



# Unlocking the potential for sustainable development in community zones

## Technical Report



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## Acronyms

CDP	Commune Development Plan
CIP	Commune Investment Plan
CLUP	Commune Land Use Plan
CPA	Community protected area
CWS	Chhep Wildlife Sanctuary
FPIC	Free, prior, informed, consent
KPWS	Kulen Promtep Wildlife Sanctuary
MoE	Ministry of Environment
Mol	Ministry of Interior
MFI	Microfinance institution
PA	Protected area
PES	Payments for environmental services
PDoe	Provincial Department of Environment
PDOLMUPC	Provincial Department of Land Management, Urban Planning and Construction
PLEL	Prey Lang Extended Landscape
PRWS	Prey Preah Rokha Wildlife Sanctuary
RGC	Royal Government of Cambodia
SLC	Social land concession
SMART	Specific, measurable, attainable, relevant, time-bound
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
WCS	Wildlife Conservation Society

# 1. Introduction

The Northern Plains landscape of Cambodia, part of the wider Prey Lang Extended Landscape (PLEL), represents one of the largest remaining complexes of the mixed deciduous dipterocarp and lowland evergreen tropical forests that once covered much of mainland Southeast Asia. These forests once supported one of the greatest aggregations of large mammals and waterbirds outside the African savannah. The Wildlife Conservation Society (WCS) has been supporting the Royal Government of Cambodia (RGC) and local community partners to develop sustainable conservation models in the landscape since 2002, with active management of the landscape's protected areas starting in 2005.

The Ministry of Environment (MoE) has formed four protected areas (PAs) in the Northern Plains: Chheb, Kulen Promtep and Prey Preah Rokha Wildlife Sanctuaries (CWS, KPWS and PRWS respectively), and Phnom Tbeng Natural Heritage Park. These PAs are in the process of being divided into four different zones (core, conservation, sustainable use and community zones), each with its own rules over access and how land and other natural resources may be used. The community zones are the only areas in which people may reside and are intended as areas in which residents can build homes and farms. Crucially, they may also hold important areas for biodiversity and often contain much forested land<sup>1</sup>. However, although provisional boundaries for the different zones have mostly now been agreed, there is still significant uncertainty over how resources within certain zones, and community zones in particular, should be managed. This situation is contributed to by the vague language used in the 2008 Protected Area Law, which provides little clarity regarding how resources that fall within community zones should be managed, or who should manage them (Dunai 2008). This has created a key gap in the management of protected areas across the landscape, generating uncertainty for local communities and preventing them from legally obtaining rights over land to which they hold customary claims. This in turn encourages illegal land-grabbing and helps drive informal processes through which land claims are sanctioned by local authorities (de Lange 2022).

To achieve both conservation and development goals within community zones, it is therefore essential that a clear process be established to provide clarity over how resources within community zones should be managed. Such a process should result in a set of rules that regulates resource use in important areas for biodiversity, while providing equitable access to land for residents. The 'Unlocking potential for sustainable development and management in community zones' project was conceived to investigate community access to land in one community zone in KPWS and apply the lessons learned to develop a set of guidelines for how to establish effective management of resources inside community zones. This report follows the completion of the project and sets out the principles that guided the development of

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<sup>1</sup> As the zoning in each protected area has been implemented separately, and indeed may be implemented separately for areas of the same protected area that fall in different provinces (e.g Kulen Promtep Wildlife Sanctuary), the extent to which community zones hold important areas for wildlife varies.

the guidelines, the outline process recommended to create management charters governing land and other resource use within community zones and a plan for piloting and scaling the implementation of the guidelines within the Northern Plains landscape.

## 2. Research synthesis

The research phase of the project was conducted in three settlements (Sambour, Prey Veng and Prey Kol) in the same community zone inside KPWS between December 2021 to June 2022 and focused on four main research questions:

1. How do residents currently access land, formally or informally, and what actors or processes are involved?
2. What factors (i.e., debt, migration, generational inheritance, finance, agriculture) shape decisions around land-use and land clearance?
3. How do external actors, such as market actors, state, or conservation institutions, shape land-use decisions?
4. How might households respond to different potential management scenarios, what forms of governance would be effective and just, and what role can conservation financing play?

The following section summarises the key findings of this research that have been used to inform the guiding principles and outline process to be encapsulated in the guidelines. For greater detail on the research findings see de Lange (2022).

### 2.1. Access to land

Access to land within the study settlements is almost exclusively informal, relying on customary claims that are widely recognised within communities and in some cases facilitated by local authorities. There is a widely held perception in the three villages that all available land inside the community zone is already in use or subject to existing customary claims. This includes land that is still forested. As a result, there is increasing divergence between families that have claims over currently unused forested land and families that are unable to access new land. This divergence is increasing inequality within the communities, as families with unused claims are able to continue to provide land to their children or further expand their agricultural production, whereas the only option available to families without such claims is to pay land from other families, which they often cannot afford to do. Contrary to expectations, migrant families are primarily land-poor and occupy precarious settlements on land made available to them by individual families, often in exchange for labour.

A significant disruption to this system is likely to come through the implementation of Circulation 06, which is expected to result in many families receiving legal title. It is hoped that this will provide welcome clarity over existing land use. However, as Circulation 06 is still being processed, it is not yet clear who will benefit or how much land will be titled.

## 2.2. Key factors

One of the major factors that affects decision-making around land use is the desire families hold to be able to provide land to their children when they marry, a sentiment which is repeated time and again during interviews. However, for many families, the current realities of accessing land mean that it is difficult to achieve this, despite there being a significant area of unused land within the community zone boundary.

The key factor that has shaped recent land use decision-making, however, is the growing importance of commercial agriculture, supported by widespread access to credit. This transition from predominantly labour-constrained subsistence rice production to capital-constrained production of cassava and cashew has contributed to an increased importance of upland chamkar land, increasing land prices, greater use of inorganic inputs and machinery, increased use of seasonal migrant labour and an increase in the use of broadcasting rice seed in favour of traditional rice nurseries.

A significant factor in this transition is the widespread uptake of loans from microfinance institutions (MFIs) and commercial banks. Access to credit allows farmers to invest in labour, inputs, machinery and land. However, such loans are often secured by a family's land holdings. As few families possess legal title to their land, local authorities provide families with so-called soft titles, which MFIs will accept as collateral despite their lack of legal status.

## 2.3. Key actors

Despite holding the legal mandate to manage resources inside protected areas, the Provincial Department of Environment (PDoE) has little influence over how local communities access and use land inside the community zone. However, PDoE was cited as having a strong role in dissuading families from claiming land outside the community zone, as this is seen to be a riskier activity.

The most influential actors are village chiefs, who play the key role of providing soft titles to land to facilitate access to credit and support land sales. MFIs are also key actors for the role they play in providing credit, which then enables farmers to invest more into their business. Migrant farm workers also provide a major role in enabling farmers to shift to a capital-intensive model of farm management.

## 2.4. Management scenarios

One clear finding from the research was that the dynamics of land use and the norms and political considerations surrounding this vary between villages. This suggests that management of community zones should be sub-divided on a village-by-village (or even sub-village) basis to allow for maximum cooperation and cohesion between land users. Similarly, in situations such as the Sambor - Prey Veng - Prey Kol community zone - where government figures suggest 80% of the community zone is still forested - it may be further necessary to divide community zones into areas for different community uses (e.g. residential land, agricultural land, sustainable use forest and areas protected for conservation).

In terms of community perceptions about the future of land use within the community zone, there is strong community support for restrictions on forest clearance if this is coupled with a route to land registration and titling. This desire for controlled management of land use is mirrored in people's reported attitudes to migration, which is supported if it can be managed. There is also strong support for a mechanism that would allow land-poor families to access land, with a widely held consensus that 5 ha is sufficient to meet a family's needs. However, local authorities report that previous efforts to reserve land for future use have failed, as such land remains vulnerable to outside land grabs, and people are also reluctant to explore ideas around the redistribution of land for fear of losing out. As a consequence, it is clear that any process to develop plans for managing land use within community zones would need to support communities work through the inherent trade-offs in their expectations.

In relation to how land use should be managed, community members expressed the desire to keep processes simple and avoid creating additional management institutions.

### 3. Guiding principles

To help inform the development of an outline process for establishing management of a community zone, the following five guiding principles were developed:

1. The process outlined in the guidelines must be in accordance with Cambodia's existing legal framework
2. The process should make use of existing concepts and institutions wherever possible
3. The process should empower communities to take decisions about how the community zones are managed and conflicts resolved
4. The process should be able to receive support from all key stakeholders, including local and provincial authorities, PDoE and affected communities.
5. The process should create the enabling conditions necessary to support outside investment

#### Principle 1: Legal framework

The primary guiding principle used to inform the process through which management of community zones can be supported is that the process must be in accordance with the existing national and international legal framework. However, as a significant proportion of existing land claims are on land that was not occupied when the Land Law was promulgated in 2001 – and are therefore in the vast majority of cases illegal – there is also a need to pragmatically balance the realities of existing land use with a strict interpretation of the law and other legal instruments. The discussion in this section is not meant to be exhaustive but highlights some of the key pieces of legislation that have informed the development of the guidelines.

## Protected Area Law (2008) and Protected Area Zonation Guidelines (2017)

The 2008 Protected Area Law, in addition to the 2001 Land Law, is one of the primary pieces of legislation governing land use inside PAs and community zones. However, although Article 11 of the PA Law states that the community zone should be managed for the socio-economic development of local communities (Box 1), there is little detail given as to how this should happen. Two clear points are that: i) issuance of land titles can be made provided that prior agreement is obtained from the MoE in accordance with the Land Law, and ii) that people have the right to continue existing activities within the community zone. The 2017 Zoning guidelines go further and state that management of the community zone is for use by local communities and indigenous peoples only (RGC 2017).

Box 1: Excerpts from the 2008 Protected Area Law translated by de Lange (2022).

*Article 11:*

*Each protected area shall be divided into four management zoning systems as follows:*

*[...]*

*4. Community zone: zone managed to serve the economic and social development of local communities and indigenous peoples who have existing activities including residence, rice fields, and farms. The issuance of land titles or permission for land use within this zone must have explicit prior agreement from the Ministry of Environment in accordance with the Land Law.*

An additional point with relevance to the development of guidelines for managing community zones is that, under Article 4 of the PA Law, the MoE is mandated to produce technical guidelines for managing protected areas.

## Land Law (2001)

The 2001 Land Law is a crucial piece of legislation for determining legal land use and is expressly recognised by the 2008 PA Law. Under Article 15 of the Land Law, any land that was forested – or of other natural origin – at the time the law was promulgated in 2001 belongs to the state and is classified as state public land. Furthermore, state public lands cannot be privately acquired or legally granted by the state except for temporary and revocable use. State private lands can be gifted or granted as social land concessions (SLCs) to private individuals for subsistence purposes.

Under the Land Law, any person that occupied land uncontested for at least five years prior to promulgation in 2001 has the right to request legal title and registration of that land. Any person who already occupied uncontested land at the time of promulgation but had not yet completed five years occupation had the right to request legal title after five years of continuous occupation. All other land claims, unless granted by the state

or acquired legally through gift, purchase, inheritance or exchange in the intervening period, are illegal.

### *Circulation 06 (2019)*

Circulation 06 was sent by the Prime Minister and details measures and criteria for granting state property to poor families and civil servants that have occupied state land for at least 10 years. Land granted in this manner should be used for subsistence purposes. After five years of occupancy following granting of land by the state, families are entitled to request land title. This process is currently ongoing so it is not yet clear what the final outcome will be.

### *Sub-decree 19 on social land concessions (2003)*

Sub-decree 19 details the procedures by which social land concessions may be granted on state private lands. SLCs can be granted through two separate processes but the most relevant to this case is the Local Social Land Concession Program, which can be initiated by local communities or by commune councils. Families that qualify to receive land within an SLC can receive residential or agricultural land, or both. Agricultural parcels are limited to two hectares, but this can be increased to five hectares under certain circumstances. As with Circulation 06, land granted through SLCs should be used for subsistence purposes and families receiving land have the right to request legal title after five years of continuous occupation.

### *Sub-decree 118 on state land management (2005)*

The 2005 Sub-decree 118 on state land management details the procedures for reclassifying state public land to state private land, which is necessary for that land to be granted for permanent use, such as social land concessions.

### *Sub-decree 72 on commune land use planning (2009)*

The commune land use planning process detailed in Sub-decree 72 is part of the national spatial planning system and is designed to inform the five-year commune development plan (CDP) and annual commune investment plan (CIP) processes. The Commune Land Use Plan (CLUP) sits within the District Land Use Master Plan and set out the 10-20 year land needs for public uses and local development, including allocation of land for SLCs. The planning process should be based on participatory methods and include the participation of families from all villages within the commune and civil society groups with an interest in land issues. However, at present, very few provinces have engaged in spatial planning, such that CLUPs are often not available. This is currently the case for the Northern Plains landscape, although this may change in the future.

### *Village-Commune-District security policy (2021)*

The village-commune security policy was introduced by the Ministry of Interior (MoI) in August 2010 and identified five priorities for improving security at the village and commune level. In 2021, the MoI extended the policy to include districts and expanded

the original list of priorities from five to ten. The new list includes a target of maintaining good sanitation and environmental conditions.

### *UN Declaration on the Rights of Indigenous Peoples (2007)*

In addition to other key international agreements, the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) recognises the right of all peoples to Free, Prior, Informed Consent (FPIC). This is embedded in Indigenous Peoples' right to self-determination, along with rights to lands, territories and natural resources (FAO 2016). As UNDRIP has been adopted by the Royal Government of Cambodia (RGC), FPIC must be obtained by any project working with Indigenous Peoples that may impact access to land or natural resources (Rock 2019). The process of FPIC involves ensuring that communities are given the opportunity to give their consent to a project voluntarily, without coercion or manipulation, after they have been given accessible and detailed information along a timeline set by the community.

## Principle 2: Existing concepts

The second guiding principle is that, wherever possible, the guidelines should make use of existing concepts relating to the management of land and other natural resources that will be familiar to local communities and other key stakeholders with an interest in community zones. The intention is that this will facilitate greater uptake of the guidelines and provide a more accessible route for communities to understand and participate in the process set out therein.

The most relevant existing process, with clear parallels to the management of resources inside community zones, is the process of establishing community protected areas (CPAs). Under the PA Law, CPAs can be established inside sustainable use or community zones and are designed to establish areas that communities can manage to improve natural resources and support community livelihoods through sustainable use. The management of CPAs is based on the principle of collaborative management between local communities – represented by an elected committee – and the PDoE. This principle is recognised under Objective 1.4b of the National Environment Strategy and Action Plan (2016-2023) to promote participatory management of PAs.

The process through which CPAs are instituted and governed establishes several important concepts. Firstly, CPAs must be governed through a CPA bylaw, which is a set of rules that covers: i) the community's objectives for the CPA, ii) the governance structures for the CPA, and iii) the principles for how resources within the CPA may be used and the consequences for breaking these principles. Secondly, communities must develop five-year management plans, which include zonation plans for the CPA, detail the management strategy to be followed and set out annual activity plans for the five-year period covered by the management plan. Finally, all community consultations within the establishment process must achieve at least 60% participation from community members to be considered valid. Although the process establishes these important – and highly relevant – concepts, it may not be appropriate to simply transpose them to community zones. One major concern related to the development of both the bylaw and management plans is the use of highly restrictive templates,

which are likely to limit the opportunities for communities to truly participate in decision-making if the process is not well facilitated.

### Principle 3: Community empowerment

There is a significant body of academic literature and global experience that demonstrates the benefits of empowering local communities to take a direct role in managing natural resources. The principle of empowering communities to take decisions about how natural resources inside community zones are managed and utilised has been informed by this experience, as well as the understanding of how land and other resources are currently being managed gained from the research phase of this project. For example, it is clear that there are trade-offs in how communities - including different sections of communities - would prefer resources to be managed. The status quo benefits those with extensive customary claims, but many families are now finding themselves – and their children – locked out of accessing land. Empowering communities to make decisions about how currently unexploited (if not unclaimed) resources are managed would give them an opportunity to work through these trade-offs in the knowledge that their decisions would be supported by local authorities and other stakeholders. It also avoids the resentment that can be caused when decisions and rules are imposed by external actors.

Enabling communities to take decisions about how resources are managed ensures that management rules are more likely to meet a community's objectives, rather than reflecting external interests. This in turn can have positive impacts on compliance. For individuals, having the opportunity to influence rules helps to legitimise the process and can increase the probability that they choose to abide by the rules set. Similarly, knowing that rules have been agreed by peers also strengthens the social influences that people experience to comply. It also creates an opportunity for rules to be applied equitably across a community, which again is important for perceptions of legitimacy. In the current context of the Sambor community zone, there is a perception that existing rules are only enforced for participants of the IBIS Rice programme, because they are the only people penalised for instances of non-compliance. This is often reported to project staff to be unfair and acts to dissuade people from participating in the programme, despite demonstrable benefits (Travers 2021). Finally, enabling rules to be set by communities improves accountability of the governance structures and institutions that are put in place. Community management institutions created by external actors often lack legitimacy in the eyes of communities. However, community members are more likely to believe that institutions are accountable to the community if they have had a role in their creation.

### Principle 4: Stakeholder buy in

For the process set out in the guidelines to be successful, it will require support from all of the key stakeholders with either a current de jure or de facto role in decision-making around the use of land and other resources inside community zones. It is important then to consider how the process set out in the guidelines will impact each of these stakeholders.

### *Local communities*

Local communities should experience significant benefits through the process, including having a strong say in how land surrounding their village is managed, establishing a legal route by which they can receive title and land registration, achieving greater autonomy within the community zone and having an enhanced ability to control the use of resources by other stakeholders or people from outside their community. However, it is important to recognise that communities are not homogeneous entities and that these benefits may not be experienced evenly across a community. As such, it is likely that some families that currently benefit from the status quo may lose out (e.g. through the redistribution of customary claims).

### *Provincial Department of Environment and other provincial departments*

The PDoE is one of the biggest losers from the current system of land management inside community zones. Despite being legally mandated to manage land use in community zones – and therefore accountable to the MoE and provincial government – the majority of decisions around land are made by individuals within a framework of customary rules, supported and facilitated by local authorities. As discussed above, the PDoE is also hampered by a lack of guidance as to how land inside community zones should be managed. Having an agreed process that can be followed to establish this would therefore give the PDoE clarity over permitted uses of land. It would also provide a route through which key areas for conservation located inside community zones could be identified and protected. Finally, it would remove one of the major obstacles – conflict over land – blocking improved relationships with local communities. This in turn should foster improved cooperation over management of resources and enforcement of PA rules in other zones. However, it is also important to recognise that empowering communities to play a role in managing resources and providing legal routes by which community members can obtain title inside PAs will require a shift of approach and mentality from the current status quo.

### *Local authorities*

Local authorities are currently key power players in how land is used inside community zones, often playing the role of brokers for land sales and facilitating loans through the provision of soft titles. Although local officials report that they often feel compelled to act in this way for the benefit of local families, the reality is that these actions are often not in accordance with the law. As a result, the process set out in the guidelines offers local authorities with an improvement on the status quo by providing an approved route to continue to facilitate land use decision-making inside community zones. For example, local authorities play a key role in initiating a Local Social Land Concession Program and selecting eligible beneficiary families. Management of the community zones will also be more closely aligned with commune level planning processes, such as the CLUP and CIP.

## Conservation NGOs

For conservation NGOs, the primary benefit of the process set out in the guidelines will be improved clarity as to the legality of land use inside community zones. The current system of widespread illegal but condoned land use creates significant programmatic challenges for NGOs. This improved clarity will enable greater investment in community management of resources (e.g. support for newly created CPAs inside community zones). It will also help facilitate programmes, such as IBIS Rice that apply conditionality in relation to compliant behaviours.

## Principle 5: Investment planning

One of the major challenges facing conservation friendly investment in community zones is the lack of clarity over the legality of existing and future land use. A recent report produced by François et al. (2022) for the World Bank concluded that: “there is a lack of management plan and governance in community zones. The development of management plans accepted by the local stakeholders and their enforcement is essential to achieve socio-economic and conservation objectives. It is also a prerequisite to attract responsible investors in conservation friendly economic activities and support the development of conservation friendly economic activities”. In this way the process set out in the guidelines will support future investment by providing clear evidence over who has the right to use different parcels of land, a legal route by which families can request title and land registration, and agreed rules about the eligibility and conditions for external investors leasing or otherwise using of land inside community zones. It will also help to improve equitable access to investments by providing a route for land-poor families to access sufficient land to participate in investment programmes. Finally, enabling communities to set rules for themselves will benefit investors by addressing the suggestion – and resulting resentment – that rules are being imposed by investors.

## 4. Management charters

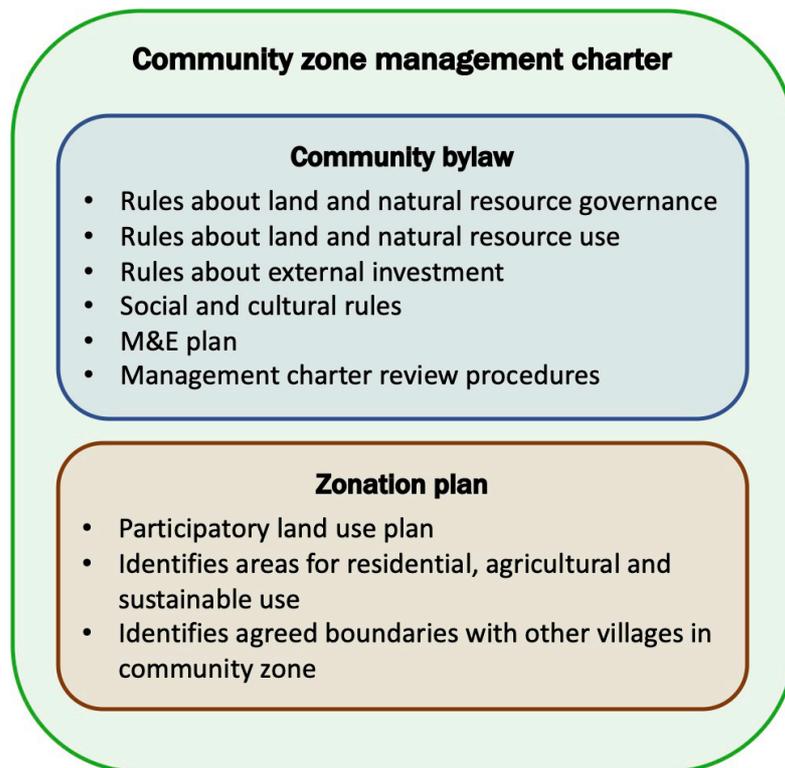
The outline process described in Section 5 maps out a step-by-step approach for developing community-level management charters for community zones. These management charters are envisaged as a means through which communities can establish the rules and governance structures in relation to how land and other natural resources inside community zones are managed. Under this proposal, the management charters would be comprised of two distinct but related elements: a community bylaw and a zonation plan (Fig. 1).

### Community bylaw

The community bylaw is envisaged as the crux of the community zone management charters. It is intended to set out rules for the governance and use of land and natural resources, external investment, and other social and cultural issues of importance to individual communities. It would also include procedures for monitoring and evaluation, and periodic review of the management charter.

## Zonation plan

The purpose of the zonation plan would be to designate specific areas inside the community zone for residential, agricultural and sustainable use. This would allow for planned expansion of agricultural land inside the community zone to meet families' needs through the granting of future SLCs. The zonation plan would also identify areas suitable for the creation of new CPAs to protect key areas for conservation and enhance natural resources for sustainable use. It is envisaged that these plans would be incorporated into commune land use and investment plans.



**Figure 1: Key features of community zone management charters.**

## Technical working group

Each management charter would be developed at community level and be supported by the technical working group at provincial level (Fig. 2). The provincial technical working group was established as part the wider zoning process and comprises key stakeholders at PA and provincial level, including Deputy Provincial Governor, Director of PDoE, the Provincial Department of Land Management, Urban Planning and Construction, district governors, commune chiefs and NGOs.

The technical working group's role in relation to the management charters would be to:

1. Provide oversight of management charter development process
  - Ensure technical support provided throughout process
  - Review final community bylaw drafts and zonation plans
2. Support CPA and SLC processes at provincial level

3. Resolve conflicts
  - Mediate conflicts that cannot be resolved at community level
  - Facilitate boundary negotiations between neighbouring communities
4. Review complaints relating to the implementation of management charters

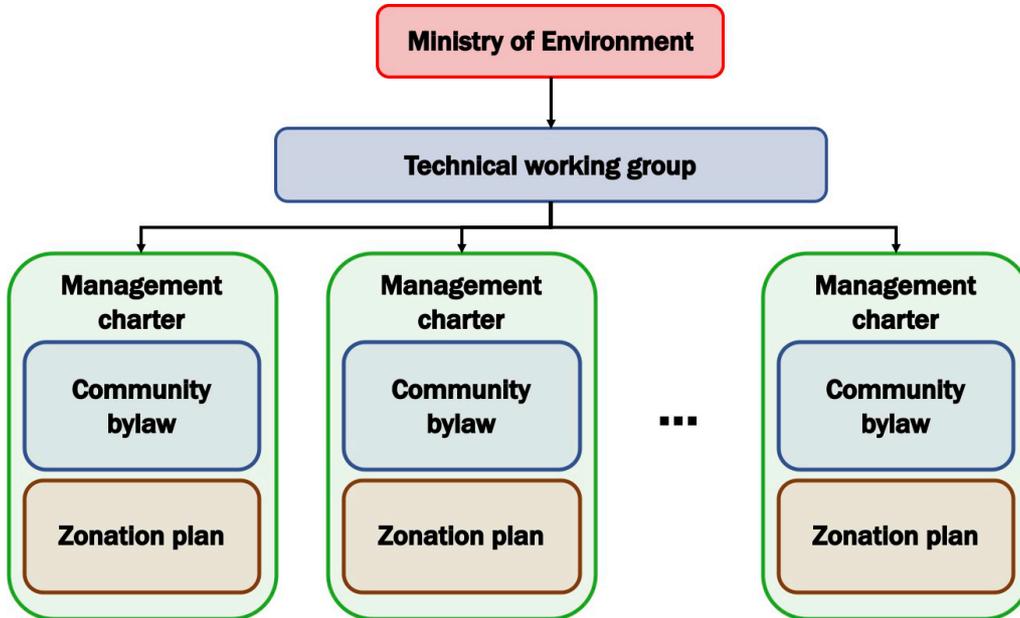
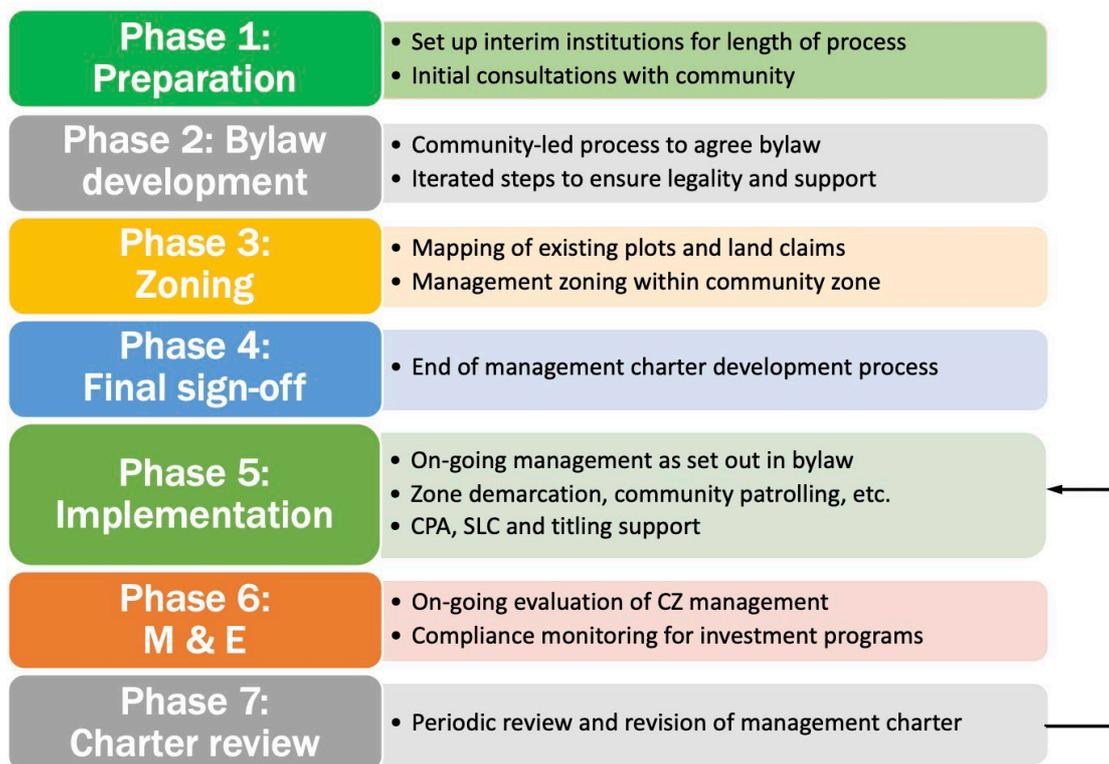


Figure 2: Community zone management charters would be developed at community level with support from the provincial technical working group.

## 5. Outline process

The process for developing and implementing management charters includes seven phases from initial conception and preparation through to periodic review (Fig. 3).



**Figure 3: The seven phases of developing and implementing community zone management charters.**

## Phase 1: Conception and preparation

The main purpose of the conception and preparation phase is to ensure that the right conditions and institutions are in place for the management charter establishment process to result in a successful outcome, supported by all key stakeholders.

### *Step 1.1: Feasibility Analysis*

The first step of the preparation phase is to conduct an initial assessment to check whether the appropriate conditions for community zone management are present. This would initially include mandatory checks to test whether the process is suitable in the first place. For example, checks should be made to see whether a community is legally settled, whether there is land available within the community zone, or whether there are competing external claims to the land. If any of these checks fail, it may be more appropriate to follow alternative processes or resolve obstructing issues first before continuing with the establishment of a management charter.

The feasibility analysis should also include checks to see if the right enabling conditions are in place. This would include checks on community cohesion, presence of existing conflicts over resources or the presence of strong and committed leaders. If these checks fail, the process may still be able to proceed but may require additional support and resources. In such cases, the feasibility analysis should assess the likelihood that the process can be completed and whether the benefits of proceeding

with the process outweigh potential risks. For example, it is possible that existing conflicts over land may be heightened should the process breakdown midway.

### *Step 1.2: Initiate process*

If the findings of feasibility analysis suggest that there are reasonable grounds for proceeding, the next step is to formally initiate the community zone management charter establishment process. This can be done by the appropriate PDoE or PA Director, or by the relevant community themselves. In practice, it is probable that communities will require external support from civil society organisations to assist them with this step.

### *Step 1.3: Inform technical working group*

The provincial technical working group should facilitate the management charter establishment process and provide technical support throughout. The technical working group should be informed once the process has been initiated.

### *Step 1.4: Initial consultation with community and consent*

The initial consultation with the community should aim to provide a complete overview of the process. In practice, if the process has been initiated by the community itself, it is likely that an awareness raising campaign has already been completed. Nevertheless, it is important that all sections of the community should be given the opportunity to become familiar with the process. Consequently, the initial consultation should follow a Free, Prior, Informed Consent (FPIC) process to ensure that community members are engaged in such a way that they are sufficiently informed to give their voluntary consent for the process to proceed. Note that this is not the same as giving their consent for the management charter developed by the process to be implemented. A minimum of 60% community participation should be achieved at this stage.

The initial consultation should also establish the ground rules for the remainder of the establishment process. For example, it is important to manage expectations early in the process and to clearly define the roles that different people or organisations will play. It is similarly important to discuss how any disagreements that arise during the process should be handled, promoting an environment in which everyone should feel able to voice their opinion and in which opposing or dissenting voices should be heard and respected. Finally, it is important that community members should have an understanding of the commitment required to complete the process (e.g. attending meetings throughout the establishment process).

### *Step 1.5: Establish an interim community committee*

The purpose of the interim community committee is to help guide the establishment process at community level and provide a point of contact with the technical working group at PA or provincial level. The interim committee members will then facilitate community meetings throughout the process. It is important therefore that the committee is made up of representatives from different sections of the community,

including marginalised or vulnerable groups. It is particularly important in communities containing a mix of ethnicities, or that are distributed spatially, that all groups are represented on the committee.

The committee should be established on the understanding that it will be dissolved at the end of the establishment process, as the community will have the opportunity to decide on appropriate management institutions to facilitate implementation of the management charter at a later stage.

### *Step 1.6: Train interim committee on process and facilitation*

The final step in the preparation phase is to ensure that the interim committee have a full understanding of the establishment process and are well-trained in facilitation. Good facilitation is critical to a successful outcome for the establishment process and should not be overlooked.

In particular, facilitators should be trained to:

- Understand the community's objectives and help them to work towards those objectives, not preconceived ideas about what those objectives may be. This is likely to require that facilitators help communities to see the big picture of the challenges they face so that they can set their objectives accordingly.
- Draw out solutions from the community by asking questions, rather than adopting a teacher persona.
- Ensure that all meetings are participatory by fostering an environment in which everyone feels safe to contribute.
- Work at the community's pace to ensure that everyone can follow the process, rather than working to a predetermined schedule.

## Phase 2: Community bylaw development

The bylaw development phase is the most critical for a successful outcome, as it is during this phase that a community will set its objectives, agree on the rules that will govern management of resources inside a community zone and work through trade-offs. If done well, the process of developing the bylaw may be as important to long-term management as the bylaw itself, as it may give the community an opportunity to explore ideas they have not previously considered and to reach a common vision for how they want to develop and grow as a community.

It is important that this phase should be participatory, with all sections of the community involved. This means that it may be necessary to hold multiple meetings in larger communities to enable community members to attend meetings close to them. Breaking meetings into smaller groups that represent different perspectives is likely to help elicit perspectives that members of these groups may otherwise not feel able to voice.

### *Step 2.1: Set community management vision and objectives*

The first step in developing the community bylaw is for the community to define its overall vision for management of the community zone and the objectives that will help it to achieve that vision. This step provides the community with the opportunity to reflect on their history and to decide on the future that they would collectively want to achieve for their children and wider community, the natural resources on which they rely and the environment around them. This is a vital step that facilitators can use to help communities develop the community bylaw by referring back to the community vision developed at this stage. Facilitators should encourage the community to include a diverse range of objectives, including for different groups (e.g. women, youth, etc.). A minimum of 60% community participation should be achieved at this stage.

### *Step 2.2: Conduct initial brainstorm of existing rules*

The second step in the bylaw development process is to conduct an initial brainstorm of existing and past rules relating to the governance, use and management of land and natural resources, as well as any social and cultural rules that may govern how community members interact with each other. An effective way to facilitate the brainstorm is to ask participants to shout out any rules they can think of. The aim during this step is to encourage people to call out as many rules as they can. At this stage all rules that are identified should be recorded without being edited or being concerned whether they are in accordance with national or international legislation.

### *Step 2.3: Community review of initial bylaw draft*

Once the community has completed the initial brainstorm, the rules identified should be compiled into different sections (e.g. governance structures or resource use) to form the basis of an initial bylaw draft. This initial draft should then be reviewed through a series of community meetings focusing on individual sections of the bylaw. As before, these meetings may need to be held in multiple locations and should give opportunity for different community groups to discuss the draft separately.

At the start of each meeting, the community should be given a concise and accessible briefing on the national laws relevant to that particular section of the draft. Participants should then be asked to review the rules relevant to each section and decide which rules to keep, which rules they would like to remove, which rules should be kept but revised, and which rules might be missing. By proceeding in this way, participants will have the opportunity to shape the rules that govern how they collectively and individually access and use resources inside the community zone. They will also have the opportunity to debate any trade-offs or inconsistencies that emerge. This is particularly important for marginalised or vulnerable groups who may have lost out through the application of existing rules without having the opportunity to question if this was fair. Once the communities have reviewed the rules for each section, they should then be asked to agree what should happen in the event the rules are broken. This should be done on a rule-by-rule basis and gives communities the opportunity to think through the consequences to both the community and rulebreaker in instances of noncompliance.

#### *Step 2.4: Legal review of second bylaw draft*

Once a full draft of the bylaw has been produced, complete with community sanctions, a review should be conducted by legal experts to ensure that the bylaw is compliant with national and international law. Any cases where rules are found not to be in accordance with the existing legal framework should be referred back to the community with a full and accessible explanation of why this is the case. This gives the community an opportunity to revise non-compliant rules and produce a final bylaw draft.

#### *Step 2.5: Community consultation on the final bylaw draft*

Once the final bylaw draft has been produced following any revision required by the legal review, the community should be consulted for a final time to ensure that they are happy to proceed to the next phase of the establishment process. A minimum of 60% community participation should be achieved at this stage.

#### *Step 2.6: Stakeholder consultation on the final bylaw draft*

The last step of the bylaw development phase is to circulate the final bylaw draft to key stakeholders to ensure that they too are happy to proceed to the next phase of the establishment process. This consultation should include all non-resident users of land or other resources inside the area of the community zone that would fall under the mandate of the management charter under development. Any issues that are raised by stakeholders should be referred back to the community to be resolved before proceeding to the next phase of the process. This is a key part of the process, as it not only gives stakeholders an opportunity to input into community plans to ensure that they are well thought through, but also reminds communities that the bylaw they produce must be acceptable to other stakeholders. As such, the technical working group has a key role to play in supporting community decision-making and providing advice throughout the bylaw development process.

### **Phase 3: Zonation plan development**

While the community bylaw sets the rules for how resources inside the community zone are managed, the zonation plan designates specific area within the community zone for different uses. Creating the zonation plan is a key phase of the establishment process as it provides communities with the opportunity to confront trade-offs about actual physical resources, rather than the more hypothetical scenarios discussed during the development of the bylaws. It also provides the clarity required by all stakeholders regarding which activities are allowed in specific areas of the community zone.

#### *Step 3.1: Create map of existing land use*

The first step of the zonation process is to understand the extent of existing land use and land claims by creating a map of used and claimed land within a community's boundaries. In order to create this map, community facilitators should measure all occupied land belonging to community members or non-resident land users, as well as all land that community members believe they hold customary claims over. It should

be made clear to all community members that measuring land in this way does not confer any rights to the land measured but is an important step in developing an understanding of how land is currently being utilised within the community zone. Once occupied land and land claims have been measured in this way, the measured plots can be added to a map of plots to which community members already hold legal title to create a map of all land used or claimed within the community's boundaries. This map will enable areas of competing land claims between community members to be identified. It will also help provide a clear understanding of the extent of community zone land under existing claims. For example, there may be a perception that all remaining unoccupied land inside the community zone is already claimed but this may not actually be the case in reality. It is only through measuring existing claims that this can be determined.

In cases where neighbouring communities are located in different communes, the boundaries between communities will already be defined. Elsewhere, the community's boundaries do not need to be formally defined at this stage, as there will be an opportunity at a later stage to facilitate boundary negotiations between neighbouring communities.

### *Step 3.2: Create map of conservation and sustainable use areas*

The second step of the zonation process is to identify areas of significance for conservation and sustainable use. As this will form the basis for the establishment of new CPAs inside the community zone, special attention should be given to priority areas for the formation of CPAs, including i) areas with potential for ecotourism development, ii) areas where natural resources are vulnerable and exploited by community members, iii) areas where natural resources are exploited as part of traditional uses, and iv) areas where there is support from the community and local authorities to be a CPA. The purpose of this stage is not to initiate an application for establishing new CPAs but to identify areas that may be suitable for such an application to be made in the future. Such areas should be identified through consultations with community members, with input from PDoE and conservation NGOs.

### *Step 3.3: Negotiate conflicts between land claims and other uses*

Following the two mapping exercises in Steps 3.1 and 3.2, it is very likely that there will be competing claims to land, either between community members or between future uses (e.g. community members may believe they hold customary claims to land that has been identified as being suitable for the establishment of a new CPA). It is therefore important that the community as a whole is given the opportunity to negotiate the outcome of such competing claims following the procedures set out in the community bylaw. For example, the community may have decided to place limits on the area of land that individual families are entitled to. In practice, for many households this is likely to be informed by the limits placed on how much land families are entitled to be granted through a local SLC program. In cases where community members are claiming land greater than these limits and where there is a competing claim to this land, it may be decided that the other claim should be given prominence in this case. In other cases, the community may decide to resolve competing claims by offering

families comparable land in alternative areas. It is important that such competing claims are resolved in a fair manner that is well documented and supported by all parties to ensure that the resolution process does not create future conflicts.

### *Step 3.4: Negotiate community boundaries*

The final step before a draft zonation plan can be produced is to negotiate community boundaries with neighbouring villages or communities where there are competing claims. As neighbouring villages in different communes should already have agreed boundaries, this step should only be necessary between communities located in the same commune. This process should therefore be facilitated by the commune council, with support provided by the technical working group and District Committee for Land Management and Urban Planning.

### *Step 3.5: Create draft zonation plan*

Once all remaining competing land claims have been resolved through Steps 3.3 and 3.4, the community can develop a draft zonation plan to detail land under current use, land held in stewardship for future SLCs and land allocated for the future establishment of new CPAs.

It should be noted that provision should be made in the community bylaw for how land held in stewardship for future SLCs should be managed. As land held in reserve for future use may be perceived to be vulnerable to external land grabs, the community can decide what options they would like to pursue in order to prevent this, including prioritising recognition of existing customary claims where those claims are in accordance with any limits placed on individual entitlements, financially supporting community members to provide stewardship over land through a communal fund, conducting community patrols or requesting support from PDoE to assist in protecting these areas.

### *Step 3.6: Community consultation on draft zonation plan*

Once the draft zonation plan has been produced, the community should be consulted to ensure that they are happy to proceed to the next phase of the establishment process. A minimum of 60% community participation should be achieved at this stage.

### *Step 3.7: Stakeholder consultation on draft zonation plan*

As with the bylaw development, the last step of the zoning phase is to circulate the draft zonation plan to key stakeholders to ensure that they too are happy to proceed to the next phase of the establishment process. Any issues that are raised by stakeholders should be referred back to the community to be resolved before proceeding to the next phase of the process.

## **Phase 4: Management charter sign-off**

The sign-off phase marks the end of the management charter establishment process and the transition to implementation.

#### *Step 4.1: Final community consent for management charter establishment*

The first step of the sign-off phase is to conduct a final consultative process with the community on the full management charter, including both the community bylaw and zonation plan. This step gives the community the opportunity to review the bylaw in light of the results of the zonation process. It also enables a final FPIC process to be conducted to ensure that consent is given once the community is aware of the final contents of the management charter. As with other steps where the community's consent is sought, a minimum of 60% community participation should be achieved at this stage.

#### *Step 4.2: Final approval from technical working group*

Once the community has given its consent to proceed, the final version of the community's management charter should be sent to the technical working group for consideration and final approval to proceed with the establishment process.

#### *Step 4.3: Hold signing ceremony*

The signing ceremony is an opportunity to celebrate the end of the management charter establishment process and to demonstrate formal recognition from key stakeholders, including the commune chief, PA Director, Director of PDoE and Director of PDoLMUPC. The ceremony should be held in the community to enable the whole community to witness the signing and participate in the celebrations. A signed copy of the management charter should be displayed in the community.

#### *Step 4.4: Transition management structures*

The purpose of the final step is to dissolve the interim community committee set up to support the community through the establishment process and to ensure that the management governance structures set out in the bylaw are in place. The process of this step will vary depending on the content of the community bylaw. For example, in cases where the community has decided to rely on existing authorities, such as the village chief and CPA committees, it may not be necessary to hold further selection processes. However, in cases where a new management governance structure is to be created (e.g. a new resource management committee), it may be necessary to hold elections to select individuals to serve in these structures.

### **Phase 5: Implementation**

While the development of the management charter should be a hugely beneficial process in itself, it should only be seen as the beginning of the process of managing resources inside community zones. It is the implementation of the management charters that will determine whether communities are able to achieve their management vision as encapsulated in the community bylaw. It is therefore essential that external stakeholders that have supported the development of the management charters, such as the technical working group, continue to provide support to communities during the implementation phase.

### *Step 5.1: Agree annual community action plan*

The first step of implementation is to agree an annual community action plan for activities to be supported to manage resources inside the community's boundaries. This plan should include all activities that will be conducted, including community patrols, boundary demarcation, awareness raising, and all actions required by the community monitoring plan (see Phase 6 for more detail). The action plan should be consistent with the community vision and objectives set out in the community bylaw and should identify areas where cooperation with key stakeholders is required.

### *Step 5.2: Follow established procedures for creation of new CPAs*

There may be areas identified in the zonation plan for the creation of new CPAs. These should be established following the guidance on the procedures and process of CPA establishment detailed in MoE Prakas no 066 (2017). This includes the establishment of a CPA committee (if one has not already been established), as well as CPA bylaws, management plans and management agreements for each of the new CPAs.

### *Step 5.3: Follow established procedures for creation of new SLCs*

As with the creation of new CPAs, there are established procedures for the granting of new SLCs. Application for new SLCs should be made on an annual basis to provide land for eligible families as set out in the community bylaw. This should be timed to integrate with the annual review of the CIP. New SLCs must be created following the procedures for Local Social Land Concession Programs detailed in Sub-decree 19. This may require land identified in the zonation plan for future use to be reclassified as state public land following the procedures set out in Sub-decree 118.

### *Step 5.4: Ongoing implementation of community zone management charter*

Ongoing implementation of community zone management charter should be in accordance with the community zone management charter and annual community action plan.

## **Phase 6: Monitoring and evaluation**

The community monitoring and evaluation plan is an opportunity for communities to track how implementation of the management charter is performing and whether progress is being made towards the community vision and objectives set out in the community bylaw. As such the monitoring plan should be developed by the community for the community's use. Step 6.1 should be carried out concurrently with the development of the community bylaw so that the monitoring and evaluation plan is included in the bylaw and is consulted on by key stakeholders at that stage.

### *Step 6.1: Develop community monitoring and evaluation plan*

The first step in developing the monitoring and evaluation plan is for the community to identify a set of key indicators that would enable them to track progress against the objectives set out in the community bylaw. It should be suggested to the community

that they select indicators to cover the full range of objectives identified in the bylaw. The indicators selected should be all be SMART (specific, measurable, attainable, relevant and time-bound). This may require assistance from the technical working group but will help the community select indicators that they are able to monitor over time and that will help them understand how the management charter is performing.

Once a set of key indicators has been selected, the community should develop procedures for how these indicators will be monitored. As the community works through the practicalities of collecting the data, this may entail some revision of the indicators to ensure that the community is satisfied that they can be monitored effectively. At this stage, the community should also agree procedures and a schedule for how the data will be reported back to the community.

The final step of developing the community monitoring and action plan is to agree which members of the community will be responsible for collecting data on the key indicators and reporting data back to the community.

### *Step 6.2: Ongoing implementation of the community monitoring plan*

Once the monitoring and evaluation plan has been agreed as part of the bylaw development process in Phase 2, ongoing implementation of the community monitoring plan should be included in the annual action plan developed in Step 5.1.

## **Phase 7: Management charter review**

It is likely that over time conditions may change and communities will learn from their experiences implementing the community zone management charters. It is therefore important that the management charters are seen as living documents and that communities adopt a learn-by-doing approach to management of the community zone. As such, provisions should be included in the community bylaw for periodic review of the management charter in light of community experiences – including any conflicts or complaints referred to the technical working group for resolution – and the performance of key indicators as measured by the community monitoring plan. This will also provide a regular opportunity for community members to voice elements of the management charter they feel are working well and elements that they would like to see changed.

### *Step 7.1: Conduct periodic review of management charter*

The first step of the management charter review process should follow the procedures set out in the community bylaw. It is possible that this may require an interim review committee to be established so that the views of different sections of the community can be included. The review process should take account of the experiences of community members over the relevant period, plus the performance of key indicators. It is expected that such a review would be conducted every three to five years.

### *Step 7.2: Develop recommendations for revisions*

Once the findings of the management charter review have been established, the existing management or interim review committee should review the findings and make recommendations for any revisions to the management charter they feel necessary.

### *Step 7.3: Community consultations on recommended revisions*

If any revisions are recommended by the existing management or interim review committee as a result of the review process, the community should be consulted on the recommendations to ensure that their consent is obtained for the proposed changes to the management charter. A minimum of 60% community participation should be achieved at this stage.

### *Step 7.4: Stakeholder consultations on recommended revisions*

The last step of the review phase is to circulate the revised management charter to key stakeholders to ensure that they too are happy to accept the recommended changes. Any issues that are raised by stakeholders should be referred back to the community to be resolved before the changes can be adopted.

## 6. Guideline implementation and scaling

A key goal of the guidelines is to enable communities to create a set of rules that governs how resources inside community zones can be accessed and utilised, with the expectation that this process will lead to more equitable distribution of resources and provide the security necessary for long-term planning and management. Implementation of the guidelines will therefore have the greatest impact where sufficient natural resources remain inside community zones to incentivise communities, and other stakeholders, to invest in the process of developing a community zone management charter. Where there is little available land or other resources remaining inside a community zone, particularly in cases where much of the land is in private ownership as a result of titling conducted under Circulation 06, it is doubtful that the potential benefits of developing a management charter will outweigh the costs of undertaking the development process. This has important implications for how best and where to apply the guidelines.

### 6.1. Management charter pilot in the Northern Plains

Three of the PAs in the Northern Plains landscape already have draft zones: KPWS, CWS and PRWS. However, while the draft zones for CWS and PRWS were both drawn up in 2022, the zones for KPWS were drawn up in 2018 and followed a significantly different process. As a consequence, there is significant variation in both the proportion of community zone and remaining forest in each PA. A significantly greater proportion of KPWS has been designated as community zone in the draft zoning plans (38%) than for CWS and PRWS (17% and 22% respectively). However, the proportion of remaining forest inside community zones in KPWS is much lower. This is likely due in part to the lack of clarity over whether the Mol through local

authorities or the MoE through the PDoE holds management responsibility for community zones and the widely held perception among local authorities and communities that all land inside community zones may be used to support the economic development of local communities. As a result, there has been significantly more encroachment inside KPWS community zones than for either CWS or PRWS.

It is therefore recommended that an initial pilot be conducted to assess the strength of the approach set out in the guidelines and secure support for scaling up to other areas. Given that the zooming process was most recently completed in CWS and PRWS, and that there is a significantly greater proportion of forest remaining inside these community zones than for KPWS, it is recommended that the selection process to identify a suitable pilot community is focused on these two PAs. It is also recommended that the pilot community participates in Ibis Rice, as this will provide an additional incentive for community members to engage in the process.

## 6.2. Stakeholder engagement in guideline implementation

In order to secure support for rolling out implementation of the guidelines at scale, it will be necessary to engage multiple key stakeholders, including the PDoE, MoE and local authorities.

### 6.2.1. Provincial Department and Ministry of Environment

As the lead stakeholder in any potential rollout of the guidelines, the PDoE in Preah Vihear has been the focus of stakeholder consultations conducted throughout the project, which has included providing feedback on the guidelines' scope and content. Such engagement should continue throughout the pilot planning process, particularly in relation to community selection and funding. The PDoE will also play a key role in engaging other stakeholders and the expansion to other communities if the pilot proves successful.

The General Directorate of Natural Protected Areas at the MoE will be responsible for any national-level adoption of the guidelines and wider rollout to other provinces. It is therefore recommended that they remain engaged throughout the initial piloting process and potential rollout to other communities in Preah Vihear.

### 6.2.2. Local authorities

Research conducted during the research phase of the project found that local authorities play a key role in facilitating land transfers and providing soft titles to families seeking to access credit. Under the process set out in the guidelines local authorities would continue to play a key role in enabling families to be granted land through local social land concession programmes. It is therefore essential that all levels of decentralised government from the Provincial Governor to village chiefs are engaged as part of any process to roll out implementation of the guidelines. While such an approach is best made by the PDoE, it is recommended that WCS provide technical support. Early discussions with the Provincial Governor's office have been promising. At the commune level, responsibilities under the Commune Administrative Management Law and Village-Commune-District Security Policy to protect the

environment and natural resources offer opportunities for engagement with commune councils.

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