museum may also include a public park and thus serving a dual public purpose. This would also help in attracting more visitors to the museum and also repeated visits by both the local residents of Shimla as well as

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the tourists, since Shimla lacks public spaces such as parks etc. Surveys revealed that the public was keen to have a public park in addition to the museum.

3. Care to be taken during project planning and implementation that a proper access is left out for the remaining property in case the government decides to go ahead with the original acquisition proposal of 3874.39 sq. m.
4. It is suggested that the existing state museum can be shifted to this new location which may bear benefits such as a better location and serve as a major tourist attraction, avoiding duplicity of infrastructure and therefore its consequent construction and maintenance costs etc. The vacated museum at Chaura Maidan can then be used for some other purpose as deemed fit by the competent authorities.
5. Care to be taken to reduce the pollution levels to the minimal during the construction phase of the project.
6. During the operation phase of the project impacts arising due to generation of garbage, sewage, solid waste etc. should be adequately mitigated.

1.7 Assessment of Social Costs and Benefits

The positive and negative impacts resulting from the project have been given in the Table 3

Table 3: Positive and Negative Impacts of the Project

S. No	Positive Impacts	Negative Impacts	Remarks
1	Tourist Attraction	Acquisition of land	All the impacts mentioned have been suggested by various stakeholders through the survey. If the negative impacts arising from the project can be mitigated successfully then the proposed project will benefit the public and the state at large.
2	Enhance Local Economy	Loss of Built-up property	
3	Increase in Employment	Reduction in value of the remaining part of land comprising the Bantony Estate for the primary stakeholders	
4	Creation of Knowledge Platform	Garbage, toilets, sewage, solid waste management etc.	
5	Increase in property value of the surroundings		
6	Cultural preservation		

2 Analysis of Costs and Benefits and Recommendation on Acquisition

2.1 Final Conclusions

The proposed museum at Bantony Castle falls under the definition of “Public Purpose” under the RTFCTLARR Act, 2013 for the purpose of showcasing the historical, geological, archaeological, archival, literary, cultural, and artistic and bio-diversity treasure of Himachal Pradesh and will be helpful in creating a larger awareness among the society besides conservation and preservation of heritage properties of the state for posterity. Hence the proposed urban museum will result into hub of tourism in the Shimla town.

Presently, there is no person/family residing on the land to be acquired and no one draws or has any kind of direct/indirect dependency in terms of livelihood from the piece of land under consideration. However, during the public hearing held on 5th November, 2016 objections have been raised by the Primary stakeholders (owners) regarding livelihood. Their argument is that up to 2011 they were earning revenue through tenancy by the HP government and also through the canteen being run during that time. Also they claim that being a premium sight in town there was ample scope of livelihood but the same was always marred and blocked by the HP government and one particular political party.

Although the above objection suggests that there was a livelihood possibility to the owners from the land to be acquired, but have not been able to do so due to the reasons mentioned above. However, the property has not served as a primary source of livelihood for the family from more than 4 years now.

The major social impacts on the primary stakeholders identified during the Pre-construction phase were acquisition of land and acquisition of the built-up property i.e. the structures existing on the land (although in a dilapidated condition). Provisions of compensation for land acquisition as per the RTFCTLARR Act, 2013 should suffice in order to mitigate these impacts.

Since there is no displacement involved nor there is any loss to livelihood, there is no requirement of any Rehabilitation or Resettlement process and thus no mitigation measures

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need to be considered for the same. Therefore, in case the government considers to go ahead with the acquisition process it may do so by providing adequate compensation to the owners under the provisions RTFCTLARR Act, 2013.

Another negative impact that is likely to arise because of this acquisition would be the loss of access and reduction in value of the remaining part of land comprising the Bantony Estate for the primary stakeholders. All the primary stakeholders who were interviewed argued that, by the presently proposed acquisition, only the best part of their property is being acquired. Consequently the remaining property would not be left of much value to owners. Moreover, there would be no access left to the remaining property once the acquisition has taken place. The primary condition put forward by them before willingly complying for the acquisition process was that the entire estate should be acquired and not a part of it.

In order to mitigate this impact it is recommended that the government can acquire the entire Bantony Estate measuring 18,193 sq. m instead of the originally proposed area of 3874.39 sq. m. In case the government does not feel the need to accept this recommendation then care should be taken that a proper access is provided for the remaining property.

During surveys of general public and also through the suggestions received during public hearing a common suggestion and aspiration of the public was that of having a premium park at this location. Therefore, in case the government decides to acquire the complete estate and consequently with the additional land at disposal, the proposal of the museum may include a public park which would also serve as a dual public purpose. This would also help in attracting more visitors to the museum and also repeated visits by both the local residents of Shimla as well as the tourists.

A major objection received during the public hearing was that from the owners and the interest holders. The owners whose names have been recorded in the Jamabandi have repeatedly objected to the inclusion of names of the interest holders claiming partnership in the property namely Sh. Manu Sood, Sh. Rajesh Sood and Sh. Sanjay Trehan in the report. However objections from the interest holders have also been received quoting “A *Civil Procedure in the Honourable High court of Himachal Pradesh via Case No. CS/6/2015*

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(Rajesh Chimra Vs. Chander Pal Sood) is filed against existing beneficiaries and the “Status Quo” has been passed by Honourable High Court on the mentioned property”

However, deciding the title/ownership of land does not fall under the purview of the Social Impact Assessment Study.

During the public hearing objections have been raised by the general public questioning the very purpose of acquisition being done by the government. Mr. Suresh Bhardwaj, MLA Shimla during his interview has challenged the basic grounds of the proposal fitting the public purpose and claims it to be a completely politically driven process. Other objections raised by the public included that the present acquisition process will prove to be an enormous wastage of public funds which could have alternatively been used to address more pressing public issues and infrastructure problems such as roads and traffic. Also, they have questioned the project viability and how would the acquiring department be able to maintain this new property when an already existing property with them cannot be maintained.

However from the analysis of the surveys it was found that:

- 58% of the total respondents expressed a positive view point about this proposal as they find it relevant to city which will add another attraction to the tourists as well as local residents. Beside the conservation of rich culture of state, it will increase the income of local business entities especially tourism related industry.
- 26% of the total respondents found the proposal to be a duplication of the State Museum which is already located at Chaura Maidan and therefore were not at all in favor of the project proposal. However a few of them suggested that the existing State Museum can be shifted to this new location as it would avoid the duplicity of museums and their consequent maintenance costs besides serving as a major tourist attraction.
- 16% of the total respondents did not have any views about the project
- Many of the respondents were also of the view to add a public park for the children and the elderly in the proposal as it would serve as an added attraction and a major necessity as Shimla lacks such public spaces.

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Social Impact Assessment Team evaluated the opinions/suggestions/ objections raised during the public hearing and analyzed the data collected through survey and reached on the following conclusion:

1. It is true that proposed Museum may make a positive impact on tourism industry and is likely to attract tourists to Shimla since the Mall Road is one of key tourist attractions and therefore this museum will add yet another attraction to the city map. The proposed Museum would likely attract people which would also lead to the income generation for local business, travel agents, guides and hotels etc.
2. The State Museum located at Chaura Maidan is secluded and therefore not easily approachable by tourists. Therefore, shifting the existing State Museum to this new location would help avoiding duplicity of museums and their consequent maintenance costs and a better location for the State Museum.

During the construction phase negative impacts such as dust pollution and noise pollution may arise. In order to mitigate these impacts efficient project planning, implementation and regular inspections would be required. There would also be positive impacts such as generation of employment during the construction phase.

A few other negative impacts that are likely to occur during the operational phase of the project would be generation of garbage, sewage, solid waste etc. However there would also be positive impacts such as the project is likely to attract tourists and therefore enhance local economy, generation of employment during the construction and operational phase, increase in property value of the surroundings, creation of a knowledge platform, and cultural preservation.

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Recommendations

The following are the recommendations of the Social Impact Assessment Study

- 1) Based on the analysis of surveys of the secondary stakeholders which included hotels, tours and travel agencies, business entities in the concerned area, civil societies/political/religious/NGOs/unions/women groups etc., tourists and local residents of the area and also from the inputs provided by the primary stakeholders, the government may consider acquiring the entire property of Bantony Estate measuring approximately 18,193 sq. m instead of the earlier proposed land requirement of 3874.39 sq. m for the project. Consequently with the extra land at disposal, the proposal of the museum may also include a prime public park.
- 2) In case recommendation 1 is not accepted by the government and decides to go ahead with the earlier proposed land requirement of 3,874.39 sq. m then care may be taken during project planning and implementation that a proper access is left out for the remaining property.
- 3) While designing the museum and its campus, special care may be taken to preserve the architectural heritage and cultural richness of the Bantony Castle. Also the proposal should harmonize with the adjacent Grand Hotel's architecture.

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3 Social Impact Management Plan

3.1 Approach to Mitigation

This Social Impact Management Plan (SIMP) has been prepared to mitigate negative social impacts of the acquisition of Bantony Castle, Kali Bari, Shimla according to the Himachal Pradesh Right To Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement (Social Impact Assessment and Consent) (HP RFCTLARR) Rules, 2015. The Social Impact Management Plan (SIMP) consists of a set of mitigation, monitoring and institutional measures to be taken during the design, construction and operational phases of the project to eliminate adverse social impacts or to reduce them to acceptable levels. The main aim of the SIMP is to ensure that the various adverse impacts are mitigated and the positive impacts are enhanced. The SIMP shall be implemented during the various stages of the project viz. pre-construction stage, construction stage and operational stage. A description of the various management measures suggested during different stages of the project is provided in Table 2.

3.2 Measures to Avoid, Mitigate and Compensate Impact

1. Based on the analysis of surveys of the secondary stakeholders which included hotels, tours and travel agencies, business entities in the concerned area, civil societies/political/religious/NGOs/unions/women groups etc., tourists and local residents of the area and also from the inputs provided by the primary stakeholders, the government may consider acquiring the entire property of Bantony Estate measuring approximately 18,193 sq. m instead of the earlier proposed land requirement of 3874.39 sq. m for the project as the remaining piece of land would not be left of much value to the stakeholders once the main part of it is acquired.
2. If the government considers to acquire the complete estate and consequently with the extra land at disposal, the proposal of the museum may also include a public park and thus serving a dual public purpose. This would also help in attracting more visitors to the museum and also repeated visits by both the local residents of Shimla as well as the tourists, since Shimla lacks public spaces such as parks etc. Surveys revealed that the public was keen to have a public park in addition to the museum.

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3. Provisions of compensation for the land acquisition under the RTFCTLARR Act, 2013 shall be enough to mitigate impacts regarding loss of land and built up property.
4. Care to be taken during project planning and implementation that a proper access is left out for the remaining property in case the government decides to go ahead with the original acquisition proposal of 3874.39 sq. m.
5. It is suggested that the existing state museum can be shifted to this new location which may bear benefits such as a better location and serve as a major tourist attraction, avoiding duplicity of infrastructure and therefore its consequent construction and maintenance costs etc. The vacated museum at Chaura Maidan can then be used for some other purpose as deemed fit by the competent authorities.
6. Care to be taken to reduce the pollution levels to the minimal during the construction phase of the project.
7. During the operation phase of the project impacts arising due to generation of garbage, sewage, solid waste etc. should be adequately mitigated.

Rehabilitation & Resettlement Mitigation Measures

Since, no one has been residing on the premises of the Bantony Estate for more than 4 years now and none were found to derive any direct or indirect dependency of livelihood from the said property therefore no rehabilitation & resettlement measures need to be taken.

Environmental and Cultural Measures

- The land proposed to be acquired does not contain any trees. However, it is suggested that the proposed landscape design for the museum complex should be in harmony with the surrounding environment and the natural green environment of Shimla.
- Both the Bantony Castle as well as the Bantony Cottage, although today in a dilapidated condition may hold some architectural significance from the British era, which also compliments the history of Shimla. Therefore, it is suggested to design the museum and its complex on a similar architectural pattern of the existing Bantony Castle/ British architecture.

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3.3 Measures stated by the Requiring body in Project Proposal

No mitigation or management or any other measures were stated by the requiring body in the project proposal.

3.4 Institutional Structures and Key Persons.

Since the major mitigation measures from the acquisition can be handled by providing the appropriate compensation under the RTFCTLARR Act, 2013 therefore the key person responsible to decide and provide the compensation would be the Collector. The act defines the Collector as collector of a revenue district, and includes a Deputy Commissioner and any other officer specially designated by the appropriate Government to perform the functions of a Collector.

The Department of Revenue and Land Records will also play a crucial role, and will be most competent for determining land ownerships, land measurements and assisting the Collector in determining the market rates etc.

Since there is no R&R involved, therefore no such authority shall be required.