



HINDUSTAN ZINC
Zinc & Silver of India

Sustainability Framework

Guidance Note 01


Indigenous Peoples and Vulnerable Tribal Groups

Hindustan Zinc Limited



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1. INTRODUCTION

1.1. Who is this Guidance Note aimed at?

All Hindustan Zinc Limited subsidiaries, operations and managed sites, including new acquisitions, corporate offices and research facilities and to all new and existing employees and contractor employees. This document supports the HZL Framework (in particular the Hindustan Zinc Limited Technical Standard *TS22 on Indigenous Peoples/ Vulnerable Tribal Groups*) and provides guidance that is most likely to be applicable in the exploration and planning and evaluation phases of the project lifecycle. This document has been adopted from the parent company Vedanta's Sustainability framework.

1.2. When does Technical Standard 22 get triggered?

The *Indigenous Peoples/ Vulnerable Tribal Groups Technical Standard (TS22)* is triggered when any new HZL Greenfield Project identifies or suspects there are communities of Indigenous Peoples (IP) or Vulnerable Tribal Groups (VTG) present within the area of influence. The applicability of TS22 is further established during the environmental and social risks and impacts identification process (see TS 8 – Conducting ESIA to International Standards and GN 16 Conducting Environmental and Social Impact Assessments)

1.3. Why is it important to consider Indigenous Peoples and Vulnerable Tribal Groups?

There is now global recognition that Indigenous Peoples have distinct rights and interests. The necessity for companies to respect these rights and interests is also gaining appreciation. Indigenous Peoples and Vulnerable Tribal Groups often have a special relationship to land, territories and resources which extractive companies seek to use. There is also a need to be sensitive and adapt engagement styles with Indigenous Peoples/Vulnerable Tribal Groups who have specific cultural practices for governance and decision making. Indigenous Peoples are generally considered to be more vulnerable than the non-Indigenous population and therefore more likely to be negatively affected by developments.

There are now international standards and requirements for developments which may impact Indigenous Peoples. This guideline has been developed in-line with the IFC Performance Standards (PS1 and PS7) which require specific actions to be taken and documented by a company whose development may impact Indigenous Peoples/Vulnerable Tribal Groups

1.4. What is the aim of this Guidance Note?

This Guidance Note has been developed to enable HZL employees to understand the requirements of TS 22 and to engage, negotiate and partner with Indigenous Peoples/Vulnerable Tribal Groups in a manner that avoids negative impacts and risks; and creates opportunities for positive economic and social development at any HZL Operation.

This Guidance Note is intended to support the HZL Technical Standard TS22 on *Indigenous Peoples/ Vulnerable Tribal Groups*, which establishes specific requirements related to IP/VTGs for the different business units of HZL and the process to be followed to identify, engage, assess and mitigate potential impacts to IP/VTGs. The requirements are in conformity with the HZL Social Policy and international standard requirements.

1.5. What issues does this Guidance Note address?

This Guidance Note aims to provide some basic interpretation and guidance on applying specific elements including:

- Identification of IP/VTGs;
- Understanding legal frameworks;
- HZL's responsibilities where governments are involved with IP/VTGs;
- Engagement with IP/VTGs;
- Environmental Social Impact Assessment (ESIA) and IP/VTGs; □ IP/VTG Development Plans; and
- Capacity Building.

The overarching themes that shall guide all HZL's interactions with IP/VTGs are as follows:

- Avoid potential adverse impacts from its activities upon Affected Communities and eligible IP/VTGs;
- Apply a fair and legitimate process to identify their rights under law;
- Identify all formal permitting and land use requirements that may exist and will ensure that all necessary arrangements are put in place to obtain and to ensure compliance with such requirements;
- Engage and consult with IP/VTGs in a culturally appropriate manner;
- Provide training for those HZL employees involved in dealing with issues related to IP/VTGs; and
- Incorporate opportunities for participation in stakeholder engagement and promote sustainable benefits for IP/VTGs in HZL sites with Affected Communities of IP/VTG.

1.6. How should this Guidance Note be used?

This Guidance Note is intended to reflect good practice and provide the basis for continual improvement of sustainability issues across the HZL business. Where this Guidance Note is not used, operations will need to demonstrate (and document) how an equivalent process is in place and how the management of land acquisition and resettlement processes achieves good practice and is compliant with international best practice.

The Guidance Note draws upon, and refers the reader to, the following references:

- HZL Human Rights Policy;
- HZL Management Standard MS03: New Projects, Planning Processes and Site Closure;
- HZL Technical Standard TS03: Land and Resettlement Management;
- HZL Technical Standard TS04: Grievance Mechanisms;
- HZL Technical Standard TS05: Stakeholder Engagement;
- HZL Technical Standard TS08: Conducting ESIA's to International Standards;
- HZL Technical Standard TS22: Indigenous Peoples;
- IFC Performance Standard 7 – Indigenous Peoples; and □ IFC Guidance Note 7 – Indigenous Peoples.

The Guidance Note is structured as follows:

- Section 2: Indigenous Peoples/Vulnerable Groups
- Section 3: Engagement and Agreements with Indigenous Peoples/Vulnerable Tribal Groups
- Section 4: Indigenous peoples/Vulnerable Tribal Groups and ESIA

At the end of the Guidance Note there is information on Definitions and Related Documentation, as well as the following annexes:

Annex A: Example Informed consent form
Annex B: Engagement planning template
Annex C: Agreement Contents
Annex D: Baseline Data Checklist for IPs and VTGs
Annex E: Indigenous Peoples and Vulnerable Tribal Groups Development Plan Template
Annex F: Disclosure Planning Template
Annex G: Monitoring Template

2. INDIGENOUS PEOPLES AND VULNERABLE TRIBAL GROUPS

This section sets out general information related to IP/VTGs. The following is discussed:

1. Who are IP/VTGs;
2. Identifying IP/VTGs;
3. Understanding the legal Context;
4. Determining IP rights and Interests;

Dealing with competing and overlapping customary land use claims; and 6. Exclusions and exceptions

2.1. Who are Indigenous Peoples and Vulnerable Tribal Groups?

The designation of ‘Indigenous Peoples’ has come to be recognised as a distinct societal category under international law and in some countries, national law.

For the purposes of this guideline, HZL uses the IFC definition of Indigenous Peoples (see Box 1 below). However, Vulnerable Tribal Groups or ‘VTGs’ is the preferred terminology for this Technical Standard and covers IPs unless otherwise stated.

Box 1: Indigenous Peoples and Vulnerable Tribal Group Definitions.

Indigenous Peoples – IFC Definition	Vulnerable Tribal Groups (VTGs)
<p>A distinct social and cultural group possessing the following characteristics in varying degrees:</p> <ol style="list-style-type: none">i Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;ii Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;iii Customary cultural, economic, social, or political institutions that are separate from those of the mainstream society or culture; oriv A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.	<p>Vulnerable Tribal Groups may be referred to in different countries by such terms as “Indigenous Peoples” “Aboriginals” “Vulnerable Primitive Tribal Groups” or “Indigenous Ethnic Minorities”.</p> <p>They are generally considered to be most marginalized and vulnerable segment of population and they may be more vulnerable to impacts associated with Project development.</p> <p>Their inability to defend their rights to, and interest in lands and natural and cultural resources may also impact their social and cultural life.</p> <p>Their particular circumstances may require special protective measures in the event that they are adversely impacted by a project.</p> <p>The definition of VTGs may be specified in the laws of host country on this subject.</p>

There may be significant differences in the respective definitions and approaches to managing VTG / IP issues; the IFC requirements are frequently more stringent.

2.2. Identifying IP/VTGs and Sub-categories

It is good practice to identify as early as possible any potential IP/VTGs. The process for identifying all stakeholders is outlined in *TS 05 Stakeholder Engagement* and the identification process will meet the screening requirements as set out in:

- Management Standard *MS03 New Projects, Planning Processes and Site Closure*;
- Management Standard *MS08 Acquisitions, Divestment and Joint Venture due Diligence*; and
- Technical Standard *TS08 Conducting ESIA's to International Standards*.

Projects must undertake an initial screening (use checklist in TS 8) to determine whether there are any potential IP / VTG and confirming their IP / VTG status.

Competent professionals and local on-the-ground experts can be useful resources to assist in the determination of IP/VTG status, ensuring the application of definitions by authorities in the country of operation, and/or in applying the IFC definition.

There may be sub categories or sub ethnic groups that exist within the wider IP/VTG group. There will generally be less information about these groups in the public domain, hence an important step would be to engage the IP/VTG group through Focus Group Discussions to identify sub categories that may exist either on the basis of occupation, or caste or place of origin etc. It may be that some of these groups may be more marginalised or vulnerable than the parent/principal group and any IP/VTG assessment will need to consider these issues. A typical example would be nomadic subgroups within the main, more settled community of IP/VTGs.

2.3. Understanding the legal context – national and international

Where IP/VTGs are identified as within a project area of influence, the Project will need to gather information to understand international conventions, national and sometimes sub-national laws relevant to IP/VTGs. Information should be gathered as early as possible and will be described in the Project ESIA (see *TS08 Conducting ESIA's to International Standards*). Professional expert advice is often sort by Projects to research and assess the legal framework within the host country and how this will apply to the Project.

Ultimately the Project will need to comply with relevant national and sub-national laws and any international conventions the host country is signatory to.

2.4. Determining relevant Indigenous Peoples' rights and interests by the legal framework as well as customary laws

Different countries formally recognise IP/VTG rights in different ways. Customary title and land/resource use are also dealt with differently depending on the jurisdiction

Lands & Natural Resources Subject to Traditional Ownership or Under Customary Use

These are lands and natural resources (eco-system services) that are used, occupied by, or traditionally owned by Communities of IP/ VTG. This may also include lands in some countries for which these IP / VTG may not have formal title but use of which can often be substantiated and documented. They may use the land for their livelihoods, or cultural, ceremonial and spiritual purposes that define their identity and community.

HZL chooses to operate in line with IFC Performance Standards, which also have specific requirements under PS1, PS5 and PS7 relative to IP land use. The requirements are summarised in Table 1 below.

Table 1: IFC Performance Standards relative to Indigenous Peoples Traditional Ownership or Customary Land Use

Performance Standard 5 Relocation of Indigenous Peoples from Lands/Resources Subject to Customary Use	Performance Standard 7 Traditional Ownership and Customary Land Use
<p>Relocation of Indigenous Peoples from lands and natural resources subject to Traditional Ownership or under Customary Use has specific requirements under PS5.</p> <p>The Project must first consider feasible alternative project designs to avoid the relocation of IPs from communally held lands and natural resources subject to traditional ownership or under customary use. If such relocation is unavoidable the Project must not proceed unless FPIC has been obtained (see Section 5.4).</p> <p>To simplify, PS5 requires that Project affected peoples (within a Project area of influence) who have legal title to the land, live on the land or use the land as part of their livelihood are to be considered displaced (physically, economically or both). There are then specific processes which must be followed under PS5 in these instances, these are addressed in HZL TS03 Land Acquisition and Resettlement Management.</p>	<p>If the Project proposes to locate on, or develop natural resources on lands traditionally owned by, or under the customary use of, IPs, and adverse impacts are expected, the following is required:</p> <ul style="list-style-type: none"> • Document efforts to avoid and otherwise minimize the area of land proposed for the project; • Document efforts to avoid and otherwise minimize impacts on natural resources and natural areas of importance to IPs; • Identify and review all property interests and traditional resource uses prior to purchasing or leasing land; • Assess and document the Affected Communities of Indigenous Peoples' resource use without prejudicing any IPs' land claim. • Ensure that Affected Communities of IPs are informed of their land rights under national law, including any national law recognizing customary use rights; and • Offer Affected Communities of IPs compensation and due process in the case of commercial development of their land and natural resources, together with culturally appropriate sustainable development opportunities. <p><i>See IFC PS7 and GN7 for further details regarding compensation arrangements.</i></p>

The collection of baseline data relative to land ownership and use is addressed in *Section 4.1* and *Annex D Baseline Data Checklist for IP/VTGs*.

2.5. Dealing with competing and overlapping customary land use claims

It is quite common for there to be competing or overlapping customary land use claims. This is often the result of internal migration or historical conflicts which displaced different groups.

Best practice in this instance is for a project to engage proactively and transparently with all groups, assuming each claim is legitimate unless proven otherwise. The role of the government or a credible third party as a mediator can be critical in such negotiations. The project proponent should facilitate this dialogue and negotiation and ensure that the process is fair and decisions binding on all parties (see *Section 3*).

2.6. Exclusions and exceptions – when to not treat IPs differently

There can be instances when the project or company's activities affect people who are identified as VTG by the national laws. These groups may however, have evolved and changed over the years and become mainstreamed within the general or the dominant community by way of language, habitation, cultural identity and occupation/livelihood activities. They may have stopped identifying themselves as distinct from the main group and also actively and equally participate in the local governance structure and political systems common to everyone. In such cases these groups may not be especially vulnerable or needing to be treated separately even though legally they may still have special rights. The provisions provided in TS03: Land and Resettlement Management and TS 05 on Stakeholder Engagement will be applied on them in the same way as on the rest of the affected community.

In such cases, the screening process should examine and document reasons why the IP/VTG may not need special treatment under TS22. This decision should be approved by the CSO of HZL.

3. ENGAGEMENT & AGREEMENTS WITH INDIGENOUS PEOPLES & VULNERABLE TRIBAL GROUPS

HZL will undertake an engagement process with the IP/VTG as required in TS05 and by conducting stakeholder analysis and engagement, consultation and participation, in a culturally appropriate manner. The engagement will involve the representative bodies and organizations (e.g., councils of elders or village councils, chiefs) of such groups as well as members of the Affected Communities. Recognising that the traditional systems of collective decision making may need some time, the engagement process will provide sufficient time for decision-making processes and will not exert undue pressure or unnecessarily rush the community in making those decisions.

General principles of Informed Consultation and Participation (ICP) should apply. These will include:

- Allowing informed and voluntary participation without any manipulation, interference, coercion or threats. The community should have access to relevant information on environmental and social impacts as well as measures being planned to mitigate those. The community should be encouraged to ask for more information they feel necessary;.
- Making provisions for social structures and leadership patterns that are prevalent and facilitating processes of participation most familiar to the community;
- Safeguarding against discrimination of sub groups like women in the process of participation;
- Enabling the IP/VTGs to influence the design and implementation of the ICP process, and involving them on an ongoing basis from planning through to execution;
- Facilitating capacity building of the leader/representatives to participate in the consultation and decision making processes. This can be through involvement of CSOs or NGOs or research/academic institutions that have experience in such capacity building processes;
- Allowing for an iterative process and recognising that these groups are not homogenous and may need time and internal consultative process to come to any consensus;
- Providing for advice and technical and legal support to the IP/VTGs to inform them about their rights under law as well as under the HZL Standards; and
- Providing access to the regular grievance redressal mechanism so that the community may raise concerns about the engagement process if necessary and HZL can take timely action.

3.1. Setting up a data repository

The ESIA process should collect social baseline data of the IP/VTG families affected, especially with respect to IP/VTG groups and sub groups, capturing aspects like household and community profile, land and resource dependence, gender patterns, livelihood patterns, living conditions, cultural heritage etc (See TS08 for more details).

The live data base on stakeholder engagement as required by TS 05, should have a separate section on engagement with IP/VTG. This section should contain:

- The names and contacts of VTG families and their representatives;
- The on-going communication process with them, including disclosure activities and minutes of meetings;
- The issues and concerns raised;
- Grievances;
- Action taken to address grievances; and
- Actions taken against suggestions and requests etc.

3.2. Consulting and enabling participation

The VTG/IP groups may need proactive support to enable them to participate in any engagement activities. Language, low literacy, suspicion of outsiders and discomfort in travelling out of their localities inhibit this participation. Enabling participation may entail:

- Communicating in language and through forums familiar to these groups;
- Conducting engagement sessions close to their homes and fields;
- Giving time and space for interaction so that they can assimilate and understand the information being provided;
- Using more educated youth/persons in those communities to become the interpreter where needed; and
- Communicating with individuals as well as groups and sub-groups.

Its important that the project proponents and the VTG/IP have a shared view of what the engagement should entail and what a consent from the community could mean and require. To the extent possible, protocols and tools should get developed in consultation with the VTG representatives. Meetings can be held to agree on forums, methods, language and follow up on engagement. An engagement plan can be thereafter draft.

See Annex A Informed Consent Form

See Annex B Engagement Planning template

See Annex F Disclosure planning template

Also refer to section 4.5

3.3. HZL Responsibilities where Government is responsible for managing IP/VTGs

The IFC Guidance note on IP says “Where the government has a defined role in the management of Indigenous Peoples issues in relation to the project, the client will collaborate with the responsible government agency, to the extent feasible and permitted by the agency, to achieve outcomes that are consistent with the objectives of this Performance Standard. In addition, where government capacity is limited, the client will play an active role during planning, implementation, and monitoring of activities to the extent permitted by the agency”

It is therefore expected that the project proponent will review the government process, identify gaps in the process if any, and determine what measures need to be additionally taken to ensure that the TS 22

objectives are met. These additional measures should be collated in a VTG/IP Development Plan. Typically the IPDP should not only approach the VTG/IP as impacted community needing impact mitigation measures, but also as group with relatively poor access to development benefits. Hence the Plan should include longer term measures for community development and livelihood enhancement that have a broader welfare agenda than only mitigation of impacts. They should also examine if these measures and plans need to be integrated with the government programmes, or be separate interventions. This process of defining the plan for IP/VTG will need to be internally approved, as well as communicated with the local administration handling VTG matters. (Also refer to Section 4.3)

3.4. Free Prior and Informed Consent

FPIC is both a process as well as an outcome. The process builds upon ICP and Good Faith Negotiation (GFN). GFN includes (i) willingness to engage in consultation and negotiation process; (ii) provision of information necessary for informed negotiation; (iii) exploration of key issues of importance to both parties; (iv) agreement on a mutually acceptable procedures for negotiation; (v) willingness to change initial position and modify offers where possible; and (vi) provision of sufficient time for decision making. The outcome, where the GFN process is successful, is an agreement or a consent.

FPIC generally kicks in when there is:

- Use of lands and resources involved that have been traditionally under the use of IP/VTGs;
- Resettlement of IP/VTGs;
- Significant impacts on important cultural heritage and
- Use of traditional knowledge and practices for commercial use.

In all such cases, HZL needs to demonstrate they have engaged with the IP/TGS and in the process of GFN, have sought their consent for the activities that impact them, as well as the mitigation and development measures being proposed to address those impacts. In India, consent from the Gram Sabha or village councils is mandatory in regions defined by law as tribal regions or areas. In forest areas, consent from the forest dependent communities is mandatory before any designated forest land is acquired for a project.

Where the consent process is not mandated by law, HZL will need to agree with the IP/VTG on the consent process, preferably in consultation and oversight of the relevant government agency. The consent process should:

- Ensure that it includes a majority of the people affected;
- Take place only after the community has relevant information and is willing to enter into discussions;
- Provide documents that are simple and easy to understand and have clear commitments for both sides; and
- Has a provision for grievance redressal.

3.5. Negotiations and Agreements with Indigenous Peoples and Vulnerable Tribal Groups

There are no set rules about what should and should not be included in an agreement with IP/VTGs. This will depend on the context, as well as the aspirations of all parties. In countries such as Australia and Canada, negotiated agreements have become commonplace as the country laws promote agreement making.

Mining companies are now entering into agreements with IP/VTGs as a way of minimising business risks and allowing for long term access to lands without the risk of legal action. For IP/VTGs agreement making can be an empowering process to ensure they continue having access to their lands and can experience the positive impacts of mine developments.

Common topics included in agreements are financial arrangements (royalties, equity etc.), contracting/supply arrangements, employment and training; and land/facility access. Example content for each of these topics is provided in Annex C.

4. IP/VTGS AND ENVIRONMENTAL SOCIAL IMPACT ASSESSMENTS

This section discusses how IP/VTGs need to be considered during the ESIA process. The following is addressed:

1. Baseline Data Collection and IP/VTGs
2. Assessing Impacts relative to IP/VTGs
3. Preparing a IP/VTG Development Plan
4. ESIA Disclosure relative to IP/VTGs
5. Capacity Building and enabling
6. Setting up Mechanisms for implementation of ESIA commitments
7. Implementing and Monitoring ESIA relative to IPs
8. Closure impacts and mitigations relative to IPs

ESIA for all HZL projects must be aligned with *TS08 Conducting ESIA's to International Standards*.

4.1. Baseline data – types of data relevant to IP/VTGs

Baseline data collection for IP/VTGs is very similar to data collected for any other communities (i.e. demographics, employment types, infrastructure and services). However, there are key items of consideration specific to IP/VTGs which need to be incorporated as outlined:

- Use of natural resources;
- Cultural heritage, both tangible and intangible;
- Land interests, ownership, use and title; and
- Socio-cultural governance and decision making structures.

A *Baseline Data Checklist* for studies with IP/VTGs is included in Annex D.

In conducting baseline studies with IP/VTGs the process is very important. Good practice rules when conducting baseline studies with IP/VTGs are as follows:

- Identify whether the community has existing guidelines for conducting research;
- Negotiate the level of community participation in the design, collection, analysis and management of the process;
- Seek broad-based support from IP/VTGs at the commencement of the research process and ensure that they have given their informed consent (see *Annex A Informed Consent Form*) to participate in particular research activities (e.g. interviews);
- Conduct surveys and interviews in the local language with the full participation community representatives (where appropriate);
- The assessment of land and natural resource use should be gender inclusive and specifically consider women's role in the management and use of these resources; and
- Use methodologies that facilitate participation, such as focus groups, ethno-mapping and participatory appraisal.

4.2. Assessing impacts generally and specifically to Indigenous Peoples

While the social data gathered for a social impact assessment is relevant for VTG/IP community, some additional data focussed on IP issues need to be examined including:

- Traditional and informal rights to resources, and community agreements to share these within and between communities;
- Decision making processes;
- Historical marginalisation – often these communities have faced displacement of various kinds historically, and its important to identify if HZL activities will aggravate an already vulnerable situation;
- Religious and cultural practices, that are often not visible and need to be probed through Participatory Rural Appraisal (PRA) techniques;
- Migration patterns – forced and voluntary;
- Legal rights under law ;
- Participation in governance institutions etc.

As a method, the data and information from IP/VTG groups need to be examined separately, though in the overall context of the social baseline study.

4.3. Indigenous Peoples and Vulnerable Tribal Groups Development Plan - defining and agreeing on a long term development programme.

Where alternatives have been explored and adverse impacts to IP / VTGs are unavoidable, HZL operations will minimize, restore, and/or compensate for these impacts as required. The proposed actions will be developed with the ICP of the IP / VTGs and contained in a time-bound IP / Vulnerable Tribal group Development Plan (IP / VTGDP).

Key considerations for agreeing and defining a long term development plan are as follows:

- Drafting of the IP/VTGDP should actively involve IP/VTGs and their representatives;
- Resources and support should be provided to enable IP/VTGs to participate in the planning process; and
- Women, youth and elderly groups should be engaged.

The plan will be a project specific and practical document that forms the basic guidance for implementing *Technical Standard 22* in the context of a particular project or operational unit that is owned or operated by HZL. Specific items that need to be included in an IP/VTGDP are as follows:

- Impact management arrangements (where impact cannot be avoided);
- An action plan for implementing mitigation and management arrangements;
- Monitoring requirements;
- Periodic internal and external reporting (as required) of the impact management activities.

See Annex E IP/VTG Development Plan Template for further details.

4.4. Disclosure – disclosure activities relative to IP/VTGs

The information gathered during each stage of the ESIA as well as the IPDP / VTGDP can be directly included in the ESIA document and any related assessments or can be captured in a standalone report that is appended to the ESIA disclosure report.

Meaningful disclosure of the ESIA to project affected communities is the essential. The ESIA should be shared with IP/VTGs in a way which is meaningful to them and easily understood. This should be discussed with the IP/VTGs prior to the disclosure period. Key considerations are language, literacy levels and access to communication. A Disclosure Planning Template is provided in *Annex F*.

Project Affected Households

As best practice, all directly affected households should be visited by project staff on a one-on-one basis to explain the ESIA disclosure process and that this is an opportunity to have feedback incorporated. The households should then be visited a second time to collect any feedback on the ESIA.

Example ESIA disclosure methods with IP/VTGs are as follows:

- Preparation of an ESIA non-technical summary in the IP/VTGs language;
- Preparation of ESIA fact sheets on specific impacts;
- Preparation of illustrative ESIA fact sheets;
- Local TV segments;
- Local radio broadcasts;
- Community meetings; and
- Community open house meetings.

ESIA Disclosure is a key process under IFC Performance Standard 1 and inclusion of vulnerable groups (such as IP/VTGs) is essential. Records of all disclosure activities (planned and implemented) need to be maintained and include details specific to IP/VTGs. This includes all feedback collected and responded to by the Project during the disclosure period.

4.5. Capacity building and enabling

To enable the VTG/IP community to participate in decision making, planning and designing mitigation measures and development plans, and in negotiating an agreement, its important to understand that they may not be exposed to such processes, especially with the external community and may be constrained by several factors. Companies have to proactively reach out and build their capacities to participate by”

- Mobilization and creating awareness about their rights and issues of importance;
- Providing relevant information material that they can understand;
- Providing training to their leaders and representatives on participation and negotiation by involving CBOs/NGOs and academic institutions with the right expertise; and
- Holding small group discussion session/ Q & A sessions to clarify people’s queries before they participate in larger meetings.

4.6. Setting up mechanisms for implementation

In countries where there are government driven mechanisms to engage with VTGs/IP, HZL should first examine if the systems are fair, put IP welfare at their core, and allow the IP to actively participate in the process. If the assessment is positive, then it is best to use existing mechanism for implementation of the programme, and participate in it in as a partner, with an oversight role. Typically this would mean using the government machinery to deliver the programmes and community development investments and other softer support, and monitoring its outcomes. If however the assessment points out gaps in the existing mechanisms (for example the process being driven by some influential members of the community and the more vulnerable groups excluded from the benefits etc.), then HZL should initiate its own implementation process, in partnership of NGOs and CBOs who can become implementation partners, and a third party monitoring the process (ideally). It is best to get an approval from the authorities to manage this engagement directly and allow them a monitoring role if required.

The implementation mechanism should include programme management, an institutional structure, implementation partners, programmes of different durations with objectives, goals and programme/project details, and an overall governance.

4.7. Implementing and monitoring ESIA relative to IPs.

The IP/VTGDP will be the primary instrument for managing and mitigating impacts on IP/VTGs for HZL projects. HZL Projects will create, implement and maintain arrangements to keep the IP / VTGDP updated and adjusted as the Project progresses, to ensure the following:

- That effective and meaningful engagement with such groups throughout the lifetime of the Project;
- Identified impacts are monitored;
- Any additional impacts resulting from the implementation of the IP / VTGDP are observed and managed;
- Compliance with relevant standards is maintained; and
- The effectiveness of management and mitigation measures are confirmed/and or reviewed to ensure improvements to Project design and execution.

Annex G provides a *Monitoring Plan Template* which can be incorporated into the IP/VTGDP to support this process

4.8. Closure impacts and mitigations relative to IPs/VTGs

All planning and management of closure activities is undertaken according to the HZL Technical Standard *TS17 Site Closure* with a view to minimising any post decommissioning / residual impacts on IP / VTGs.

A sustainable decommissioning and closure process should encourage involvement and participation of communities in the decommissioning and closure process, in such a way that these local stakeholders will develop the capacity and ownership needed for them to convert benefits from the operations phase into lasting development opportunities for the post-closure phase and help determine the post mining land use that effects the closure design. IP/VTGs should be involved, in this process if they are affected peoples for the particular project.

A template developed by the World Bank (*Towards Sustainable Decommissioning and Closure, 2010*) can be used by Projects to help understand the stakeholder landscape including IP/VTGs that need to be involved at are regional and/ or local level in designing the decommissioning and closure process and post closure scenario. See *Table 2* below, for an example incorporating IP/VTG's as one category of stakeholder in the closure/decommissioning process.

Table 2: Template for Assessing Stakeholder Landscape, Roles and Key Issues (World Bank, 2010, Towards Sustainable Decommissioning and Closure).

Category of Stakeholder	Specific Stakeholder	Desired Roles in Decommissioning & Closure	Issues and Opportunities
Indigenous & Vulnerable Tribal Groups	[List specific IP/VTG group/s]	<ul style="list-style-type: none"> • Participate in and take responsibility as equal partner in design and development of post-closure options; • Work with company and government to take advantage of development opportunities for long term sustainable growth or sustainable alternatives as defined by community; • End land use options; • Land access post closure; • [insert additions] 	<ul style="list-style-type: none"> • How to cope with loss of employment and income as operation winds down, production ceases and closure takes place; • Safety and physical security of closure and decommissioning and closure arrangements; • Environmental impacts of closure arrangements; • Loss of employment or social investment programs; • Increase in crime and social breakdown; • Lack of capability and know how; • Monitoring and associated communications activities.

DEFINITIONS

Definitions of key terms used in this document are shown in the following table.

Term	Definition
Broad Community Support (BCS)	Broad Community Support is a collection of expressions by Affected Communities, through individuals or their recognized representatives, mostly from customary or political representatives such as local councils in support of the proposed business activity. BCS also applies to programs involving bona fide Indigenous Peoples / Vulnerable Tribal Groups and there may be BCS even if some individuals or groups object to the business activity. As a collection of expressions, BCS is achieved by a number of activities across the range of a project's overall stakeholder engagement. The presence of BCS can be indicated by formal negotiated agreements or through Public Hearing as mandated by the host country laws, but also through suitable indicators of ongoing and continued constructive participation of the Affected Communities in project-related dialogue and programs.
ESIA	Environmental and Social Impact Assessment – a formalised process designed to identify, assess and document environmental and social impacts associated with a project, along with the mitigation measures and management arrangements for ensuring such measures are implemented.
Environmental and Social Management System	The structured framework that provides the arrangements for managing the environmental and social aspects throughout the lifetime of the project.
Free Prior and Informed Consent (FPIC)	<p>There is no universally accepted definition of FPIC and it only applies to bona fide Indigenous Peoples in the 'special circumstances' described below and in clauses 13-17 of IFC PS 7 where there are:</p> <ol style="list-style-type: none">1) Impacts on Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use2) Relocation of Indigenous Peoples from Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use3) Where significant project impacts on critical cultural heritage are unavoidable <p>For the purposes of this Technical Standard, FPIC builds on and expands the process of informed consultation and participation (ICP) and will be established through good faith negotiation (GFN) between the project and the Indigenous Peoples. FPIC is both a process and an outcome; the process builds upon ICP and requires GFN.</p> <p>A project must also document (i) the mutually accepted process between the client and Affected Communities of Indigenous Peoples, and (ii) evidence of agreement between the parties as the outcome of the negotiations. FPIC does not necessarily require unanimity and may be achieved even when some individuals or groups within the community explicitly disagree (i.e. evidence of 'BCS' may be sufficient). FPIC should be viewed as a process that both allows and</p>

	facilitates Affected Communities of Indigenous Peoples to build and agree upon a collective position otherwise known as collective community consent.
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Term	Definition
Good Faith Negotiation (GFN)	Good faith negotiation generally involves for each party: (i) willingness to engage in a process and availability to meet at reasonable times and frequency in ways acceptable to all parties; (ii) provision of information necessary for informed negotiation; (iii) exploration of key issues of importance; and (iv) willingness to change initial position and modify offers where possible.
Grievance	A concern, complaint or feedback raised by any stakeholder either affected by or interested in company operations. Both concerns and complaints can result from either real or perceived impacts of a company's operations.
ICMM (International Council on Mining and Metals)	The International Council on Mining and Metals (ICMM) was established in 2001 and seeks to drive performance improvement through its members which comprise 20 mining and metals companies as well as 30 national and regional mining associations and global commodity associations.
IFC (International Finance Corporation)	Member of the World Bank Group that finances and provides advice to private sector ventures and projects in developing countries.
Impact Assessment	The stage in the ESIA in which the potential positive and negative impacts on the various environmental and social receptors identified during the baseline data collection phase are assessed to determine their significance.
Indigenous People	IFC defines Indigenous Peoples as “a distinct social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the mainstream society or culture; or (iv) a distinct language or dialect, often different from the official language or languages of the country or region in which they reside”.

Informed Consultation and Participation (ICP)	Informed Consultation and Participation involves an in-depth exchange of views and information, and an organized and iterative consultation between the client and IP / VTG community likely to be affected by the project, leading to the Company's incorporating into their decision-making process views of the IP /VTG on matters that affect them directly, such as the proposed mitigation measures, the sharing of development benefits and opportunities, and implementation issues. It is an integral part of gaining FPIC
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Term	Definition
International Standards	The environmental and social Performance Standards set out by the International Finance Corporation to which the HZL Sustainability Framework has been audited to meet.
Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use	Lands and natural resources (eco-system services) that are used, occupied by, or traditionally owned by Communities of IP/ VTG. This may also include lands in some countries for which these IP / VTG may not have formal title but use of which can often be substantiated and documented.
Operation(s)	A location or activity that is operated by a HZL Company and its subsidiaries. Locations could include exploration activities, mines, smelters, refineries, wind farms, offices including corporate head offices and research and development facilities.
Stakeholder	Persons or groups that are directly or indirectly affected by a project as well as those that may have interests in a project and/or the ability to influence its outcome, either positively or negatively. This can refer to shareholders, lenders, employees, communities, industry, governments and international third parties.
Stakeholder Engagement	An umbrella term encompassing a range of activities and interactions between HZL and its stakeholders over the life of a project that are designated to promote transparent, accountable, positive, and mutually beneficial working relationships. Stakeholder engagement includes stakeholder identification and analysis, information disclosure, communication, problem/conflict anticipation and prevention, ongoing consultation, formation of partnerships, construction of grievance resolution mechanisms, negotiated problem solving, employee involvement in project monitoring, regular reporting forums and procedures, and other related management activities.



<p>Vulnerable Tribal Groups (VTGs)</p>	<p>Vulnerable Tribal Groups or 'VTGs' is the preferred terminology for this Technical Standard and covers IPs unless otherwise stated.</p> <p>VTGs may be referred to in different countries by such terms as "Indigenous Peoples" "Aboriginals" "Vulnerable Primitive Tribal Groups" or "Indigenous Ethnic Minorities". They are generally considered to be most marginalized and vulnerable segment of population and they may be more vulnerable to impacts associated with Project development. Their inability to defend their rights to, and interest in lands and natural & cultural resources may also impact their social and cultural life. Their peculiar circumstances may require special protective measures in the event that they are adversely impacted by a project.</p> <p>The definition of VTGs may be specified in the laws of host country on this subject. The IFC's criteria for IPs are included in paragraph 5 of PS 7 and are shown below.</p> <p>There may be significant differences in the respective definitions and approaches to managing VTG / IP issues; the IFC requirements are frequently more stringent.</p> <p>Competent professionals can be useful resources to assist in the determination of VTG / IP status, ensuring the application of definitions by authorities in the country of operation, and/or in applying the IFC definition.</p>
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RELATED DOCUMENTATION

A summary of the references and supporting documents relevant to this document is provided in the following table.

HZL Framework Doc. Ref./Source	HZL Framework Document name
POL 02	Human Rights Policy
TS03	Land Acquisition and Resettlement Management
TS04	Grievance Mechanisms
TS05	Stakeholder Engagement
TS08	Conducting ESIAs to International Standards
TS22	Indigenous Peoples
MS09	New Projects, Planning Processes and Site Closure
IFC Performance Standards Doc. Ref. /Source	IFC Performance Standards Document Name
Performance Standard 1	Assessment and Management of Environmental and Social Risks and Impacts
Guidance Note for PS1	Assessment and Management of Environmental and Social Risks and Impacts
Performance Standard 5	Land Acquisition and Involuntary Resettlement
Guidance Note for PS5	Land Acquisition and Involuntary Resettlement
Performance Standard 7	Indigenous Peoples
Guidance Note for PS7	Indigenous Peoples
Good Practice Note	Addressing Grievances from Project-Affected Communities
Other Documentation	
ICMM (International Council of Mining and Metals) Good Practice Guide: Indigenous Peoples and Mining	This Guide aims to assist companies in achieving constructive relationships with Indigenous Peoples. The Guide highlights good practice principles, discusses the challenges in applying these principles at the operational level and provides real-world examples of how mining projects have addressed these challenges.

ANNEX A – EXAMPLE INFORMED CONSENT FORM

The following is a sample consent form for a baseline study. It is a baseline study on Indigenous Peoples in the Example community, carried out by the principle investigator (PI) of this project from the Example company. The interviewer (the investigator) should have the interviewee read this form carefully and ask any questions the interviewee may have. Before the interview can start, the investigator and the interviewee should sign two copies of this form. The interviewee will be given one copy of the signed form.

Consent for Participation in Interview Research

I volunteer to participate in a baseline study conducted by [Name of the Principle Investigator] from Example Company. I understand that the study is designed to gather information about Indigenous People's cultural practices living in Example Community. I will be one of approximately 30 people being interviewed for this research.

1. My participation in this study is voluntary. I understand that I will not be paid for my participation. I may withdraw and discontinue participation at any time without penalty. If I decline to participate or withdraw from the study, no one will be told.
2. I understand that most interviewees will find the discussion interesting and thought-provoking. If, however, I feel uncomfortable in any way during the interview session, I have the right to decline to answer any question or to end the interview.
3. Participation involves being interviewed by researchers from Example Company. The interview will last approximately 30-45 minutes. Notes will be written during the interview. An audio tape of the interview and subsequent dialogue will be made.
4. I understand that the researcher will not identify me by name in any reports using information obtained from this interview, and that my confidentiality as a participant in this study will remain secure. Subsequent uses of records and data will be subject to standard data use policies which protect the anonymity of individuals and institutions.
5. Example community representatives will neither be present at the interview nor have access to raw notes or transcripts. This precaution will prevent my individual comments from having any negative repercussions.
6. I have read and understand the explanation provided to me. I have had all my questions answered to my satisfaction, and I voluntarily agree to participate in this study.
7. I have been given a copy of this consent form.

My Signature

Date

My Printed Name

Signature of the Interviewer

Principal Investigator Contact Details:

ANNEX B - ENGAGEMENT PLANNING TEMPLATE

Stakeholder Group	Stakeholders	Activity	Lead	Frequency	Resources Needed
IP/VTG Households directly affected by the Project	List Households	Activity 1	HZL Employee Responsible	Annual, monthly, semi-annual	Materials, meeting rooms, catering
		Activity 2			
		Activity 3			
		Activity 4			
IP/VTG Affected Communities	VTG 1				
	VTG 2				
IP/ VTG Representatives	Representative 1				
	Representative 2				

ANNEX C –AGREEMENT CONTENTS

There are no set rules about what should and should not be included in an agreement with IP/VTGs. This will depend on the context, as well as the aspirations of all parties. The following provides additional examples of agreement contents by topic.

Topic	Content Examples
Employment & Training	<p>Some agreements include clauses relating to employment and training, examples of the types of support are as follows:</p> <ul style="list-style-type: none">• A hiring policy that gives preference to IP/VTG job candidates and sets targets or quotas for IP/VTG employment in the project. This policy may establish some equivalence between work experience and schooling, so that IP/VTGs who have little or no formal education are considered in the hiring process. It may also specify requirements regarding the advertising of available positions in order to give advance notice and priority to IP/VTGs (for example, in aboriginal newspapers).• The creation of programs to keep IP/VTGs informed about job opportunities in the project and the skills required for those jobs, about available training opportunities, etc.• Provisions that help remove cultural hurdles to IP/VTGs participation in the workplace. These can include flexible work schedules to accommodate traditional activities such as hunting and trapping, facilities to allow the preparation of traditional “country” food in the work camp, specifications about housing in the camps, a requirement to use IP/VTG languages at work, crosscultural training for both all employees.• Training and apprenticeship programs for IP/VTGs people, educational programs in primary and secondary schools regarding the mining industry, and scholarships that allow local people to study careers related to the mining industry.
Local Business Opportunities	<p>Support to encourage participation of IP/VTG businesses with the development is often included in agreements. Examples of strategies that are incorporated into agreements are as follows:</p> <ul style="list-style-type: none">• Agreements often include a clause obliging the mining company to give priority to IP/VTG businesses when awarding contracts. This may include the setting of specific target such as the provision of a certain percentage of the mine’s needed goods and services by IP/VTG businesses.• Agreements may specify the formula to be used for calculating IP/VTG content in tenders.• Support to participate in tendering processes, such as requiring the mining company and to provide information about the company’s tendering process; requiring the mining company or government to give or fund workshops on how to prepare tenders; requiring that the company give IP/VTG businesses advance payments in order to help them to initiate contracts.
Financial / Equity provisions	<ul style="list-style-type: none">• Equity agreements may include clauses ensuring that local communities receive other economic benefits from the mine, apart from employment.• These benefits commonly include royalties, profit shares or fixed cash amounts that are linked to specific events in the lifetime of the mine.



	<ul style="list-style-type: none">• They may also include equity interests in the project, with possible representation of First Nation parties on the company's board of directors.• Equity participation in mineral development is a way in which IP/VTGs can secure funds to invest in capacity-building and economic diversification, while building entrepreneurial, financial and administrative capacity.• The section of an agreement that is focussed on financial contributions may also include compensation to individuals who suffer losses caused by the operation of the mine for example, hunters.
Land use Arrangements	<p>Agreements sometimes include clauses regarding land use and access by IP/VTG communities. This may include:</p> <ul style="list-style-type: none">• A clause stating that the mining company grants access to certain parts of the mine lease area and facilities by the IP/VTG community.• Advanced notice is provided by representatives of the IP/VTG to the mining company prior to entering the lands/facilities.

ANNEX D –BASELINE DATA CHECKLIST FOR IPS AND VTGS

A baseline study of IP/VTGs will most likely include much of the same data that would be collected in a “standard” baseline study (for example, quantitative data on employment, income levels, health, living conditions, and so on) but ought also to include explicit consideration of the items provided below.

Data Type	Specific Data Required
Natural Resources	<ul style="list-style-type: none"> • Access to water • Water use and treatment • Heating and cooking fuel • Pasture use (grazing of animals) • Fishing • Forrest woodland products (hunting, collecting) • Availability and quality of these resources • Seasonality of resources • environmental and natural resource management strategies • knowledge of local foods and medicines
Land Tenure	<ul style="list-style-type: none"> • Land ownership/ use/ occupation • Land prices • Inheritance/shared use • Ethnic and gender relationship to land tenure • common property rights and, reciprocity
Cultural Heritage	<ul style="list-style-type: none"> • Intangible cultural heritage practices such as festivals, ceremonies, burials and worship • Intangible cultural heritage, such as language, stories, art, music, and spirituality • Tangible cultural heritage sites, such as archaeological sites, graves, campsites, meeting places, sacred areas, trees
Social Capital	<ul style="list-style-type: none"> • Social structures such as roles and responsibilities • Cultural protocols, including traditional ways of dealing with grievances and conflict • Governance and decision-making structures • Knowledge of health and education • Types and frequency of interaction with the non-indigenous population

ANNEX E – INDIGENOUS PEOPLES & VULNERABLE TRIBLE GROUP DEVELOPMENT PLAN TEMPLATE

There are a number of ways an IP/VTGDP can be structured, but one example is shown below. This is taken from the Guidance Note for IFC PS7.

The level of detail varies depending on the specific project and the nature of the effects to be addressed. In general and where appropriate, an IP/VTGDP should include the following elements:

OUTLINE OF AN INDIGENOUS PEOPLES PLAN

1. **Baseline information (from environmental and social risks and impacts assessment process):**
Summarize relevant baseline information that clearly profiles the Affected Communities, their circumstances and livelihoods, with description and quantification of the natural resources upon which the Indigenous Peoples depend.
2. **Key Findings, Analysis of Impacts, Risks & Opportunities (from environmental and social risks and impacts assessment process):**
Summarize key findings, analysis of impacts, risks and opportunities and recommended possible measures to mitigate adverse impacts, enhance positive impacts, conserve and manage their natural resource base on a sustainable basis, and achieve sustainable community development.
3. **Result of Consultations (during environmental and social risks and impacts assessment process) and Future Engagement:**
Describe the process of information disclosure, consultation and informed participation and where relevant the FPIC process including GFN and documented agreements, with the Affected Communities of Indigenous Peoples, and how issues raised have been addressed. The consultation framework for future engagement should clearly describe the process for on-going consultations with, and participation by Indigenous Peoples (including women and men), in the process of implementing and operating the project.
4. **Avoid, Minimize, and Mitigate Negative Impacts and Enhance Positive Impacts:**
Clearly describe the measures agreed to in the process of information disclosure, consultation and informed participation to avoid, minimize and mitigate potential adverse effects on Indigenous Peoples, and to enhance positive impacts. Include appropriate action times that detail the measures to be taken, responsibilities and agreed schedule and for implementation (who, how, where and when) (refer to Performance Standard 1 and Guidance Note 1 for more details of the contents of an Action Plan). Whenever feasible, avoidance or preventative measures should be given primacy over migratory or compensatory measures.
5. **(e) Community Based Natural Resource Management Component:**
Where applicable, focus on the means to ensure continuation of livelihood activities key to the survival of these communities and their traditional and cultural practices. Such livelihood activities may include grazing, hunting, gathering, or artisanal fishing. This component clearly sets out how the natural resources upon which the Affected Communities depend, and the geographically distinct areas and habitats in which they are located, will be conserved, managed and utilized on a sustainable basis
6. **Measures to Enhance Opportunities:**
Clearly describe measures to enable Indigenous Peoples to take advantage of opportunities brought about by the project, and to conserve and manage on a sustainable basis the utilization of the unique natural resource base upon which they depend. Such opportunities should be culturally appropriate.
7. **Grievance Mechanism:**
Describe appropriate procedures to address grievances by Affected Communities of Indigenous Peoples arising from project implementation and operation. When designing the grievance procedures, the client will take into account the availability of judicial recourse and customary dispute settlement mechanisms among the Indigenous Peoples. Affected Communities (both women and men) must be informed of their rights and the possibilities of administrative and legal recourse or remedies, and any legal aid available to assist them as part of the process of consultation and informed participation. The grievance mechanism should provide for fair, transparent and timely redress of grievances without costs,



and if necessary provide for special accommodations for women, youth and the elderly, and other vulnerable groups within the community, to make their complaints.

8. **Costs, budget, timetable, organizational responsibilities:**
Include an appropriate summary of costs of implementation, budget and responsibility for funding, timing of expenditure and organizational responsibilities in managing and administering project funds and expenditures.
9. **Monitoring, Evaluation & Reporting:**
Describe monitoring, evaluation and reporting mechanisms (including responsibilities, frequencies, feedback and corrective action processes). Monitoring and evaluation mechanisms should include arrangements for on-going information disclosure, consultation and informed participation with the Affected Communities of Indigenous Peoples (both women and men) and for the implementation and funding of any corrective action identified in the evaluation process.

ANNEX F - DISCLOSURE PLANNING TEMPLATE

The disclosure planning template provided below has been partially completed as an example. This should be tailored to the specific communities and affected IP/VTGs.

Stakeholder Group	Stakeholders	Action	Lead	When	Materials Provided	Status
IP/VTG Households directly affected by the Project	List Households	Initial outreach to households	HZL Employee Responsible		ESIA, Factsheets, Nontechnical Summary	Completed
	List Households	Follow-up outreach to households				
IP/VTG Affected Communities	VTG 1	Community Town Hall Meeting				
	VTG 2	Community Open Day				
IP/ VTG Representatives	List Representatives	Meeting				



ANNEX G - MONITORING PLAN TEMPLATE

The following template has been provided as an example of impact monitoring against IP/VTG DPs. An example is provided for reference only.

Ref No.	KPI	KPI Definition	Means of Verification	Schedule
1.	# of households with increased income	Income to include direct employment, increased livestock numbers, government benefits and other sources of income.	Survey of affected IP/VTG households	Annual
2.				
3.				
4.				
5.				
6.				