

Resettlement Action Plan

Rehabilitation of Benga to Dwangwa M005 Road Section and Associated Feeder Roads



Road Authority (Malawi)
Private Bag B346,
Lilongwe 3
Malawi
Tel: +265 1 753 699
ra@ra.org.mw

February, 2024

CONTENTS

CONTENTS	i
EXECUTIVE SUMMARY	i
LIST OF TABLES	xxxiv
LIST OF FIGURES	xxxiv
LIST OF ACRONYMS AND ABBREVIATIONS	xxxv
CHAPTER ONE: PROJECT BACKGROUND.	1
1.1. Introduction.....	1
1.2. Contact Details of the Project Proponent.	2
1.3 Resettlement Impacts.	2
1.4. Nature and scope of the proposed project.....	4
1.5. Project Location	7
1.6 Rationale for the project	10
1.7 Existing land use and land requirements for the project.	11
1.8 Objectives of the Resettlement Action Plan	12
CHAPTER TWO: METHODOLOGY FOR THE PREPARATION OF THE RAP	15
2.1 Primary and Secondary Data Collection	15
2.1.1 Literature review.	15
2.1.2 Consultations with stakeholders.....	16
2.1.3 Socio-Economic Survey	21
2.1.4 Valuation Survey	25
2.2 Institutional arrangement for the implementation of the RAP.....	27
2.3 Valuation Methodology	29
2.3.1 Valuation methods used.....	31
CHAPTER THREE: POLICY AND LEGAL FRAMEWORK	34
3.1. Introduction	34
3.2. The Constitution of Republic of Malawi (1995)	34
3.3. The Malawi National Land Policy (2002).....	35
3.4. The Land Act, 2016	36
3.5. The Lands Acquisition Act, 1970 and the Lands Acquisition and Compensation Act, 2017	39
3.6. The Registered Land Act of 1967 and the Registered Land (Amendment) Act of 2017	40
3.7. Land Survey Act of 2016	41
3.8. The Local Government Act, 1998 and the Local Government (Amendment) Act of 2017	41
3.9. Physical Planning Act (2016)	41
3.10. The Public Roads Act of 1962 as amended and the Public Roads Amendment Act, 2017	42
3.11. Environment Management Act of 2017	42

3.12. Monuments and Relics Act (1991).....	43
3.13. Forestry Act 1997 and Forest Amendment Act, 2017	44
3.14. Relevant African Development Bank Safeguards Policies	45
3.14.1. Involuntary Resettlement, Land Acquisition, Displacement and Compensation (OS 2).....	45
3.15 Gaps between National Law and the Bank’s Policy.....	47
CHAPTER FOUR: PROJECT AFFECTED PERSONS (PAP) SOCIO-ECONOMIC PROFILE.	53
4.1 Introduction.	53
4.2 PAP Demography	55
4.2.1 Gender.....	55
4.2.2. Age.....	55
4.2.3 Marital Status.	56
4.2.4 Education Level.	56
4.2.5 Disability status of PAP.	57
4.2.6 Main occupation of PAP.	57
4.2.7 PAP Household sources of income.	59
4.2.8 PAP household size	62
4.2.9 PAP household source of lighting.....	63
4.2.10 PAP household source of drinking water	63
4.3 Magnitude and Extent of displacement	64
4.3.1 Magnitude of displacement	64
4.3.2 Extent of displacement.....	67
4.4 Vulnerability Status of PAP	68
4.4.1 Vulnerability to poverty	68
4.4.2. Economic vulnerability.....	69
4.4.3. Other Vulnerability Factors (Gender, Disability, Education, and etc).....	70
4.5 Socio-cultural Characteristics	71
4.5.1 Cultural Context.....	71
4.5.2 Social Interactions	73
4.5.3 Social Access	76
CHAPTER FIVE: RESETTLEMENT IMPACTS AND MITIGATION.....	84
5.1. Introduction	84
5.2. Potential impacts	84
5.3. Eligibility	86
5.4. Determining Criteria	87
5.5. Identifying the Eligible.....	88
5.6. Relocation and entitlements.....	88
5.7. Cut-off Date to Entitlements.....	88
5.8. Validation of affected assets	89

5.9 Principles of this RAP	96
5.9.1. Minimization of displacement	96
5.9.2. Livelihoods restoration Plan	96
CHAPTER SIX: PROCEDURES FOR ACQUISITION AND NOTIFICATION.....	98
6.1 Land acquisition	98
6.2 Notification Procedures	100
CHAPTER SEVEN: STAKEHOLDERS ENGAGEMENT PLAN	101
7.1 Introduction	101
7.2 Stakeholder Engagement	102
7.2.1. Resettlement Steering Committee (RSC).....	102
7.2.2. Project Implementation Unit.....	103
7.2.3. AP Committee (PC).....	103
7.6 Implementing Agent	105
7.7 Stakeholders Engagement Budget	105
CHAPTER EIGHT: PROCEDURES AND CONFLICT RESOLUTION AND RESETTLEMENT.	107
8.1. Introduction.	107
8.2. Grievance Redress Principles.....	107
8.3. Procedures negotiations and resolution of conflicts	108
8.4. Grievance.....	109
8.4.1. Grievance redress process	109
CHAPTER NINE: MONITORING AND EVALUATION.	113
9.1. Introduction	113
9.2. Indicators.....	113
9.3. Monitoring and Reporting Plan	118
9.3.1. Internal Monitoring	119
9.3.2. External Monitoring	120
9.3.3. Independent Audit.....	121
9.4. Reporting.....	121
CHAPTER TEN: IMPLEMENTATION SCHEDULE.....	122
CHAPTER ELEVEN: IMPLEMENTATION BUDGET	125
CHAPTER TWELVE: CONCLUSION AND RECOMMENDATIONS	129
REFERENCES	130
ANNEXES	132
ANNEX 1: LIST OF STAKEHOLDERS CONSULTED	132
A1.1. District Level Stakeholders	133
A1.2. Community Level Stakeholders.....	133
ANNEX 2: GRIEVANCE REDRESS MECHANISM (GRM) FORMS.....	137
A2.1: Community Grievance Log & Resolution Form	137

A2.2: District Grievance Log & Resolution Form.....	138
ANNEX 3: Questionnaire	140
ANNEX 4: PRELIMINARY VALUATION	145
ANNEX 5: EXPROPRIATION OF PROPERTIES BUILDINGS AFFECTED BY BENGAL TO DWANGWA ROAD RESETTLEMENT	154
ANNEX 6: EXPROPRIATION OF TREES AFFECTED BY BENGAL - DWANGWA ROAD RESETTLEMENT	155
ANNEX 7: EXPROPRIATION OF ECONOMICALLY AFFECTED BY BENGAL - DWANGWA ROAD RESETTLEMENT	156
ANNEX 8: EXPROPRIATION OF CROPS AFFECTED BY BENGAL - DWANGWA ROAD RESETTLEMENT	157
ANNEX 9: BENGAL – DWANGWA ESIA TERMS OF REFERENCE	158
ANNEX 10: VALUATION METHODOLOGY	170
Annex 11: Team of Experts.....	174
ANNEX 12: PAP MAPS	175

COMPENSATION SUMMARY SHEET FOR PHASE I

#	Variables	Data
A. General		
1	Region	Central Region
2	District	Nkhotakota District
3	Villages	Traditional Authorities Mwadzama, nkhangha, kalimanjira and malengachanzi
4	Activity(ies) that trigger resettlement	Rehabilitation of the Benga - Dwangwa M005 Section Road and displacement of people from the Road Reserve Boundary (RRB).
5	Project overall cost	MWK187,776,000, 000.00
6	Overall resettlement cost	MWK 6,378,875,877.24
7	Applied cut-off date (s)	01st April, 2022
8	Dates of consultation with the people affected by the project (PAP)	05th April, 2022
9	Dates of disclosure to PAPs of the compensation packages	31st May, 2022
B. Specific information		
10	Number of people affected by the project (PAPs)	539
11	Number of Physically displaced	430
12	Number of economically displaced	54
13	Number of affected households	638
14	Number of females affected	145
15	Number of vulnerable affected	73
16	Number of major PAP	276
17	Number of minor PAP	54 (ambulant/street vendors)
18	Number of total right-owners and beneficiaries	0

#	Variables	Data
19	Number of households losing their shelters	61
20	Total area of lost arable/productive lands (ha)	2.32 hectares
21	Number of households losing their sources of revenue	317 (shops, kiosks, restaurants, maize mill, barbershop, rest house)
22	Total areas of farmlands lost (ha)	2.32 hectares
23	Estimation of agricultural revenue lost (USD)	6839
24	Number of buildings to demolish totally	344
25	Number of buildings to be demolished totally at 50%	275 (houses, shops, maize mill, restaurant, shelter)
26	Number of buildings to be demolished totally at 25%	54 (Kiosks which can be moved to another location)
27	Number of tree-crops lost	30
28	Number of commercial kiosks to be demolished	42 (airtel and TNM kiosks)
29	Number of ambulant/street vendors affected	53
30	Number of community-level service infrastructures disrupted or dismantled	1 (Borehole)
31	Number of households whose livelihood restoration is at risk	276

COMPENSATION SUMMARY SHEET FOR PHASE II

#	Variables	Data
A. General		
1	Region	Central Region
2	District	Nkhotakota District
3	Villages	Traditional Authorities Malengachanzi, mphonde and Kanyenda
4	Activity(ies) that trigger resettlement	Rehabilitation of the Benga - Dwangwa M005 Section Road

#	Variables	Data
		and displacement of people from the Road Reserve Boundary (RRB).
5	Project overall cost	MWK187,776,000, 000.00
6	Overall resettlement cost	MWK 4,252,583,918.16
7	Applied cut-off date (s)	01st April, 2022
8	Dates of consultation with the people affected by the project (PAP)	05th April, 2022
9	Dates of disclosure to PAPs of the compensation packages	December, 2023
B. Specific information		
10	Number of people affected by the project (PAPs)	358
11	Number of Physically displaced	114
12	Number of economically displaced	13
13	Number of affected households	160
14	Number of females affected	96
15	Number of vulnerable affected	19
16	Number of major PAP	68
17	Number of minor PAP	13 (ambulant/street vendors)
18	Number of total right-owners and beneficiaries	0
19	Number of households losing their shelters	16
20	Total area of lost arable/productive lands (ha)	0.58 hectares
21	Number of households losing their sources of revenue	80 (shops, kiosks, restaurants, maize mill, barbershop, rest house)
22	Total areas of farmlands lost (ha)	0.58 hectares
23	Estimation of agricultural revenue lost (USD)	1709
24	Number of buildings to demolish totally	344

#	Variables	Data
25	Number of buildings to be demolished totally at 50%	69 (houses, shops, maize mill, restaurant, shelter)
26	Number of buildings to be demolished totally at 25%	13 (Kiosks which can be moved to another location)
27	Number of tree-crops lost	234
28	Number of commercial kiosks to be demolished	11 (airtel and TNM kiosks)
29	Number of ambulant/street vendors affected	14
30	Number of community-level service infrastructures disrupted or dismantled	0
31	Number of households whose livelihood restoration is at risk	68

EXECUTIVE SUMMARY

1. PROJECT DESCRIPTION

The Government of Malawi, with support from the African Development Bank (AfDB), is undertaking the comprehensive rehabilitation and upgrade of the M005 road section from Benga to Dwangwa, including eleven associated feeder roads. This initiative aligns with Malawi Vision 2063, aiming to develop world-class road networks connecting urban and rural areas to local and international markets. The project involves widening the carriageway, upgrading drainage structures, and improving eleven feeder roads. It will create employment opportunities, promote knowledge transfer, and enhance traffic efficiency and safety.

The rehabilitation covers approximately 100 kilometers, divided into two phases. Phase one, from Benga to Nkhotakota Boma (47km), and phase two, from Nkhotakota Boma to Dwangwa trading Centre (53km). The terrain is predominantly flat with occasional moderate slopes. The eleven feeder roads, including Kalimanjira to Chididi Health Centre, Mwansambo Turnoff to Kayoyo, and others, are also part of the project, enhancing connectivity and accessibility in the area.

The major works of the proposed project shall include rehabilitation and widening to a 7 metres carriageway and 2 metres width sealed shoulders and upgrade drainage structures including single lane bridges to double lane from Benga Catholic Parish to Dwangwa Trading Centre. The scope and nature of the works that will be undertaken before, during and after construction, the road project received an environmental classification of Category A, and as such necessitated the carrying out an Environmental and Social Impact Assessment (ESIA) study and development of a Resettlement Action Plan (RAP) as per legal requirements. Through the application of the Resettlement, the project was categorized as 'HIGH Risk' with significant resettlement impacts and hence a Resettlement Action Plan is required.

This resettlement Action Plan is therefore prepared to identify the potential impacts, identify the Project Affected People (PAP), and determine the level of compensations

and assistance that is required for each one of the affected persons depending on their legal status of their resettlement.

2. OBJECTIVES OF THE RAP

This RAP has been prepared consistent with relevant Malawian legislation mainly the Lands Act(s) and the AfDB Integrated Safeguards Systems and in line with the Roads Authority's Malawi Environmental and Social Management Guidelines for the Road Sector. Basically, the RAP presents an inventory (register) of people likely to be affected by development of the road, a register of the assets that are likely to be displaced by the project and the proposed compensation and resettlement packages. Specifically, the RAP was prepared to:

- a) Raise awareness of the project and its consequences among the general public and particularly among those people who will be directly affected by the project;
- b) Determine the current occupants of the affected area in order to establish a base for the resettlement programme and exclude subsequent inflows of people for illegibility for compensation;
- c) Undertake an inventory of assets to establish the number and size of the structures and other assets to be affected by the project, the extent of displacement and the magnitude of the expected loss;
- d) Outline the legal framework for the resettlement programme, examining the scope of eminent domain and the nature of compensation associated with it in terms valuation methodology and the timing of payment of compensation and identifying the gaps between the laws of Malawi's resettlement policy propose approaches to address the gaps.
- e) Identification of agencies responsible for the resettlement activities;
- f) Define the displaced persons categorized as those with formal legal rights to land, those without recognisable legal rights or claim to the land they are occupying and develop criteria for their compensation including establishment of the cut-off date;
- g) Develop and implement a valuation methodology that is consistent with international best practices in involuntary resettlement;
- h) Outline resettlement measures in cases of loss of assets, physical relocation and income restoration as the case may be;

- i) Set out strategies to mitigate against adverse effects suffered by the PAPs including provision of channels and platforms for negotiations;
- j) Provide an estimate of the costs necessary for resettlement and compensation.

3. MAIN SOCIO-ECONOMIC CHARACTERISTICS OF THE PAPs LIVING AREAS;

A. Socio-economic aspects of the project area of influence;

The Benga-Dwangwa M005 road section passes through five of the six extension planning areas (EPAs) of Nkhotakota District, namely, Ntosa, Zidyana, Linga, Mphonde and Nkhunga EPAs. Major crops grown across these EPAs include maize, cassava and rice, which is mainly grown as a cash crop. Major types of livestock found in these EPAs include cattle, goats, sheep, pigs and chickens.

Population of Traditional authorities through which the road section is passing represents 79% of the districts total population, which is projected to be slightly over 431,405. The male-female population divide stands 49% and 51% respectively.

With the above mentioned projected population, Nkhotakota district has fertility rate at 6.0, birth rate at 45.29%, and mortality rate at 9.39/1000. Problems associated with these demographic trends include increased OPD attendance leading to high consumption of medical supplies; and high case load putting pressure on limited staff and health facilities.

During the last population and housing census, the district registers a labour force of 129,456 with 70,393 unemployed (NSO, 2018); representing a 54% unemployment rate. The sugar industry provides most of the formal employment opportunities through district-based companies such as Dwangwa Sugar Company, Dwangwa Cane Growers Limited, Unitrans, Ethanol, Cane Hauliers Limited and KK Security. Other job placements are found in government institutions, statutory entities, non-governmental organizations and private establishments.

The district has untapped employment potential in the tourism industry due to the presents of several tourism attractions such as Lake Malawi, Chia Lagoon, Nkhotakota

and Dwambazi wildlife reserves, and a number of hot springs. The main challenge constraining the tourism industry is poor road access to the district which gets worse in the rainy season due to frequent washing away of bridges and culverts.

The main source of income for the district is agriculture (crop and livestock), taking up 73% of all the district's sources of income. Other sources of income include formal employment, business, fisheries and forest resources.

Those doing small and medium scale businesses (SMEs) dominate in numbers with grocery shop operators taking the bigger share, over 38%. Nkhotakota Boma holds most of the recorded SMEs at about 56% followed by Mkaika trading centre at 20%.

B. Status of land in the project area of influence;

Nkhotakota district covers 433, 800 ha of land being utilized for wildlife conservation, customary land forestry, cultivation and infrastructure development. In total forest area takes up about 58% of the districts land cover. The Benga-Dwanga M005 stretch crosses through Nkhotakota Wildlife Reserve from Bua Bridge to a distance of about 5km; on the west is the reserves wildlife containment wire running parallel to the road, and on the east is the buffer zone that is provided between human settlements and wildlife to prevent human-wildlife conflict. The total length of the road under rehabilitation is 105 km. The road reserve width is 60 metres. This gives a total of 630 hectares of land affected in the road reserve.

The bulk of the remaining land (31% of total district land cover) is used for crop production under both rain HE fed and irrigation farming. The rest of the land is used for settlement, public infrastructure development and private infrastructure development.

Types of land ownership are distributed among public land (3%), leasehold land (17%), freehold land (26%), and customary land (54%).

C. Profiles of actors located in the project area of influence and right-of-way

The actors that are located in the project area of influence and right of way are:

- i. The Roads Authority, the Ministry of Transport and Public Works are the main actors in this project and the Clients.
- ii. The African Development Bank as the financiers of the project play a major role as they ensure that all processes are followed to the letter to ensure all environmental and social safeguards are in place for the success and sustainability of the project.
- iii. The settlers in the area which covers 5 Traditional Authorities. These people are both the PAPs and the beneficiaries of the road project. The chiefs have to ensure that the road and its infrastructure are taken care of during construction and use.
- iv. Nkhotakota District council is also the beneficiary of the road project where it is hoped that the new road will attract businesses to the district and its trading centres along the road. This also brings more revenue in business licencing fees business permits and the ambience of the district.
- v. The consulting engineer and the contractor play the role of ensuring that the road is rehabilitated to the agreed specifications and the agreed timeframe and budget.
- vi. Transporters and other road users will be attracted by the new road to bring in new vehicles to the district because of the good road with reduced maintenance costs.

4. SOCIAL AND ECONOMIC IMPACTS OF THE PROJECT ON THE AFFECTED PEOPLE;

A. Land requirements for the project;

The project corridor is mainly surrounded by settlements, most of which are in linear settlement pattern. Some infrastructure also includes utility services such as electricity, boreholes and water pipes as well as social infrastructures such as schools, hospitals, business buildings and local markets. The proposed road project will require extra land for:

- a) Creation of a mandatory road reserve of 30m from the centre of the existing road to either side of the road which most of the existing buildings and trees will require to be removed;

- b) The road being realigned while in other places it will be due to diversions; and
- c) Drainage systems, borrow pits and campsites which will required to be situated on land that belongs to different individuals and communal structures.

B. Profiles of people affected by resettlement including their vulnerability levels;

A team of valuation experts identified and registered all persons whose properties and trees fall in the Road Reserve Boundary (RRB) along the M005 road section marked for rehabilitation; a total of 896 project affected persons (PAPs) were identified. Socio-economic profiles for 780 PAPs were collected through a household survey, representing 87% of the total.

Of the PAP population, 73% were males and about 27% were females. Majority of male PAP are married accounting for 88% of all male PAP. In contrast, only 52% of the female PAP are married, with 9% yet to be married; the remaining 37% of the female PAP are either divorced or widowed.

Much of the PAP population is concentrated between the ages of 25 and 64, 79% of male PAP and 81% of female PAP; the average household size for listed PAPs was calculated at 8 people per household with 53% of total household members being 18 years of age and above.

The majority of the PAP's households (67%) depend of crop farming as source of income regardless of gender of household head, with significant differences in dependence on piece work (ganyu) and other businesses between men and women, 18% against 32% and 51% against 39% respectively.

The bulk of PAP households (76%) use firewood as cooking fuel with no significant difference in proportion between male-headed households (75%) and female-headed households (79%). Most of the PAP households use hand torches at 62%, followed by households connected to the ESCOM grid at 20%. There is however significant difference in proportion of household headship against source of lighting energy: male headed households have higher proportions in the use of ESCOM power for lighting

than female headed households; 22% against 12%. In contrast, there are proportionally more female-headed households (71%) using torches than there are male-headed households (60%). The majority of the PAP households (76%), regardless of gender of household head, get drinking water from boreholes; only 9% have access to piped water.

C. Impacts and indirect effects of temporary or permanent loss of land and source of livelihood.

The Project will impact on a wide range of households, business operators, institutions and community members. These impacts, however, manifest at individual and group level. Some of the losses qualify for compensation and resettlement assistance include:

- **Loss of residence:** People who will be displaced by having to move their place of residence to allow for the construction of the road, construction camps, access roads, or any other associated infrastructure.
- **Loss of business:** People who will be displaced by having to move their places of business to allow for the construction of the road related infrastructure. These are business shelters, places such as brick ovens, rice drying and selling points etc.
- **Loss of land:** People who will lose land over which they have established ownership or rights of usufruct (either in a permanent or temporary fashion) to allow for the construction of the road associated infrastructure.
- **Communal resources:** Members of communities who will lose access to their communal resource base. These will include boreholes, market places and other resources.
- **Archaeology and cultural heritage:** There are no known archaeological remains and structures of historical importance within the road reserve. Places of cultural heritage include the five graveyards identified along the proposed road project which will not be affected by the project.

5. LEGAL AND INSTITUTIONAL FRAMEWORK FOR RESETTLEMENT

A. Constitutional, legislative and regulatory provisions relating to land and expropriation procedures (considering the Bank requirements);

The Lands Acquisition Act of 1970 was enacted to provide for the acquisition of land. The Lands Acquisition (Amendment) Act of 2016 has amended some provisions of the Lands Acquisition Act; such amendments include:

- a) Provision for the acquisition and compensation of land in the citation including customary land.
- b) Provision for the issuing of notices upon the persons who are possessed of an interest in the land.
- c) Provision for the payment of compensation and that compensation shall be paid in one lump sum; this holds the assumption that compensation shall only be monetary.
- d) Provisions relating to assessment of appropriate compensation provide that an assessment is to be done by an independent valuer appointed by the Minister, unless the parties agree otherwise.

The Amendment to the Act also provides information on the grounds on which compensation can be calculated which include; loss of occupational rights, loss of land, costs of professional advice and disturbances which are a natural and reasonable consequence of the expropriation of land.

B. Institutional framework of the expropriation for public interest / payment of the compensation;

Land will have to be acquired for establishment of camps, borrow pit areas, access roads to borrow pits and in some cases extreme diversions. The affected persons will include the actual individuals as well as the chiefs and other traditional leaders, such as the village headman and group village leaders. The Ministry of Lands shall through the Traditional Authorities ascertain the actually owners of the land. When the land to be acquired has been finalized by the Roads Authority through their Consultants, then the Ministry of Lands can do the second assessment of the properties to be affected including the names of affected individuals. The survey will capture the socio-economic profile of each affected individuals.

- The authority responsible for acquiring land shall make the following available to all key stakeholders in the land acquisition process:

- Proposed compensation offers and draft compensation agreements to be signed by the affected persons and the developer;
- Details of alternative land (if applicable) inclusive of ancillary support services such as relocation allowance or transport for physical resettlement, provision of housing, provision of crop starter packs and food support or any other relevant assistance that may be required;
- Details of Livelihood restoration assistance, where appropriate;
- Available employment opportunities for the PAPs to participate in the Project activities; and
- Mechanisms for monitoring and evaluation of post resettlement welfare of the PAPs.
- The land acquisition and compensation procedures shall ensure that persons affected either physically or economically by the Project maintain or improve their livelihood.

C. Roles and responsibilities of the authorities and structures involved in the implementation of the resettlement plan;

The Government of Malawi being the primary proponent of the project will have the overall responsibility of coordinating the implementation of the RAP through the Roads Authority. The Roads Authority will set up a project management team and a team to monitor the resettlement process. The actual execution will be done through collaboration with Nkhosakota District Council (local government) and all the relevant ministries and departments such as the Ministry of Lands, the Ministry of Finance and the Office of the President and Cabinet.

Roles and Responsibilities for RAP Implementation

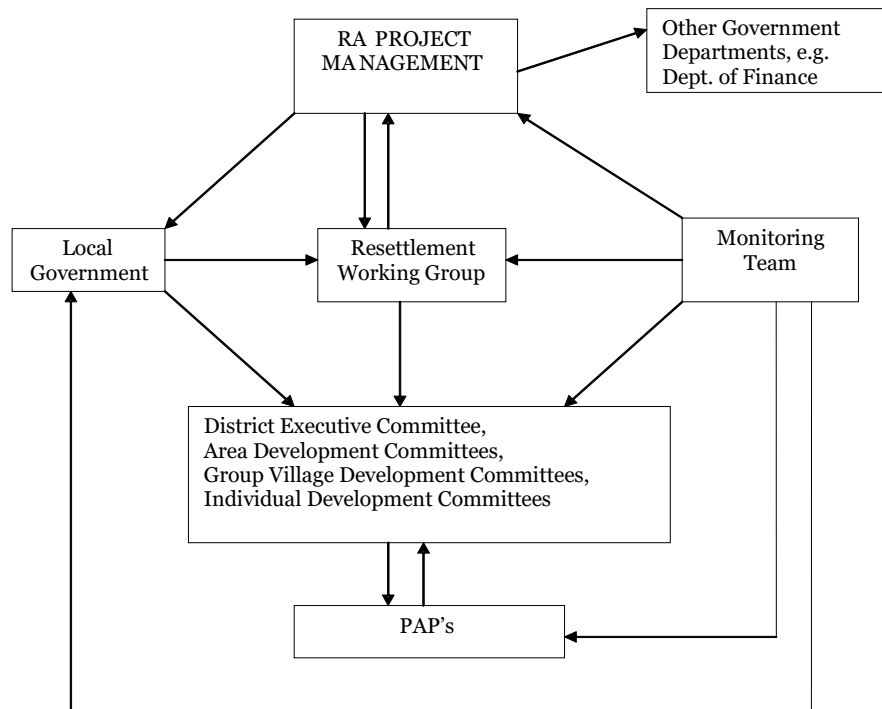
No	Institution	Responsibility
1	Ministry of Lands, Housing and Urban Development	Valuation of structures and trees
2	Ministry of Finance and Economic Planning	Funding of compensations
3	Office of the President and Cabinet	Approves all compensation payments
4	Roads Fund Administration	Payment of Compensations

5	Roads Authority	Monitoring and Reporting on RAP Implementation
6	Local Authorities	Follows up on grievances and handling of grievances or referring the grievances to Roads Authority
7	Resettlement Working Groups and Grievance Redress Committees	Uptake of grievances, undertaking initial investigation, referral of grievances and providing feedback to the PAPs

The contact persons and teams in each ministry will be oriented on ensuring that the exercise will be done with respect and due care to all affected. Once all the groundwork has been done, the District Commissioner for Nkhotakota will monitor implementation of the RAP.

The contract with the construction contractor will have to specifically provide for the recruitment of an Environmental and Social specialist on his team to ensure that the safeguards issues are addressed including avoidance of inappropriate contact between the migrant workers and the local people particularly children and school going adolescents is avoided.

Interactions for implementation of the resettlement Action Plan



The contact persons and teams in each ministry will be oriented on ensuring that the exercise will be done with respect and due care to all affected. Once all the groundwork has been done, the District Commissioner for Nkhotakota will monitor implementation of the RAP.

The Resettlement Working Group (RWG) will interface the Project Management with the PAPs. It will be constituted in such a manner as to be regarded as the primary representative voice of the affected persons. The RWG will not need to bear a direct relationship to the Area Development Committees (ADC) /Group Village Development Committees (VDC) and/or individual Village Development Committees that have already been established. The composition of the RWG will be as follows:

- a) Representatives of the affected communities/villages. This will be made up of two members from each of the Traditional Authorities areas defined as affected. At least one of the two members will be a woman. The PAP will elect these members;
- b) Representatives of the Traditional Authorities in each of the areas affected;
- c) Representatives of RA; and

d) One representative from each of the three Districts. These will be the DC or his designated representative.

Once the group has been set up they will elect a person/s to be responsible for reporting on their activities to the community. The elected member/s of the RWG will make it a priority to report back to the appropriate development committees to keep them abreast of developments relating to the road project. Under the overall authority of its reporting officer, the RWG will have the following functions:

- a) Acting as the primary channel of communication between the various interest groups/organizations involved in the resettlement process. In particular, it will serve to facilitate communication between RA and the affected population;
- b) Solve amicably any problems relating to the resettlement process. If it is unable to resolve any such problems, it is to channel them through the appropriate grievance procedures; and
- c) Assume primary responsibility of assisting RA in overseeing the resettlement processes in all its phases.

6. COMPENSATION PLAN

6.1 Eligibility

The persons who will be displaced by project activities are those losing assets or investments, land and property, and/or access to natural and/or economic resources as a result of Project-related activities. Those who will be affected by asset loss and resettlement and are eligible for compensation and other assistance require definition and identification, with criteria set for determining their eligibility.

The Resettlement/Compensation safeguard suggests the following three categories of affected people:

- i. Those who have formal rights to land (including customary/village land, traditional, and religious rights recognized under Malawi law);
- ii. Those who do not have formal legal rights to land but have a claim to such land or assets, provided that such claims are recognized under the national and local laws or become recognized through a process identified in the resettlement plan; and
- iii. Those who have no recognizable legal right or claim to the land they are occupying, using, or obtaining their livelihood from.

People described under (i) and (ii) will be compensated for the land they lose and provided other assistance in accordance with international best practice. People described under (iii) will be provided with resettlement and other assistance in lieu of compensation for the land they occupy if they occupy the project area prior to a cut-off date.

Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in (i), (ii), or (iii) will be compensated for loss of assets other than land.

Therefore, it is clear that all PAPs, irrespective of their status or whether they have formal titles or legal rights or are squatters or otherwise encroaching illegally on land, will be eligible for some kind of assistance if they occupied the land before the entitlement cut-off date. People who encroach the area after the socioeconomic study (census and valuation) are not eligible for compensation or any form of resettlement assistance.

The identification of persons eligible for compensation and resettlement will be based on the following criteria:

- i. Persons losing land with or without legal title;
- ii. Persons losing temporary or permanent access or rights to services;
- iii. Persons losing business or residential property;
- iv. Person with homes, structures or other assets within the proposed Project area;
- v. Vulnerable individuals who may be too old or ill to fend for themselves. These PAPs shall receive additional assistance;
- vi. Persons that incur losses whether partial or total and whether they have their own land or rent land, including those that rent or occupy buildings individually or as a group for business or as households.

The impact relating to the loss of land through permanent land acquisition is not listed or addressed in this matrix as road rehabilitation activities are located within the gazetted road reserve. No permanent acquisition of land located outside the road reserve has been identified.

The manner in which the resettlement principles referred to in Section 7.2 have been applied are indicated below:

- Avoid or Minimise Resettlement: The design engineers have minimised the need for resettlement by not requiring all structures located within the road reserve to be removed. During the visual assessment, only those structures that would hinder road construction activities have been identified. Further the road width is narrower in the trading centres, thereby reducing the extent of compensation. It is unlikely that any trees will be removed.
- Some of the required compensation will be temporary in nature, e.g. stalls have to be moved backwards or away during the construction phase and May return once the activities have been completed especially those women selling their merchandise along the road.
- Genuine stakeholder consultation has taken place.
- A pre-Resettlement socio-economic survey and database will be established once the start date of construction has been determined and a cut-off date is established. In the meantime, a database based on visual observations has been compiled.
- A fair and equitable set of compensation options must be negotiated.

- Resettlement must take place in accordance with Legal Requirements and International Best Practice.
- Vulnerable Social Groups must be specifically provided for.
- An Independent Monitoring and Evaluation Process must be in place following compensation of PAPs.
- A Grievance Procedure must be in place.

The land laws consider all titled landowners, customary landowners, encroachers, persons affected by loss of access to sources of income and persons affected by loss of access to natural resources (water, wood, grazing areas, etc.), as PAPs. Therefore, PAPs will be entitled to compensation based on the status of their occupation of the affected areas.

PAPs whose houses (located outside the road reserve) are affected by the Project will be provided with cash compensation reflecting the full replacement value of the structure. This will be in accordance with the cost of the structure as per non-depreciated rates. However, it is not anticipated that any houses will be relocated outside the 60m RoW. For commercial trees, it is the value of production lost until replacement seedlings mature. For the loss of business or income, the reported income and employee wages will be taken into consideration.

A cut-off date for which this RAP is effective will be affected after the final property valuation and verification is done. The cut-off date for this RAP is set on 1st April, 2022. All affected persons, village heads and other Traditional Authorities have been informed of this date. This means that any new inhabitants coming to the Project affected area after this date will not be considered for compensation.

6.2 Stakeholder Engagement Process

The stakeholder engagement process undertaken for the RAP development phase has initiated stakeholder consultations. The RAP team aimed to achieve effective authority and community consultation through undertaking the activities relating to stakeholder mapping, information exchange (promoting awareness-building of the Project and resettlement in the local communities); capacity building and education (informing

affected people of their options and rights pertaining to resettlement and compensation); participation promotion (allowing all stakeholders to openly voice their concerns, any issues and possible disputes without fear of recrimination); and discussion and negotiation.

Meetings were held with several key stakeholders at national and district level to establish consensus on the approach to and methods for community consultations and to inform them of the project. Formal public meetings were held with key district representatives in Nkhotakota District and community-level meetings were held in a number trading centres.

The consultation process provided an opportunity for stakeholders, and particularly the PAPs to express their views and opinions on the project and to raise issues of concern relating to the Project. Major issues discussed during consultations included:

Stakeholders raised a number of issues and concerns regarding resettlement resulting from the road upgrade project during the consultation process. The issues raised by stakeholders have informed this RAP Three series of consultations is expected to take place along the road project. The Roads authority will need to conduct further consultations with the Project Affected People, Traditional leaders and government officials in Nkhotakota districts. These consultations are aimed at sensitising the PAPs, traditional leaders and government officials about the design changes that have been effected on the road over a period of time and facilitating formation of Resettlement Working Groups and Grievance Redress Committees. Resettlement Working Group Committees and Grievance Redress Committees will have to be established to handle any grievances that the PAPs may have and trigger the formal redress process.

7. ARBITRATION / GRIEVANCE REDRESS MECHANISM;

The rehabilitation of Benga – Dwangwa M005 road section project will provide mechanism for managing grievances and disputes based on explanation and mediation by third parties. Each of the affected persons will be able to trigger this mechanism.

The common types of grievances and disputes likely to occur in resettlement process include:

- (i) Misidentification of assets or mistakes in valuing them;
- (ii) Disputes over land covering the trees, either between the affected person and the Project, or between two neighbors;
- (iii) Dispute over the ownership of a given asset (two individuals claim to be the owner of this asset),
- (iv) Recent change of asset ownership,
- (v) Disagreement over the valuation of the asset, and
- (vi) Proposed successions, divorces, and other family issues, resulting in disputes between them and other family members, over ownership or ownership shares for a given asset.

A grievance Log or tracker (annex 2) will be established. Grievances should be recorded in a log by the Grievances Management Committee. It will record all information of peoples complained, nature of complaint, how it was resolved and timeframe for close-out. The grievance handling procedure will be produced and informed to the Committee.

8. MONITORING AND EVALUATION OF THE EXECUTION INDICATORS

Indicators and targets will be established for the project as a whole, in consultation with representatives of the affected communities and other key stakeholders. Indicators will be grouped into the following categories:

- a) **Input indicators** – will measure the resources (financial, physical and human) allocated for the attainment of the resettlement objectives, such as livelihood restoration goals.
- b) **Output indicators** – will measure the services/goods and activities produced by the inputs. Examples will include compensation disbursements for acquired assets.
- c) **Outcome indicators** – will measure the extent to which the outputs will be accessible and used, as well as how they will be used. They will also measure levels of satisfaction with services and activities produced by the inputs. Examples will include

the ways in which recipients used compensation. Although they are not measures of livelihood restoration in themselves, they will be key determinants of well-being.

d) **Impact indicators** – will measure the key dimensions of impacts to establish whether the goals of the Resettlement Plan will be achieved. Examples will include restoration and diversification of income levels and the sustainability of income-generating activities, as dimensions of livelihood restoration and well-being.

e) **Process indicators** – will measure and assess implementation processes. Examples will be the functioning of liaison/participation structures, the levels of representation of different social categories/interest groups, and the processes by which conflicts and disputes are resolved.

Indicators will also be disaggregated to ensure that social variables are properly accounted for. The Table below provides details of different indicators and variables to be monitored.

Aspect	Indicator	Variable
Land	Affected land	<ul style="list-style-type: none"> • Area of cultivable land acquired for road developments • Area of communal land acquired for road developments • Area of private land acquired • Area of Government land acquired
Buildings/Structures	Affected Buildings	<ul style="list-style-type: none"> • Number, type and size of private buildings affected • Number, type and size of community buildings affected • Number, type and size of government buildings affected
	Other Structures affected	<ul style="list-style-type: none"> • Number, type and size of other private structures affected • Number, type and size of other community structures affected
Trees	Affected trees	<ul style="list-style-type: none"> • Number and type of trees affected

Aspect	Indicator	Variable
Compensation, Re-establishment and Rehabilitation	Compensation and re-establishment of affected owners/individuals	<ul style="list-style-type: none"> • Number of homesteads affected (buildings, land, trees, crops) • Number of owners compensated by type of loss • Amount compensated by type and owner • Number of replacement houses constructed • Size, construction, durability and environmental suitability of replacement houses • Possession of latrines • Water supply access • Number of replacement businesses constructed
	Re-establishment owned resources	<ul style="list-style-type: none"> • Number of community buildings replaced • Number, type of plants lost • Number of seedlings supplied by type • Number of trees planted
Hazards and Disturbances	Introduction of nuisance factors	<ul style="list-style-type: none"> • Number of homesteads affected by hazards and disturbances from construction (noise levels, blasting, increased traffic levels)
Social/Demographic	Changes to homestead Structure	<ul style="list-style-type: none"> • Homestead size • Gender distribution • Marital status • Relationship to homestead head • Status of “vulnerable” homesteads
	Population migration	<ul style="list-style-type: none"> • Residential status of homestead members • Movement in and out of the homestead (place and residence of homestead members)
	Changes to access	<ul style="list-style-type: none"> • Distance/travel time to nearest water source, communication facility, school, energy source, church, shop, village

Aspect	Indicator	Variable
	Changes to health Status	<ul style="list-style-type: none"> • Number of people with disease, by type (STDs, diarrhoea, malaria, ARI, • Immunizable disease) • Mortality rates • Access to health care services (distance to nearest facility, cost of services, quality of services) • Utilization of health care services • Disease prevention strategies • Extent of educational programs • Latrine provision at schools (school child population per VIP on site)
	Changes to educational status	<ul style="list-style-type: none"> • Literacy and educational attainment of homestead members • School attendance rates (age, gender) • Number, type of educational establishments
	Changes to status of Women	<ul style="list-style-type: none"> • Participation in training programs • Use of credit facilities • Landholding status • Participation in jobs and other activities resulting from the project

Aspect	Indicator	Variable
	Homestead earning Capacity	<ul style="list-style-type: none"> • Ownership of capital assets • Landholding size, area cultivated and production volume/value, by crop • Landholding status (tenure)• • Employment status of economically active members • Earnings/income by source, separating compensation payments • Changes to income-earning activities (agriculture) – pre- and post disturbance• • Access to income-generating natural resource base (wood, grass, sand, stones)
	Changes in social Organization	<ul style="list-style-type: none"> • Organizational membership of homestead members • Leadership positions held by homestead members
	Population influx	<ul style="list-style-type: none"> • Growth in number and size of settlements, formal and informal • Growth in market areas
Consultation	Consultation program operation	<ul style="list-style-type: none"> • Number of local committees established • Number and dates of local committee meetings • Type of issues raised at local committees meetings • Involvement of local committees in RA development planning • Number of participating NGOs

Aspect	Indicator	Variable
	Information Dissemination	<ul style="list-style-type: none"> • Number, position, staffing of Information Centres • Staffing, equipment, documentation of Information Centres • Activities of Information Centres • Number of people accessing Information Centres • Information requests, issues raised at Information Centres
	Grievances resolved	<ul style="list-style-type: none"> • Number of grievances registered, by type • Number of grievances resolved • Number of cases referred to court
Training	Operation of training Program	<ul style="list-style-type: none"> • Number of local committee members trained • Number of affected population trained in Project-related training courses
Management	Staffing	<ul style="list-style-type: none"> • Number of implementing agencies by function • Number of GOM ministry officials available by function • Number of office and field equipment, by type
	Procedures in Operation	<ul style="list-style-type: none"> • Census and asset verification/quantification procedures in place • Effectiveness of compensation delivery system • Number of land transfers effected

At the end of the compensation and resettlement period the RAP shall be evaluated on its performance. The evaluation will assess the number of people who were to be resettled, issued to be addressed versus what will have been achieved in the agreed period. The evaluation will be done by an independent NGO which will be decided and will determine modifications to be done on future similar projects in the District.

Monitoring

The monitoring program will involve the following:

- a) Establishment of required institutional structures;
- b) Operation of compensation, grievance and other necessary procedures;

- c) Disbursement of compensation payments;
- d) Development of livelihood restoration programs; and
- e) Preparation and submission of monitoring and evaluation report.

Reporting

Reporting on the activities around involuntary resettlement forms an integral part of monitoring and evaluation, to:

- a) Ensure early detection of conditions that necessitate particular mitigation measures, and
- b) Provide information on the progress and results of mitigation. Reporting methods of any resettlement activities on the project to date seem to have been limited to reports from consultants working on different aspects of the project. It is recommended that in the future all consultation and disclosure activities be reported in detail, internally and externally.

9. IMPLEMENTATION SCHEDULE

The implementation schedule for the RAP is provided in *Table 18*. In order to facilitate the resettlement process given the proposed construction timing, the following key activities will be initiated immediately upon commencement of the Project:

- a) Finalizing the detailed configurations of the various project components (borrow areas, spoil disposal areas etc.) so that land acquisition requirements and recording exercises can be undertaken;
- b) Appointing staff within RA and the affected district councils to commence with preparatory activities, including ongoing consultation with affected communities;
- c) Updating the socio-economic baseline, including completing socio-economic questionnaires for all affected households not surveyed during the preparation of the RAP;
- d) Establishing a Compensation Determination Committee to finalize compensation principles, norms and rates; and
- e) Contracting suitable NGOs to assist with the preparation of the social environment, including preparation of capacity building and skills enhancement programs.

- f) Formation of a Resettlement Working Group at each one of the major trading centres with membership from minor or smaller trading centres.
- g) Formation of a Grievance Redress Committee which will comprise two members of the Resettlement Working Group from each T/A, Two representatives of the Traditional Authority, One member of the vulnerable groups from each T/A. These groups will be provided with training or orientation on their roles and tasks just before the compensations are made.

Implementation Schedule

Task Name	Timeline(2024)											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Updating the socio-economic baseline												
Asset valuation and validation												
Appointing staff within RA and the affected district councils to commence with preparatory activities												
Contracting suitable NGOs to assist with the capacity building and skills enhancement programs.												
Conducting sensitisation meetings with PAPs												
Identification of relocation sites												
Establishing a Compensation Determination Committee to finalize compensation principles, norms and rates.												
Signing compensation agreements with PAPs.												
Payment of compensation.												
Formation of a Resettlement Working Group at each one of the major trading centres with membership from minor or smaller trading centres.												
Implementation of Grievance Redress Mechanism (Formation of a Grievance Redress Committee at												

Task Name	Timeline(2024)											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
district, community, and project levels). These committes will be provided with training or orientation on their roles and tasks just before the compensations are made.												
Update database.												
Provision of assistance to PAPs on grievances.												
Termination of assistance to PAPs.												

10. TOTAL COST FOR THE FULL IMPLEMENTATION OF THE RAP.

Item	Description	Total Cost (MWK)	Remarks
1	<ul style="list-style-type: none"> Residential, Commercial Structures, Mixed Use and Other Structures 	2,180,205,785. 40	
	<ul style="list-style-type: none"> Economical 	57,392,389.50	
2	<ul style="list-style-type: none"> Fruit Trees and exotic trees 	117,135,060.00	
3	<ul style="list-style-type: none"> Monitoring and evaluation (RA/PIU Monitoring of RAP implementation; Cost of monitoring and evaluation professionals- per diem; Cost audit team end of project 	172,800, 000.00	<ul style="list-style-type: none"> 12month x 20 staff 468,000/month/person
4	<ul style="list-style-type: none"> Livelihood restoration 	432,000,000.00	Construction of the market at an area provided by the Nkhotakota District council.
5	<ul style="list-style-type: none"> Capacity building on financial literacy skills for PAPs on management of cash compensation. 	216,000,000.00	Lump sum
6	<ul style="list-style-type: none"> Assistance for vulnerable groups. This is the payment of vulnerability allowance to 	72, 000, 000. 00	Lump sum

Item	Description	Total Cost (MWK)	Remarks
	the chronically ill, elderly or child headed household PAPs		
7	<ul style="list-style-type: none"> Relocation of borehole 	7,200,000.00	
8	<ul style="list-style-type: none"> RAP Implementation and Audit Report Costs (External & Independent); 	172, 800, 000. 00	Lump Sum
9	<ul style="list-style-type: none"> Capacity Building training costs for RAP Implementers and Grievance Redress etc. Community awareness campaigns and training (Cost of preparing the community of the upcoming resettlement and skills training to restore lost income. 	144, 000, 000. 00	Lump sum
10	<ul style="list-style-type: none"> Stakeholders Engagement Plan 	1, 378, 080, 000.00	
Sub Total		10, 631, 459, 795. 40	

Item	Description	Total Cost (MWK)	Remarks
10% Contingency	To cater for unforeseen costs in this RAP that include inflation and some unquantifiable items	1,075, 817, 979. 54	
TOTAL		11, 833, 997, 774. 94.	

CONTENTS

CONTENTS	i
EXECUTIVE SUMMARY	i
LIST OF TABLES	xxxiv
LIST OF FIGURES	xxxiv
LIST OF ACRONYMS AND ABBREVIATIONS	xxxv
CHAPTER ONE: PROJECT BACKGROUND	1
1.1. Introduction	1
1.2. Contact Details of the Project Proponent	2
1.3 Resettlement Impacts	2
1.4. Nature and scope of the proposed project	4
1.5. Project Location	7
1.6 Rationale for the project	10
1.7 Existing land use and land requirements for the project	11
1.8 Objectives of the Resettlement Action Plan	12
CHAPTER TWO: METHODOLOGY FOR THE PREPARATION OF THE RAP	15
2.1 Primary and Secondary Data Collection	15
2.1.1 Literature review	15
2.1.2 Consultations with stakeholders.	16
2.1.3 Socio-Economic Survey	21
2.1.4 Valuation Survey	25
2.2 Institutional arrangement for the implementation of the RAP	27
2.3 Valuation Methodology	29
2.3.1 Valuation methods used	31
CHAPTER THREE: POLICY AND LEGAL FRAMEWORK	34
3.1. Introduction	34
3.2. The Constitution of Republic of Malawi (1995)	34
3.3. The Malawi National Land Policy (2002)	35
3.4. The Land Act, 2016	36
3.5. The Lands Acquisition Act, 1970 and the Lands Acquisition and Compensation Act, 2017	39
3.6. The Registered Land Act of 1967 and the Registered Land (Amendment) Act of 2017	40
3.7. Land Survey Act of 2016	41
3.8. The Local Government Act, 1998 and the Local Government (Amendment) Act of 2017	41
3.9. Physical Planning Act (2016)	41
3.10. The Public Roads Act of 1962 as amended and the Public Roads Amendment Act, 2017	42
3.11. Environment Management Act of 2017	42

3.12. Monuments and Relics Act (1991)	43
3.13. Forestry Act 1997 and Forest Amendment Act, 2017	44
3.14. Relevant African Development Bank Safeguards Policies	45
3.14.1. Involuntary Resettlement, Land Acquisition, Displacement and Compensation (OS 2)	45
3.15 Gaps between National Law and the Bank's Policy	47
CHAPTER FOUR: PROJECT AFFECTED PERSONS (PAP) SOCIO-ECONOMIC PROFILE.	53
4.1 Introduction.	53
4.2 PAP Demography.....	55
4.2.1 Gender.....	55
4.2.2. Age.	55
4.2.3 Marital Status.	56
4.2.4 Education Level.	56
4.2.5 Disability status of PAP.	57
4.2.6 Main occupation of PAP.....	57
4.2.7 PAP Household sources of income.....	59
4.2.8 PAP household size.....	62
4.2.9 PAP household source of lighting.....	63
4.2.10 PAP household source of drinking water	63
4.3 Magnitude and Extent of displacement	64
4.3.1 Magnitude of displacement	64
4.3.2 Extent of displacement.	67
4.4 Vulnerability Status of PAP.....	68
4.4.1 Vulnerability to poverty	68
4.4.2. Economic vulnerability	69
4.4.3. Other Vulnerability Factors (Gender, Disability, Education, and etc)	70
4.5 Socio-cultural Characteristics.....	71
4.5.1 Cultural Context	71
4.5.2 Social Interactions.....	73
4.5.3 Social Access	76
CHAPTER FIVE: RESETTLEMENT IMPACTS AND MITIGATION.....	84
5.1. Introduction	84
5.2. Potential impacts.....	84
5.3. Eligibility.....	86
5.4. Determining Criteria	87
5.5. Identifying the Eligible.....	88
5.6. Relocation and entitlements.....	88
5.7. Cut-off Date to Entitlements.....	88

5.8. Validation of affected assets	89
5.9 Principles of this RAP	96
5.9.1. Minimization of displacement	96
5.9.2. Livelihoods restoration Plan.....	96
CHAPTER SIX: PROCEDURES FOR ACQUISITION AND NOTIFICATION.....	98
6.1 Land acquisition.....	98
6.2 Notification Procedures.....	100
CHAPTER SEVEN: STAKEHOLDERS ENGAGEMENT PLAN	101
7.1 Introduction	101
7.2 Stakeholder Engagement	102
7.2.1. Resettlement Steering Committee (RSC)	102
7.2.2. Project Implementation Unit	103
7.2.3. AP Committee (PC)	103
7.6 Implementing Agent.....	105
7.7 Stakeholders Engagement Budget	105
CHAPTER EIGHT: PROCEDURES AND CONFLICT RESOLUTION AND RESETTLEMENT...107	
8.1. Introduction.	107
8.2. Grievance Redress Principles.....	107
8.3. Procedures negotiations and resolution of conflicts	108
8.4. Grievance	109
8.5. Grievance redress process.....	109
CHAPTER NINE: MONITORING AND EVALUATION.	113
9.1. Introduction	113
9.2. Indicators.....	113
9.3. Monitoring and Reporting Plan.....	118
9.3.1. Internal Monitoring.....	119
9.3.2. External Monitoring	120
9.3.3. Independent Audit	121
9.4. Reporting.....	121
CHAPTER TEN: IMPLEMENTATION SCHEDULE.....	122
CHAPTER ELEVEN: IMPLEMENTATION BUDGET.....	125
CHAPTER TWELVE: CONCLUSION AND RECOMMENDATIONS.....	129
REFERENCES	130
ANNEXES	132
ANNEX 1: LIST OF STAKEHOLDERS CONSULTED	132
District Level Stakeholders.....	133
Community Level Stakeholders	133
ANNEX 2: GRIEVANCE REDRESS MECHANISM (GRM) FORMS	137

A2.1: Community Grievance Log & Resolution Form	137
A2.2: District Grievance Log & Resolution Form	138
ANNEX 3: Questionnaire	140
ANNEX 4: PRELIMINARY VALUATION	145
ANNEX 5: EXPROPRIATION OF PROPERTIES BUILDINGS AFFECTED BY BENGAL TO DWANGWA ROAD RESETTLEMENT	154
ANNEX 6: EXPROPRIATION OF TREES AFFECTED BY BENGAL - DWANGWA ROAD RESETTLEMENT	155
ANNEX 7: EXPROPRIATION OF ECONOMICALLY AFFECTED BY BENGAL - DWANGWA ROAD RESETTLEMENT	156
ANNEX 8: EXPROPRIATION OF CROPS AFFECTED BY BENGAL - DWANGWA ROAD RESETTLEMENT	157
ANNEX 9: BENGAL – DWANGWA ESIA TERMS OF REFERENCE	158
The assignment is expected to be completed within two (2) months (8 weeks)	167
The Consultant will submit to the Client:	167
ANNEX 9: VALUATION METHODOLOGY	170

LIST OF TABLES

Table 1. Summary of Raised Issues and Responses/Recommendations.	16
Table 2. Summary of Issues Raised by Project Affected Persons.....	22
Table 3. Valuation Survey Checklis	26
Table 4: Roles and Responsibilities for RAP Implementation.....	27
Table 5: Gaps between Government Policies and Laws and AfDB Policies on Resettlement.....	48
Table 6. NEW PAP LISTING (Survey team only had access to a list of 423 PAPs out of 796)	Error! Bookmark not defined.
Table 7. Total listed (minus institutions) OLD & NEW: 1,592	54
Table 8: Distribution of PAP by category, gender and household headship.	55
Table 9: Distribution of PAP by age and gender	55
Table 10: Distribution of PAP by Marital Status within gender	56
Table 11: Distribution of PAP by level of education attained, within gender.....	57
Table 12: Number of PAP with disabilities	57
Table 13: Distribution of PAP by occupation and gender	58
Table 14: Distribution of PAP households by source of income within gender of household head.....	60
Table 15: Number of PAP's household members and average household size	62
Table 16: PAP household source of Cooking Energy	62
Table 17: PAP household source of Lighting	63
Table 18: PAP household source of drinking water.	63
Table 19. Magnitude of Displacement	Error! Bookmark not defined.
Table 20. Extent of Displacement	68
Table 21. Magnitude of Displacement	69
Table 22. Extent of Displacement.....	70
Table 23. Vulnerability Factors Among Project-Affected Persons (PAPs).....	71
Table 24. Ethnic and Religious Composition of PAP Communities.	73
Table 25. Social Access Assessment	77
Table 26: Project Major Potential Impacts.....	85
Table 27: Entitlement matrix	90
Table -28. Stakeholders Engagement costs	106
Table 29: Indicators and Variables to be monitored	114
Table 30: Implementation Schedule.....	123
Table 31 Implementation Budget.....	126

LIST OF FIGURES

Figure 1: Location Map for PAP.....	Error! Bookmark not defined.
Figure 2. One of the sections of the road which are in bad shape.	10
Figure 3 Pedestrians and Cyclists off the roader shoulder	11
Figure 4 Boreholes falling within the RRB.....	12
Figure 5: Interactions for implementation of the resettlement Action Plan	28
Figure 6: Distribution of PAP households by source of income and gender of household head.....	61
Figure 7: Grievance Redress pathways	111

LIST OF ACRONYMS AND ABBREVIATIONS

ADC	Area Development Committee
AEDC	Agricultural Extension Development Coordinator
AfDB	African Development Bank
AIDS	Acquired Immune Deficiency Syndrome
AP	African Parks.
ARI	Acute Respiratory Infection
BVC	Beach Village Committee
CBO	Community Based Organization
CCLM	Community Child Labour Monitors
CHAG	Community Health Action Groups
CHAM	Christian Health Association of Malawi
COMSIP	Community Savings and Investment Promotion
COVID 19	Coronavirus Disease
CPF	Community Policing Forums
CPUE	Catch Per Unit Effort
CSR	Corporate Social Responsibility
DC	District Commissioner
DCLC	District Child Labour Committee
DESC	District Environment Subcommittee
DHO	District Health Officer
EPA	Extension Planning Area
ESIA	Environmental and Social Impact Assessment
ESMPs	Environmental and Social Management Plans
FGD	Focus Group Discussion
GoM	Government of Malawi
GRM	Grievance Redress Mechanism
HIV	Human Immune Virus
IBA	International Bird Area
IUCN	International Union for Conservation of Nature
NGO	Non Governmental Organization
NSEP	Nkhotakota Socio-Economic Profile

NSO	National Statistical Office
NWR	Nkhotakota Wildlife Reserve
NWRA	National Water Resources Authority
OPD	Outpatient Department
PAP	Project Affected People
PIU	Project Implementation Unit
PTA	Parent Teacher Association
RA	Roads Authority
RAP	Resettlement Action Plan
RRB	Road Reserve Boundary
RWG	Resettlement Working Group
SEP	Stakeholder Engagement Plan
SMEs	Small and Medium Scale Businesses
STI	Sexually Transmitted Infections
STIs	Sexually Transmitted Diseases
TA	Traditional Authority
TB	Tuberculosis
TC	Trading Center
TOR	Terms of Reference
UNESCO	United Nations Educational, Scientific and Cultural Organisation
VAC	Village Agriculture Committee
VDC	Village Development Committee
VFC	Village Forest Committee
VNRMC	Village Natural Resources Management Committee

CHAPTER ONE: PROJECT BACKGROUND.

1.1. Introduction.

The policy of the Government of Malawi (GoM) towards the roads sub-sector is to build, maintain and ensure efficient utilisation of the road infrastructure and other services appropriate to meet the current and future development needs of the economy. The M005 Road is one of the primary overland transportation corridors in Malawi. The road is a vital artery for trade, agriculture, and community connectivity, has significantly deteriorated over time due to increased traffic, climatic variations, and limited maintenance. This deterioration has led to safety concerns and impeded economic growth in the central and northern regions of the country. Despite the efforts involving periodic maintenance and minor upgrades, the road remains inadequate to meet the long-term needs and challenges it faces. Its current condition, characterized by worn surfaces, inadequate drainage systems, and single-lane bridges, underscores the urgency for a comprehensive upgrade.

In response to these challenges, the Government of Malawi, through the Roads Authority (RA) and with financial support from the African Development Bank (AfDB), has initiated a major endeavour to rehabilitate and upgrade the M005 road section from Benga to Dwangwa in Nkhosha District. The detailed engineering design for this road section, completed in 2013, encompasses the Kaphatenga to Dwangwa road segment, with the Benga to Dwangwa stretch spanning approximately 100 kilometers. Additionally, the project includes improvements to associated feeder roads in the area. The proposed implementation of this project is divided into two phases. Phase one of the project runs from Benga to Nkhosha Boma with approximately 47km and Phase two of the project runs from Nkhosha-Kota Boma to Dwangwa trading Centre with approximately 53km. The ESIA study combines both phases design and type of machinery and structures to be constructed. Phase two shall be implemented at a later stage.

The proposed project aligns with Malawi's Vision 2063, aiming to establish resilient and world-class infrastructure that enhances connectivity and fosters economic growth. The estimated cost of the project is approximately MWK 187,776,000,000 (One Hundred

Eighty-Seven Billion, Seven Hundred Seventy-Six Million Malawi Kwacha), equivalent to approximately USD 111.55 million.

The major works of the project entail the rehabilitation and widening of the carriageway from Benga Catholic Parish to Dwangwa Trading Centre, aiming to address the road's current deficiencies comprehensively. It's worth noting that the project also encompasses improvements to feeder roads in the project area.

In light of this endeavor, an Environmental and Social Impact Assessment (ESIA) and a Resettlement Action Plan (RAP) have been deemed necessary to assess and address the potential impacts on both the natural environment and the communities residing along the road corridor.

1.2. Contact Details of the Project Proponent.

Government of Malawi through the Roads Authority awarded a contract to Kandoli Consulting Engineers/ AES JV to update the RAP for the rehabilitation of M005 Road from Benga to Dwangwa. Details of the postal and physical address for Roads Authority are as follows:

Proponent Name	: Roads Authority
Contact Person	: The Chief Executive Officer
Physical Address	: Functional Building, Off Paul Kagame Road, Lilongwe
Postal Address	: Private Bag B346, Lilongwe3
Cell Phone	: (265) 1 753 699
Fax	: (265) 01 750 307
Email	: ra@ra.org.mw

1.3 Resettlement Impacts.

The successful execution of the road rehabilitation project necessitates careful consideration of its potential resettlement impacts. During the initial feasibility study, a comprehensive topographical survey of the road alignment revealed that a number of properties were situated within the prescribed road servitude, established to be 60

meters wide. It became evident that all structures within this designated Road Reserve Boundary (RRB) were deemed to have encroached into this vital zone.

To facilitate the project's proper implementation, it has become imperative to clear the RRB of any properties and developments. The forthcoming construction phase of the road will involve several critical activities that will inevitably lead to the resettlement of affected individuals and communities. Consequently, this Resettlement Action Plan has been meticulously prepared to address the following key aspects:

Identifying Potential Impacts.

The primary objective of this Resettlement Action Plan is to identify and assess the potential impacts of the project, both directly and indirectly. These impacts encompass a range of consequences, including the displacement of Project Affected People (PAP), loss of properties, trees, agricultural land, buildings, and access or proximity to essential resources such as water, health facilities, and social amenities.

Legal Status of Resettlement.

It is crucial to differentiate among the affected individuals based on their legal status regarding resettlement. While the core group of affected people comprises those who have encroached into the road reserve, the project acknowledges its responsibility to consider the welfare of other individuals who may be impacted by the loss of properties or resources.

Mitigation Measures.

To address these resettlement impacts effectively, the Roads Authority is committed to implementing a comprehensive set of mitigation measures. Key strategies to minimize potential impoverishment risks include:

- i. **Avoiding Displacement Where Feasible:** Every effort will be made to minimize the displacement of people, with a strong emphasis on avoiding involuntary resettlement and land acquisition whenever possible. Existing road alignments will be followed to upgrade the road, thereby reducing the need for significant land acquisition.

- ii. **Equitable Compensation and Relocation:** In instances where displacement is unavoidable, a well-designed compensation and relocation process will be put in place. This process will apply uniformly, regardless of whether PAPs hold formal legal titles to the land. Informal or customary land tenure will receive equitable treatment.
- iii. **Fair Compensation for Losses:** Project Affected People will be compensated for the losses they incur, including displaced incomes and livelihoods, resulting from involuntary resettlement and land acquisition.
- iv. **Inclusive Consultation:** Measures will be implemented to ensure that project-affected individuals are informed about their options and rights concerning resettlement. PAPs will be actively involved in the consultation process and provided with opportunities to participate in the selection of technically and economically feasible alternatives.
- v. **Supporting Vulnerable Groups:** Particular attention will be given to addressing the needs of vulnerable groups among those displaced. This includes individuals below the poverty line, the landless, the elderly, women and children, orphans, and persons with disabilities.

The property inventory of the affected properties within the RRB was conducted over an extensive period, from 15th to 21st January, 2022, covering the entire project area spanning approximately 100 kilometers from Benga to Dwangwa. This comprehensive inventory serves as the foundational data for the subsequent phases of compensation and resettlement planning.

1.4. Nature and scope of the proposed project

The project encompasses four distinct phases, each meticulously planned and executed to achieve the overarching goal of rehabilitating the vital M005 Road from Benga to Dwangwa. These phases are the cornerstone of the project's success and are outlined as follows:

- i. **Planning Phase**

The project commences with a comprehensive Planning Phase, a critical foundation for the subsequent activities. During this phase, various essential tasks will be undertaken, including:

- Surveying the road to gather precise data about its current condition.
- Identifying suitable borrow pits for construction materials.
- Conducting detailed geometric design of the road to optimize its alignment.
- Developing earthworks design to ensure the road's structural integrity.
- Designing bridges and culverts to enhance drainage and infrastructure reliability.
- Crafting a robust road pavement design to withstand the rigors of heavy traffic.
- Conducting feasibility studies and economic analyses to assess project viability.
- Undertaking the crucial Environmental and Social Impact Assessment (ESIA) and Resettlement Action Plan (RAP) preparation.
- Precise budget calculations to ensure the efficient allocation of resources.

ii. Construction Phase

The heart of the project lies within the Construction Phase, where the vision of road rehabilitation takes tangible form. Key activities during this phase include:

- Mobilization of a skilled workforce, a pivotal moment when the project's human capital comes together.
- Establishment of construction camps to provide essential amenities and logistical support.
- Clearing of vegetation to create the necessary space for road development.
- Excavation of borrow pits, a fundamental source of construction materials.
- Removal and responsible disposal of old bitumen and concrete, paving the way for new infrastructure.
- Creation of impervious surfaces that form the road's durable foundation.
- Efficient transportation of equipment, materials, and workforce to the construction site.
- Construction of diversions to ensure uninterrupted traffic flow.

- Development of drainage structures to manage water runoff effectively.
- Enhancement of safety and traffic flow by converting single-lane bridges into double-lane structures.
- Construction of pavement layers utilizing gravel and crushed stone materials.
- Application of asphalt surfacing for a smooth and durable road surface.
- Ancillary works such as bus bays, kilometre posts, guardrails, road marking, and landscaping, ensuring a complete and functional road network.

iii. Demobilization Phase

As the Construction Phase culminates, the project transitions into the Demobilization Phase. During this period, specific actions are undertaken, including:

- The necessary reduction in the size of the workforce, aligning with project requirements.
- Demolition of select structures that served construction purposes and are no longer needed.
- The restoration of areas previously occupied by the project, returning them to beneficial use.

iv. Operation and Maintenance Phase:

With the road now rehabilitated and ready for use, the project enters the Operation and Maintenance Phase. During this enduring phase, several crucial activities are ongoing:

- Commissioning the road for public use, marking the culmination of the project.
- Ongoing monitoring and maintenance to ensure the road's longevity and functionality.
- Addressing wear and tear over time, as some sections may require periodic maintenance.

While the overarching aim of infrastructure development is to enhance regional connectivity and economic growth, it inevitably entails the involuntary acquisition of land. This process may lead to physical relocation, loss of assets, reduced access to resources, and the potential loss of income sources or livelihoods. Whether or not those

affected must relocate, this broad concept, often termed involuntary resettlement or resettlement, carries social and economic risks that can significantly impact the well-being of individuals and communities.

1.5. Project Location

The Benga-Dwangwa (M005 section) project is divided into two distinct phases, each with its own geographical scope and associated feeder roads. Phase I encompasses the stretch from Benga to Nkhotakota Boma, covering a distance of 100 kilometers. This phase traverses through Traditional Authorities (TAs) Mwadzama, Nkhanga, and Kalimanjira in Nkhotakota district. Benga, situated approximately 150 km northeast of Lilongwe, serves as the starting point for this phase. Positioned 10 km east of Lake Malawi and 30 km west of the Ntchisi Forest Reserve, Benga is strategically located along the M005 road connecting Salima and Nkhotakota Township. Nkhotakota Boma, located about 55 km south of Nkhotakota Township and 50 km north of Salima Township, marks the endpoint of Phase I. Its geographical coordinates are 13° 22' 0" South, 34° 17' 0" East. Please refer to **Figures 1 and 2** for a map depicting the project's location.

Currently, the riding surface of the road in Phase I ranges from fair to poor conditions, with certain sections still in good condition due to extensive routine maintenance programs carried out annually. Additionally, Phase I includes nine feeder roads, each serving specific areas and communities along the route. These feeder roads, totaling nine in number, include connections to health centers, schools, police stations, and residential areas, enhancing local accessibility and connectivity.

Phase II of the project covers the road section from Nkhotakota Boma to Dwangwa Trading Centre (TC). This segment spans Traditional Authorities Malengachanzi, Mphonde, and Kanyenda in Nkhotakota district. Dwangwa, situated around 60 km north of Nkhotakota District, serves as the endpoint for Phase II with geographical coordinates of 12° 34' 0" South, 34° 9' 0" East. Feeder roads under Phase II include connections to various settlements and areas of significance, facilitating local mobility and access to essential services.

[illegible]

The map displays the Malawi National Road (MS) and the Zambia National Road (NS) along the border. Key locations include Dwanawwa and Mwaladzi. The map also shows the Malawi National Road (MS) and the Zambia National Road (NS) along the border. The map includes geographical features like Lake Malawi, Mungwa, Lisutu, and various rivers. It also shows the locations of Dwanawwa and Mwaladzi. The map is overlaid with a grid of coordinates ranging from 615000 to 645000 Easting and 8572500 to 8610000 Northing.

 Trading Centers
  Feeder Roads
  Wetlands
  Built-up area

Roads
  Contours
  Land Cover
  Forest

 Main Road
  Lakes
  Agriculture in forest area
  Water surface

 — unclassified
  Rivers
  Agriculture/settlement

1 0 1 2 3 4 km

9

The feasibility study has also included preparation of the environmental and social impact assessment report and this resettlement action plan. It is expected that the environmental and social management measures will be incorporated into the engineering design of the proposed project activities and the RAP shall be used in implementation and monitoring of the resettlement issues.

1.6 Rationale for the project

Currently most of the sections of M005 road are in fair to poor conditions with some sections still in good condition. The M005 road section of Benga to Dwangwa is sometimes rendered impassable during rainy season due to heavy rains experienced in the area and poor existing drainage structures. The drainage structures are usually washed away during rainy season due to scouring. Further, road was constructed between 1976 and 1978 and last resealed in 1994/1995 and 2000/2001 for the Nkhotakota - Dwangwa Section and Benga - Nkhotakota Section, respectively and currently this road is in continuous deterioration due to increasing heavy traffic (Figure2) and costing the government a lot of money for routine and periodic maintenance.



Figure 3. One of the sections of the road which are in bad shape.

Current efforts to maintain the road by carrying out routine maintenance in the form of patching, reconstruction of washed away sections and drainage improvement are

proving ineffective and costly. Also, the single lane bridges have been a big road safety hazard hence the need for rehabilitation of these single lane bridges to double lane to improve safety and traffic flow. Some typical distress on the road listed in approximate order of severity, includes:

- ✓ Aged surface which shows significant stone loss and provides no effective seal. This has resulted in water ingress into the pavement leading to all forms of distress.
- ✓ Kerbs on high embankments have retained water in the base leading to significant rut development combined with all other distress indicators in the outer wheel path.
- ✓ Uncut grass has encroached on the shoulders. This has led to reduced available width and danger to pedestrians and cyclists now forced off the shoulder as seen in *figure3*.
- ✓ Significant edge break is noted on the shoulders, especially over embankments possibly resulting from livestock accessing the road.

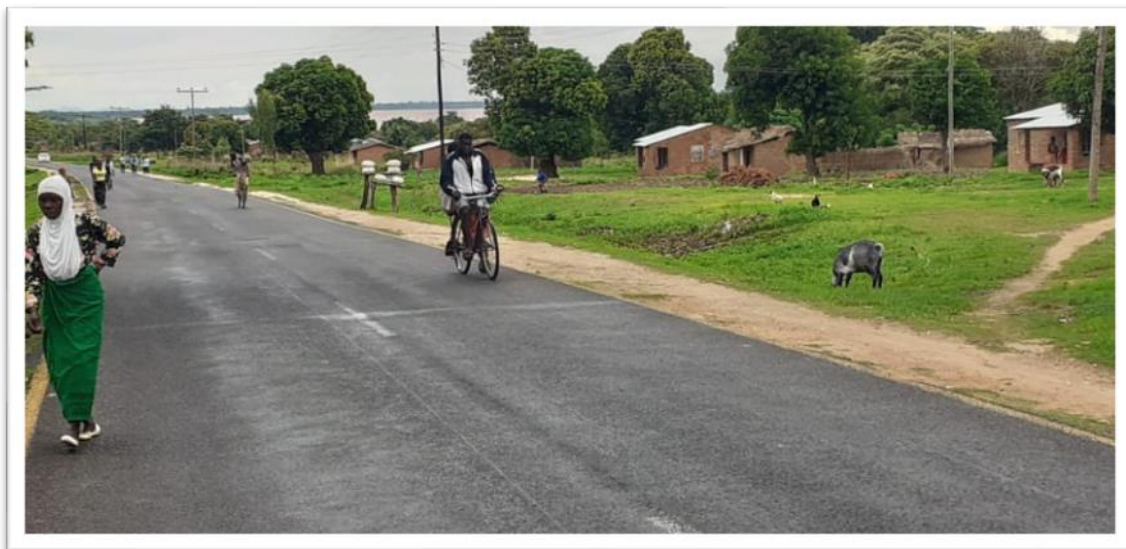


Figure 4 Pedestrians and Cyclists off the roader shoulder

1.7 Existing land use and land requirements for the project.

The project corridor is mainly surrounded by settlements, most of which are in linear settlement pattern. Some infrastructure also includes utility services such as electricity,

boreholes (*Figure 4*) and water pipes as well as social infrastructures such as schools, hospitals, business buildings and local markets. The proposed road project will require extra land for:

- a) Creation of a mandatory road reserve of 30m from the centre of the existing road to either side of the road which most of the existing buildings and trees will require to be removed;
- b) The road being realigned while in other places it will be due to diversions; and
- c) Drainage systems, borrow pits and campsites which will required to be situated on land that belongs to different individuals and communal structures.



Figure 5 Boreholes falling within the RRB

1.8 Objectives of the Resettlement Action Plan

This RAP has been prepared consistent with the applicable policy provisions of Malawi Government and the African Development Bank (AfDB). It is a public document which specifies the procedures and actions to be undertaken to mitigate adverse effects, compensate losses, and provide development benefits to project affected people. The

policies require that a RAP be prepared for all projects that anticipate land acquisition and displacement affecting shelter, livelihood and associated impacts. Basically, the RAP presents an inventory (register) of people likely to be affected by development of the road, a register of the assets that are likely to be displaced by the project and the proposed compensation and resettlement packages. Specifically the RAP was prepared in order to:

- i. Raise awareness of the project and its consequences among the general public and particularly among those people who will be directly affected by the project;
- ii. Determine the current occupants of the affected area in order to establish a base for the resettlement programme and exclude subsequent inflows of people for illegibility for compensation;
- iii. Undertake an inventory of assets to establish the number and size of the structures and other assets to be affected by the project, the extent of displacement and the magnitude of the expected loss;
- iv. Outline the legal framework for the resettlement programme, examining the scope of eminent domain and the nature of compensation associated with it in terms valuation methodology and the timing of payment of compensation and identifying the gaps between the laws of Malawi's resettlement policy propose approaches to address the gaps.
- v. Identification of agencies responsible for the resettlement activities;
- vi. Define the displaced persons categorized as those with formal legal rights to land, those without recognisable legal rights or claim to the land they are occupying and develop criteria for their compensation including establishment of the cut-off date;
- vii. Develop and implement a valuation methodology that is consistent with international best practices in involuntary resettlement;
- viii. Outline resettlement measures in cases of loss of assets, physical relocation and income restoration as the case may be;
- ix. Set out strategies to mitigate against adverse effects suffered by the PAPs including provision of channels and platforms for negotiations;
- x. Provide an estimate of the costs necessary for resettlement and compensation.

For transparent and participatory processes, the AfDB provided PAP Agreement Form Templates to Roads Authority (RA). The templates has been utilized in engagements with all project-affected persons, ensuring a streamlined and transparent process for compensation and resettlement. This approach guarantees that all PAPs are fully informed of their rights and the benefits available to them under the project, reflecting our collective dedication to upholding the highest standards of fairness and accountability throughout the project's implementation.

CHAPTER TWO: METHODOLOGY FOR THE PREPARATION OF THE RAP

2.1 Primary and Secondary Data Collection

In adherence to the terms of reference for reviewing and updating the Resettlement Action Plan (RAP) for the Benga to Dwangwa road project, a comprehensive approach was employed, encompassing both qualitative and quantitative methodologies. The selection of this mixed methods approach was deliberate, tailored to fulfill the intricate data requirements of the study, both qualitatively and quantitatively. This approach not only facilitated a thorough review of the existing RAP but also provided the necessary data to ensure fair, equitable, and culturally sensitive treatment of affected individuals, thereby striving for an inclusive and sustainable approach to mitigate adverse socio-economic conditions resulting from the project's activities.

Major steps used for this study included: A desktop review of documents and other secondary data; transact walks collecting coordinates of visibly identifiable displacements; consultative meetings and interviews with local government officials and other key stakeholders; a socio-economic survey on status of project affected persons (PAPs) and affected communities; and a displacement verification, identification and valuation survey.

2.1.1 Literature review.

Among the documents, the desk study looked at the initial RAP reports, the Constitution of the Republic of Malawi, the National Land Policy, National Environmental Policy, Environmental Guidelines for Roads Sector, Forestry Conservation Act and Policy, Resettlement Action Plan Hand Book , the Environment Management Act, the Water Resources Act, the Land Act, Land Acquisition Act, Town and Country Planning Act, Public Roads Act, Forestry Act, and other pieces of legislation relevant to the activities of the proposed project. The intention of reviewing some policies and laws was to ensure that the resettlement and compensation of the PAPs will be done legally. In addition, documents such as the socio economic profiles, health surveys and researched data for Nkho-takota District were also reviewed.

2.1.2 Consultations with stakeholders.

To achieve the assignment's objectives in line with the terms of reference, the study organized a 2 day consultative workshop with the district environmental subcommittee and other key district, like CISP who are currently co-chairing a grouping of all NGOs operating in Nkhotakota, with the aim of presenting the ESIA and RAP reports and soliciting inputs on key issues not address, major changes that have occurred in the project area that needs to be considered in the ESIA and RAP, and any major concerns that need to be addressed by the project.

Furthermore, additional key stakeholders who were initially unreachable were identified and consulted. These stakeholders included Nkhotakota Wildlife Reserve Association (NAWIRA), Nkhotakota Police Station, and Central Region Water Board (CRWB) Nkhotakota office.

Additionally, the study engaged directly with the affected communities through focus group discussions (FGDs) with representatives from Village Development Committees (VDCs) in all communities along the project road, spanning five affected traditional authorities. A semi-structured checklist was employed during these FGDs to capture the perspectives, views, and concerns of the PAP communities, ultimately enhancing the RAP and related processes. Table 1 summarizes the issues raised during these consultations and the corresponding forums, responses, and recommendations.

Table 1. Summary of Raised Issues and Responses/Recommendations.

Issues Raised	Forum	Response/recommendations
The road construction will affect a 5km M5 road stretch that passes through NWR area (Navunde Area) which may result in the scaring away of animals or increased cases of human-animal conflict (animals breaking out of the fence into	KII, NAWIRA	The proponent and contractor need to collaborate with NWR to relocate big animals away from the project area during construction works. Conduct community awareness through NAWIRA structures in surrounding communities

Issues Raised	Forum	Response/recommendations
communities) since the noise from construction works may irritate some animals		regarding possible animal breakouts.
Construction works will contribute to deforestation and soil degradation	KII, NAWIRA	Support VNRMC's afforestation activities by providing materials like seedlings and relevant implements.
How should the district council handle resettlement grievances coming from affected communities?	District Stakeholders Workshop	The RAP stipulates the legal requirement for the project to set up a Resettlement Working Group (RWG) whose membership includes representatives selected by PAPs, representatives of all affected Traditional Authorities, district council representatives, and client representatives. All involved parties must coordinate with the RWG on all resettlement matters. Ensure that all resettlement issues are addressed before the beginning of the construction phase.
Disruption of construction works by individuals or communities dissatisfied with the compensation issues	KII, OC Nkhotakota Police	Address all complaints before construction works commence.
The project should adequately support the council to reinforce safeguards as per its legal mandate	District stakeholder workshop	

Issues Raised	Forum	Response/recommendations
Apart from paying compensation money to PAPs losing trees to the project, there should be direct afforestation interventions	District Stakeholders' Workshop	For every tree that has been cut down, ten seedlings should be planted in other areas.
There are many boreholes located within or very close to the road reserve across the project area; construction works may either remove them or obstruct accessibility	District Stakeholders' Workshop	Thoroughly examine anything in diversions, and boreholes will be replaced before the project commences.
Some people are building houses along the road hoping to receive compensation when displaced by the project.	District Stakeholders' Workshop	The client needs to conduct comprehensive community awareness regarding displacement and resettlement issues, including the cut-off date for resettlement consideration.
CRWB water supply infrastructure crosses the M5 road at several points within the town planning area and will be affected by road construction works.	KII, CRWB Nkhotakota	The consultant, along with a technician and the study's GIS expert, collected coordinates of the said infrastructure to include this information on the PAP map. Proper consultations and coordination with relevant institutions should take place.
Usually road construction projects do not provide replacement materials after displacing water supply infrastructure crossing the road or falling with RRB.	KII, CRWB Nkhotakota	There should be proper consultations and coordination with relevant institutions

Issues Raised	Forum	Response/recommendations
In case of the death of a PAP before compensation pay-outs, who receives the money on behalf of the PAP?	FGD, Kanyenda VDCs	The compensation amount intended for the deceased PAP will be disbursed to the legal heirs or beneficiaries as per the applicable laws and regulations governing inheritance and succession. RA, in coordination with local authorities and legal representatives, will ensure that the compensation is distributed to the rightful heirs or beneficiaries of the deceased PAP, following the established legal procedures.
The VDCs have not been involved in the valuation and resettlement processes despite being the primary custodians of development issues in the community.	FGD, Kanyenda VDCs FGD, Mphonde VDCs FGD, Malenga Chanzi FGD, Kalimanjira FGD, Mwadzama	The road authority should establish the correct procedure for delivering messages to the community, as poor communication is causing chaos in communities. During asset registration, cross-check property ownership with chiefs, and involve VDCs to minimize errors.
Valuation exercises have been rushed through, resulting in wrong information collected regarding affected persons and corresponding displacement.	FGD, Kanyenda VDCs FGD, Mphonde FGD,	Improve the valuation process. Ensure comprehensive and accurate data collection.

Issues Raised	Forum	Response/recommendations
	Kanyenda VDCs FGD, Malenga Chanzi FGD, Mwadzama	
Some people who received compensation last time had no properties along the road	FGD, Various VDCs	Ensure that compensation aligns with property ownership.
There is an outstanding resettlement issue in Mpondagaga area involving road construction activities on M005 from a different project in 2019. The communities may not allow project activities to commence until the government has resolved the issue	FGD, Mphonde VDCs	Resolve prior issues before commencing the new project.
The project will bring money, and if the community is not sensitized about the positive and negative impacts of it, it may lead to problems such as pregnancy and diseases in communities.	FGD, Malenga Chanzi	Conduct community sensitization to raise awareness about the project's potential impacts.
People do not know their land limits along the road as most of them inherited from parents	FGD, Malenga Chanzi FGD, Kalimanjira	Sensitize people on where to build their houses, plant trees, and other land-use guidelines.
Why were people with trees compensated while those with	FGD, Kalimanjira	Follow protocol and provide accurate information to the community to reduce conflicts.

Issues Raised	Forum	Response/recommendations
crop fields were not compensated?	FGD, Mwadzama	
It would be better to pay compensation money using locally available banks through issuing cheques than paying cash.	FGD, Mphonde	Consider providing compensation via bank, airtelmoney, Mpamba or cheques for improved financial security.
People are not aware of where to report complaints regarding resettlement issues	Mwadzama	Sensitization should have been conducted earlier to avoid surprising communities. Raise awareness through community leaders and brief them about the project.

Three series of consultations is expected to take place along the road project. The Roads authority will need to conduct further consultations with the Project Affected People, Traditional leaders and government officials in Nkhotakota districts. These consultations are aimed at sensitising the PAPs, traditional leaders and government officials about the design changes that have been effected on the road over a period of time and facilitating formation of Resettlement Working Groups and Grievance Redress Committees. Resettlement Working Group Committees and Grievance Redress Committees will have to be established to handle any grievances that the PAPs may have and trigger the formal redress process.

2.1.3 Socio-Economic Survey

A Project Affected Persons (PAP) household survey was conducted to collect baseline information on demographics, socio-cultural characteristics, displacement dynamics, and the preferences and concerns of PAPs. Research assistants administered a structured household questionnaire to engage individual PAPs in all the affected communities and business centers.

Due to time constraints and other resource limitations, the study was planned in such a way that the household survey team trailed the valuation team. This approach aimed to capture PAPs listed in the previous valuation exercise and additional PAPs who were identified during the concurrent verification valuation process.

Table 2 provides a summary of various issues and concerns raised by PAPs during the socio-economic survey. These issues encompass a wide range of topics related to compensation, valuation of assets, the timing of resettlement, and the overall impact of the project on their livelihoods. PAPs' input highlights their perspectives and expectations regarding the road construction project and the associated compensation and resettlement processes.

Table 2. Summary of Issues Raised by Project Affected Persons

No	Issues Raised by PAP	Response
1	The compensation amount for lost property/business should be sufficient for replacement.	Affected individuals are compensated for all their losses at full replacement costs before their actual move, before land and related assets are taken, and before project activities begin for each phase
2	Resettlement should occur before displacement.	Ditto
3	For previously paid compensation, the pay-out did not match the extent of the loss, i.e., the cost of rebuilding a shop.	The RA already invested and has records of who they already paid, and this was the reason this exercise of updating the RAP was initiated.
4	Fruit trees like nsawu should have had a higher value because the fruits are a source of income.	The RA used market value.
5	Compensation pay-outs need to account for the devaluation of the kwacha.	The RA will consider economic factors, including currency devaluation, in compensation calculations.

No	Issues Raised by PAP	Response
6	Other identified PAPs (e.g., those whose shops were marked for demolition) did not receive compensation money in the previous payouts.	The RA has records of who they already paid, and this was the reason this exercise of updating the RAP was initiated.
7	"I have invested heavily in this project, and I would be comfortable if the compensation is equal to the value of the investment."	The RA conducted a comprehensive assessment of investments and properties to determine fair compensation.
8	When enumerators were collecting data, the information that was given was for her husband who lives in South Africa. As a result, she was unable to receive her compensation.	The RA already organized a sensitization meeting to clarify the importance of providing accurate and up-to-date information during data collection.
9	Some of the names registered as PAPs passed away before compensation pay-outs, with no provision for next of kin in recording PAP details.	RA will always ask for the next of kin verified with evidence from all relevant parties, including the chiefs, before making payments.
10	Some properties like other trees were omitted during valuation.	The RA is reviewing and updating the valuation process to ensure all eligible assets are considered.
11	Other PAPs failed to receive compensation money because their names were misspelled during PAP registration.	The RA will correct misspelled names and ensure that accurate records are maintained for compensation.
12	Affected communities should be notified in a timely manner before construction works begin.	The RA already conducted and conduct additional sensitization meetings to inform affected communities well in advance of construction activities.

No	Issues Raised by PAP	Response
13	Those losing productive land should be compensated sufficiently to acquire replacement land.	The RA already assessed compensation rates to ensure that those losing productive land receive sufficient compensation for acquiring replacement land.
14	There should be enough support to help displaced businesses recover.	The RA will consider providing support and assistance to help displaced businesses recover.
15	The displacement of other personal assets/businesses like maize mills will affect entire communities.	The RA acknowledges the impact on communities and will work to minimize disruptions during displacement.
16	This project will negatively impact many people's livelihoods, considering the number of businesses that will be displaced.	The RA will strive to minimize negative impacts on livelihoods and engage with affected businesses to explore alternatives.
17	People will be significantly affected because the businesses to be displaced are a source of daily income, and the cost of living is increasing daily.	The RA will consider the socioeconomic impact and explore mitigation measures.
18	Communities were not aware of the valuation process, resulting in some affected persons not being present to verify if their assets were fully accounted for.	The RA already reorganized additional sensitization meetings to inform communities about the valuation process and ensure full participation.
19	People wonder why tenants were also registered as PAPs.	The RA will clarify the inclusion of tenants in the registration process during a sensitization meeting.
20	It won't be easy to find space to construct replacement shops even	RA assures that compensation covers all related costs, including finding suitable replacement locations.

No	Issues Raised by PAP	Response
	after being compensated for the structure.	
21	Many businesses and households just outside the RRB will be affected by dust during construction.	RA has measures in place through the ESIA report to minimize dust impact and will inform affected parties of precautions.
22	Other people registering their names as PAP on other people's property.	The RA will investigate and rectify cases of false registration and emphasize the importance of accurate information.

2.1.4 Valuation Survey

Officers from the Ministry of Lands were tasked with conducting a follow-up valuation exercise to verify previously identified displacements, record any missed displacements, and include other forms of displacements that were not considered in the previous exercise, namely: displacement of crops and displacement of economic activities that do not involve the removal of physical structures (informal trade).

The study provides a valuation checklist to guide the valuation team on the nature of information to be collected for each displacement identified (see the Table 3). Considering that the Ministry of Lands holds the mandate on RAP valuation processes, there was only so much that the consultant could do to ensure the outcome met all specified parameters given by the client. As such, the valuation exercise managed to capture the following preliminary details (in addition to the name of PAP and location of displacement): for structures, property description and the area of displacement; for informal trade, economic activity and the area of displacement; for trees, the type of tree, tree size, and the number of trees to be displaced; and for crops, the type of crop and the area of displacement.

In addition to collecting valuation data, the valuation team marked all structures listed for displacement with an 'X' using paint.

Table 3. Valuation Survey Checklis

Parameter	Specific Details Required	Comment
PAP ID	Sex, age, phone number	
PAP category	Owners, land rights holders, tenants, squatters (illegal occupants), employees	
Asset Category	All forms of displacement (land, structures, crops, trees, informal trading)	
Institutional/communal assets	For institution and communal assets, in addition to location name, indicate GVH and TA	
Informal trading	Unstructured market spaces; Evidently permanent traders with no significant structure	Capture size of the area for informal markets; Capture personal and nature of business details
Magnitude of displacement	Total or partial displacement; Extent (Physical or economic displacement)	
Longevity of displacement	Temporary or permanent	
GPS coordinates	Assets and settlements to be displaced; Permanent survey marking (pegging/beaconing) of the extent of the new Right Of Way (ROW) at an acceptable distance	GIS expert will accompany the valuation team; Methodology for valuing losses to determine their replacement cost to be attached to the valuation report

Parameter	Specific Details Required	Comment
Valuation verification of all land, assets, and livelihoods affected by the project		

2.2 Institutional arrangement for the implementation of the RAP

The Government of Malawi, as the primary proponent of the project, will bear the overall responsibility for coordinating the implementation of the Resettlement Action Plan (RAP) through the Roads Authority. The Roads Authority will establish a project management team and a monitoring team to oversee the resettlement process. The actual execution of the plan will involve collaboration with Nkhosakota District Council (local government) and various relevant ministries and departments, including the Ministry of Lands, the Ministry of Finance, and the Office of the President and Cabinet. The interactions among these institutions for managing resettlement and compensation are outlined in Table 4.

Table 4: Roles and Responsibilities for RAP Implementation

No	Institution	Responsibility
1	Ministry of Lands	Valuation of properties and Trees Socio-economic survey
2	Ministry of Finance and Economic Planning	Funding of compensations
3	Office of the President and Cabinet	Approving all compensation payments
4	Roads Fund Administration	Payment of Compensations
5	Roads Authority	Monitoring and Reporting on RAP Implementation
6	Local Authorities	Follows up on grievances and handling of grievances or referring the grievances to Roads Authority
7	Resettlement Working Groups and Grievance Redress Committees	Uptake of grievances, undertaking initial investigation, referral of grievances and providing feedback to the PAPs

Contact persons and teams in each Ministry will receive orientation to ensure that the exercise is conducted with respect and due care for all affected individuals. Once all the groundwork has been completed, the District Commissioner for Nkhota-kota will jointly monitor the implementation of the RAP with the Roads Authority.

The contract with the construction contractor will stipulate the recruitment of an Environmental and Social Specialist to ensure the addressing of safeguard issues, including the prevention of inappropriate contact between migrant workers and local people, especially children and school-going adolescents.

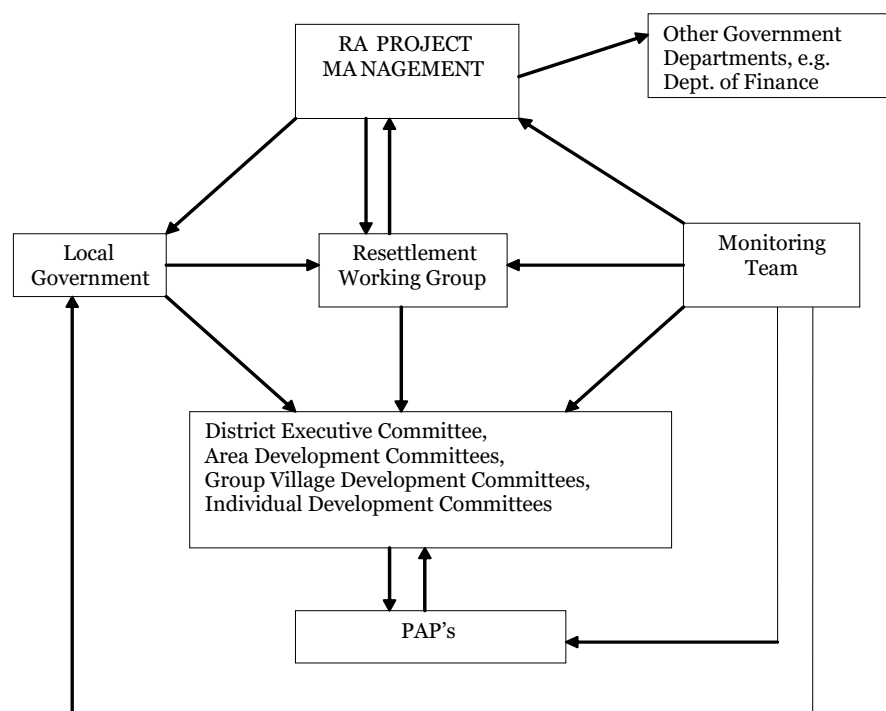


Figure 6: Interactions for implementation of the resettlement Action Plan

The Resettlement Working Group (RWG) will serve as the intermediary between the Project Management and the Project Affected Persons (PAPs). It will be constituted as the primary representative voice of the affected persons, independent of the Area Development Committees (ADC) /Group Village Development Committees (VDC) and

individual Village Development Committees that have already been established. The RWG's composition will include:

- a) Representatives of the affected communities/villages, with two members from each of the affected Traditional Authorities areas, including at least one woman, elected by the PAPs.
- b) Representatives of the Traditional Authorities in each of the affected areas.
- c) Representatives of the Roads Authority (RA).
- d) One representative from the District Council, which can be the District Commissioner or a designated representative.

Once established, the RWG will elect a representative or representatives responsible for reporting their activities to the community. These elected members of the RWG will prioritize reporting back to the appropriate development committees to keep them informed about road project developments. Operating under the authority of its reporting officer, the RWG will undertake the following functions:

- a) Act as the primary communication channel between various interest groups and organizations involved in the resettlement process, facilitating communication between RA and the affected population.
- b) Amicably resolve any problems related to the resettlement process, channeling unresolved issues through the appropriate grievance procedures.
- c) Assume primary responsibility for assisting RA in overseeing the resettlement processes throughout all phases

2.3 Valuation Methodology

The valuation of assets in this project is based on local laws, policies, and the AfDB Involuntary Resettlement policies.

Local Provisions: In Malawi, there are several legal provisions governing compensation in cases where one's assets are affected.

- Section 28 of the Constitution of Malawi ensures that every person has the right to acquire property and that once acquired, no one shall be arbitrarily deprived of their property. Section 44(4) further specifies that property expropriation is permissible only for public utility and with adequate notification and appropriate compensation. Individuals always have the right to appeal to a court of law.
- Section 14 of the Land Act 2016 states that anyone who suffers disturbance, loss, or damage to any interest in land due to acquisition shall be reasonably compensated.
- The Land Acquisition and Compensation Act (2016) Sections 9 to 11 outline the procedure for assessing appropriate compensation and the grounds for such compensation.

The AfDB Involuntary Resettlement Policy mandates compensation to be based on a full replacement basis, without depreciation of the affected asset. It also specifies that the value of salvage materials should not be considered, and the value of benefits derived from the Project should not be subtracted from the gross value of the assets.

African Development Bank Operational Safeguard 2 (OS2) for involuntary resettlement/land acquisition, displacement, and compensation of persons ensures that displaced individuals receive substantial resettlement assistance under the project. This assistance is aimed at improving their standards of living, income-earning capacity, production levels, and overall means of livelihood beyond pre-project levels. Compensation items include:

- Value of the land
- Value of unexhausted improvements (dwelling house, other house structures, trees, crops, hedges/fences, and other properties)
- Compensation for any loss of interest on land
- Various kinds of allowances, including disturbance, transport, accommodation, and loss of profit.

The IVSC (2011) defines Market Value as "the estimated amount for which a property should exchange on the date of valuation, between a willing buyer and a willing seller,

in an arm's-length transaction after proper marketing, wherein the parties had each acted knowledgeably, prudently, and without compulsion."

2.3.1 Valuation methods used

Valuation for Loss of Structures: Various types of structures with differing finishes were surveyed. The Valuer conducted a market survey to determine the current replacement costs of affected structures. This involved matching unit costs to structures of similar construction types, resulting in the determination of the gross replacement costs of the PAPs' structures along the road. Government rates for the cost of buildings, depending on the structure type, range from MK3, 000 to MK70, 000. This aligns with the AfDB OS 2, which recommends compensation at full replacement value (without depreciation). In this RAP, compensation will be based on full replacement value.

Valuation for Loss of Business: The standard method for valuing businesses is the profit method, which involves inspecting financial records for the past 3 to 5 years and using a market multiplier to determine the business's value. However, given the rural nature of the area and the challenge of record-keeping for many business owners, the profit method may not be practical due to a lack of evidence. Therefore, the proposed approach involves calculating the replacement cost of the structure and allowances for profit loss. Profit losses are determined based on the type of business and projected profit levels, with an average allowance for loss of profit per month (ranging from 1 to 3 months based on structure type and business nature), with amounts of MK 60,000.00 and MK 150,000.00 used for valuation to cover profit losses and transition inconveniences. This compensation is considered an opportunity cost until income is restored in the new location.

Valuation for Loss of Farmland: Farmland cultivated within the Road Reserve Boundary (RRB) will be allowed to be harvested before roadwork begins. Affected farmers will receive assistance to improve productivity on their remaining agricultural land by connecting them with existing government-run programs. The project will provide them with a minimum of 2 bags of fertilizer and 10 kgs of maize seed per acre.

Disturbance Allowance: National laws require a disturbance allowance to be paid to those affected by involuntary displacements (physical or otherwise). Thus, a percentage of the total compensable value is applied as a disturbance allowance. The approved rate for disturbance allowance is 20 percent of the loss value.

Shifting Allowance: This allowance applies to PAPs required to relocate their structures due to the loss of structures in the road reserve. The percentage adopted is based on the Reserve Bank of Malawi lending rate, which was 12% at the date of valuation. Therefore, the total property value is multiplied by 12% to determine the shifting allowance.

Vulnerability Allowance: Vulnerable groups, as defined by the African Development Bank, are those who may suffer disproportionately from resettlement effects, often characterized by low asset levels and a risk of chronic poverty (e.g., widows, orphans, disabled individuals, and the chronically ill). To comply with the AfDB requirements, special attention has been given to vulnerable PAPs who may struggle to cope with the project's impacts. An additional financial assistance of 12% on the base compensation amount is proposed for these vulnerable PAPs.

Loss of Trees: The Government Forestry Gazette of 2010 provides the basis for calculating tree values, although these rates are old and cannot be changed until the law is revised.

Loss of Fruit Trees: To calculate rates for fruit trees, market prices per kilogram of fruit, average yield per tree per year, expected productive lifespan, and the number of fruit trees are considered. These variables are multiplied, and the product is increased by the average establishment (planting and caring) costs to determine the commercial value of the fruit. This approach is widely used in Malawi for fruit tree compensation.

Calculation of Total Compensation Figure: Property replacement cost (calculated differently for houses, structures, and trees) + disturbance allowance + shifting

allowance + disturbance allowance (+ loss of profit where applicable) and vulnerability allowance where applicable.

CHAPTER THREE: POLICY AND LEGAL FRAMEWORK

3.1. Introduction

Policy and legal framework on resettlement in Malawi is drawn from various government policies and pieces of legislation. In addition to a review of the Constitution of Republic of Malawi, other key government policies and pieces of legislation considered here include: Malawi National Land Policy, Land Act, Land Acquisition Act, The Public Roads Act, The Town and Country Planning Act, and the Forestry Act. The following paragraphs highlight some resettlement related requirements as enshrined in these statutes.

3.2. The Constitution of Republic of Malawi (1995)

The Constitution is the basis for legislation on expropriation and compensation. Section 207 of the Constitution vests all land and territories in Malawi in the Republic. The word 'Republic' means the people and territory of Malawi; and therefore, this section vests land ownership in the people of Malawi. Specific legislation providing for issues pertaining to title, claim or specific responsibility over land is outlined below.

Section 28 of the Constitution provides that every person shall be able to acquire property alone or in association with others and that no person shall be arbitrarily deprived of property.

In Malawi, an individual cannot be deprived of property without compensation. Section 44 of the Constitution provides that expropriation of property shall be permissible only when done for public utility and only when there has been adequate notification and appropriate compensation, if not satisfied, there shall always be a right to appeal to a court of law. In regard to these facts, it will be necessary for the community to provide adequate land to displaced persons. The Constitution of Republic of Malawi further guarantees security of tenure of land and free enjoyment of legally acquired property rights in any part of the country. The implication is that Government will have to pay out fair and adequate compensation to affected people.

3.3. The Malawi National Land Policy (2002)

The goal of the Malawi National Land Policy 2002 in Malawi is to ensure tenure security and equitable access to land in accordance with section 28 of the Constitution and to facilitate the attainment of social harmony and broad based social and economic development through optimum and ecologically balanced use of land and land-based resources.

The Policy identifies the Ministry of Lands, Housing and Urban Development as the principal authority responsible for land matters. The Policy also provides clear definitions and categories of land tenure and outlines proposals to reform the land tenure system.

Section 4.11 of the land policy ensures that security of land tenure can be guaranteed on an equitable basis to all citizens in accordance with the statement that “Any citizen or group of citizens of Malawi can have access to land in any part of Malawi provided that:”

- a) Land is available where it is being sought;
- b) The person agrees with the land owner and the laws governing disposal of land;
and
- c) The proposed land use is compatible with land use plans, environmental regulations and community land management duties and obligations.

Section 5.0 specifically provides for land administration and resettlement. The definition of ‘land administration’ in the Policy is broad and includes the delivery of land rights, the planning of land uses, demarcation and survey of land parcels and the registration and maintenance of land information. It also includes conveyance, policies to facilitate decisions on mortgages and investment, development management, property valuation for assessment purposes and monitoring the environmental impact of all land-based activities.

Section 5.19 to 5.22 of the Policy deal with Land Retransmission and Resettlements. This part focuses on the acquisition of land for retransmission to the landless and for

promoting a strategy to encourage the resettlement of landless and land-short households in carefully selected areas throughout the country in order to relieve land pressure and poverty in some of the most congested agricultural districts in the nation. The Policy further provides notes that relocation and resettlement would have to take into consideration the following factors:

- a) the principles of fairness, equity and human rights;
- b) the fact that people cannot be forced to relocate to any location without their consent and that individuals and household's readiness to resettle in a different traditional area, district or region is a matter of personal choice;
- c) the fact that the potential disruption of social, cultural and economic existence may be traumatic enough to make the prospect of relocation untenable to some, and the prospect of leaving valuable immovable property is always a cause for resisting relocation; and
- d) how much will respondents demand to be successfully resettled.

In spite of the fact the provisions of the Policy focus on re-transmission of land to the landless and land poor, the principles and factors are applicable to issues of relocation and land settlement in general. The National Land Policy provides a basis for the review and amendment of land legislation to ensure conformity with the goals and strategies of the Policy.

3.4. The Land Act, 2016

The Land Act of 2016 is the principal legislation dealing with land tenure and land use. It repealed the Land Act of 1965. Sections 6 and 8 of the Land Act reiterate the Constitutional provisions that all land is vested in perpetuity in the Republic. The Act provides that all land is administered by the Commissioner of Lands on behalf of the Republic and the Minister responsible for Land Matters may delegate any of the powers and duties conferred on him to the Commissioner.

Section 7 of the Act recognizes two categories of land namely; public land and private land.

Public Land.

The Act defines public land as held in trust for the people of Malawi and managed by Government, a local government authority and a Traditional Authority. Public land includes;

- a) Any land held by Government or a local government authority consequent upon a reversion thereof to the Government or local government authority on the termination, surrender or falling in of any freehold or leasehold estate therein pursuant to any covenant or by operation of law;
- b) Land acquired and privately owned by Government or a local government authority used for dedicated purposes such as Government buildings, schools, hospitals and public infrastructure;
- c) Land gazetted for national parks, recreation areas, forest reserves, conservation areas, historic and cultural sites;
- d) Land vested in Government as a result of uncertain ownership, abandonment or land that cannot be used for any purposes; and
- e) Unallocated and communal land within the boundaries of a Traditional Land Management Area.

Private Land.

Private land is defined as all land which is owned, held or occupied under a freehold title, leasehold title or as a customary estate or which is registered as private land under the Registered Land Act. Customary estate means any customary land which is owned, held or occupied as private land within a traditional land management area, and which is registered as private land under the Registered Land Act. Customary land means all land used for the benefit of the community and includes unallocated customary land within the boundaries of a traditional land management area. Freehold is defined as an estate which is held in perpetuity and a lease includes an agreement for lease.

Relevant Provisions.

Section 12 of the Act empowers the Minister responsible for Land Matters to make and execute grants, leases or other dispositions of public land classified as Government land

for any such estates, interests or terms and for such purposes and on such terms as and conditions as he may think fit.

Section 21 of the Act enables the Minister, upon application by any person in a prescribed manner, to grant or allocate leasehold or customary estate on terms and conditions as he may determine, however according to section 22 he cannot grant freehold title.

Section 36 places restrictions on a person to sell or otherwise to convey, lease, transfer or assign any private land without prior written consent of the Minister or local government authority to sell, convey, lease, transfer or assign the land. The granting or refusal of consent must be communicated to the person who intends to sell within 30 days of receipt of the written notice. The provisions of this section do not apply to sale, conveyance, lease, transfer or assignment by or direct to the Government, any agreement to lease for a non-renewable term of not more than 3 years, a sale pursuant to an order of court by any officer in the public service acting in his official capacity and pursuant to any written law and any mortgage or other hypothecation for repayment of money lent in good faith.

Section 39 provides that where a holder of private land under freehold title has not developed the land and not shown his intention to develop or dispose of it within 2 years from the date of registration the Minister may in writing demand voluntary surrender of that land to the Government and if there is no voluntary surrender the Minister may acquire the land under the Lands Acquisition Act and its 2016 Amendment or exercise powers under section 64 of the Physical Planning Act 2016.

Part VII deals with trespass or encroachment upon, or unlawful occupation of, land. Section 45 enables a magistrate with relevant jurisdiction, upon complaint by a person claiming to have lawful title to the land, to issue summons against an alleged trespasser, encroacher, or unlawful user or occupier (defendant) requiring him to attend court. If the magistrate is satisfied the defendant has trespassed, encroached or unlawfully occupied the magistrate may make an order requiring the defendant to vacate land

within 7 days or longer. The number of days to vacate land depends on a on several factors including; how long it would take the defendant to take down or remove structures, buildings, fences or improvements of any kind erected on the land; how long it will take the defendant to harvest, collect, take in or remove crops, plants, trees and shrubs and to how long it will take the defendant to remove any chattels belonging to him. Failure to comply with the Court order could lead to forced removal from the land by an authorized officer, police officer or officer of the court. The Land Act emphasizes the fact that procedures under Part VII must be in accordance with the Courts Act.

Section 17 enables the Minister to acquire unallocated customary land for public utility purposes. The section provides that where it appears to the Minister that unallocated customary land is needed for public utility, the Minister shall serve notice upon the Traditional Authority within whose traditional land management area the customary land is situated. Section 18 provides that any person who suffers disturbance of, or loss or damage to any interest which he may have or may have had in such land because of the land being acquired for public utility purposes, under section 17, should be paid such compensation for such disturbance, loss or damage as is reasonable.

3.5. The Lands Acquisition Act, 1970 and the Lands Acquisition and Compensation Act, 2017

The Lands Acquisition Act of 1970 was enacted to provide for the acquisition of land. The Lands Acquisition (Amendment) Act of 2016 has amended some provisions of the Lands Acquisition Act, the main one being that the Amendment Act now provides for the acquisition and compensation of land in the citation.

Section 3 of the Act read with the Amendment Act empowers the Minister responsible for lands whenever he is of the opinion that it is desirable or expedient in the interests of Malawi, to acquire land for public utility, either compulsorily or by agreement, and pay compensation as may be agreed or determined under the Act.

Sections 5-7 of the Act provide for the issuing of notices upon the persons who are possessed of an interest in the land. According to section 12 of the Amended Act when a notice to acquire land has been issued and published, the land shall revert to the Government as public land within 2 months of the publication of the notice.

Section 9 as amended provides for the payment of compensation. It provides that where any land is acquired by the Minister under this Act the Minister shall pay in respect thereof appropriate compensation agreed or determined in accordance with the provisions of this Act. The Amendment Act further provides that compensation shall be paid in one lump sum; therefore, the assumption is that compensation shall only be monetary.

Amended provisions relating to assessment of appropriate compensation provide that an assessment is to be done by an independent valuer appointed by the Minister, unless the parties agree otherwise. The Amendment to the Act also provides information on the grounds on which compensation can be calculated which include; loss of occupational rights, loss of land, costs of professional advice and disturbances which are a natural and reasonable consequence of the disposition of land. The Amendment has inserted substantive provisions on matters to be taken into consideration in assessing compensation for alienated land under section 10A.

Section 11 of the Act deals with the effect of payment of the compensation and states that a person who has been paid compensation for land cannot make further claims in respect of the land. However, this does not prevent any subsequent proceedings against the person to whom the same was awarded by any person claiming to have a better right to the compensation or the right to a share thereof.

3.6. The Registered Land Act of 1967 and the Registered Land (Amendment) Act of 2017

The Act makes provision for the registration of title to land, and for dealings in land so registered. The Act has been amended several times since 1967 with the most current amendments being passed in 2017. The Amendment Act amends some provisions in the

Registered Land Act including new definitions of customary estate and land to ensure conformity with the Land Act, 2016.

3.7. Land Survey Act of 2016

The Land Survey Act provides for land surveys, the establishment of the Land Surveyors Registration Board, the licensing and control of land surveys, survey marks and boundaries and the establishment of the Malawi Geographic Information Council.

3.8. The Local Government Act, 1998 and the Local Government (Amendment) Act of 2017

The Local Government Act, consolidates the law relating to local government. Section 34 of the Act provides for the acquisition of land by Agreement. It states that that for the purpose of (a) any of its functions under this Act or any other written law; or (b) the benefit, improvement or development of its area, the Assembly may acquire whether by way of purchase, lease, exchange or gift, any land, whether situated inside or outside its area. Subsection 2 of section 34 of the Act has been deleted and substituted with a new subsection 2 that provides that subject to the provisions of the Land Acquisition Act, the Council may acquire land to be used for any of the Council's functions.

The Amendment Act also amends the principal act by providing that the Council may dispose of land held by it in accordance with the Land Act 2016 and the Registered Land Act.

3.9. Physical Planning Act (2016)

The Physical Planning Act, is a principal act for regulating land use planning and physical developments in Malawi. The aim of regulating land uses and location of physical developments is to enhance orderly spatial physical growth of human settlements activities. In addition the laws promotes orderly physical planning in order to enhance optimum use of land and service infrastructures, protect and conserve fragile environmental systems in space. These objectives are achieved by guiding physical developments, and controlling building uses in designated zones with regulated

planning permissions. Section 40 basically prescribes environmental and socio-economic screening for medium to large scale development projects before they can be granted planning permissions under this act. Normally, local assemblies and developers of proposed large projects undertake this screening.

Sections 63 - 65 recognize the need of appropriate compensations to land owners in case of compulsory acquisition of land for public interest. Although the provisions indicate that compensation is at discretion of government, recent amendment to the sections have provided room for appeal to the high court by land owners in case they are aggrieved on amount of compensation on their assets. It is expected that there will be no cases of compulsory acquisition of land.

3.10. The Public Roads Act of 1962 as amended and the Public Roads Amendment Act, 2017

The Public Roads Act of 1962 as amended was enacted to consolidate and amend the law relating to Public Roads. In this Act the highway authority is assigned responsibilities for the construction, care and maintenance of any road or class of road in accordance with the Act.

The Public Roads Act provides for various instances when compensation may or may not be paid. Sections 44-50 of the Act provide for issues relating to compensation including assessment of compensation generally and for surface rights, compensation for land which becomes public land, matters to be taken into consideration in assessing compensation for alienated land and claims for compensation. The part also provides for procedures to be followed before a Land Tribunal and the right to apply to the High Court for judicial review if the claimant of highway authority is unhappy with a decision of the Land Tribunal.

3.11. Environment Management Act of 2017

The Environment Management Act of 2017 (EMA) was enacted to make provision for the protection and management of the environment and the conservation and

sustainable utilization of natural resources. The Act provides for Environmental Impact Assessment to be done in certain circumstances.

Malawi has developed Guidelines for Environmental and Social Impact Assessment (ESIA) in Malawi. The purpose of the Guidelines is to facilitate compliance with Malawi's EIA requirements by Government, project developers, donors and the general public. The guidelines help to integrate environmental concerns in national development and will be applicable to all types of projects, in the public and private sectors, for which ESIA studies may be or are required.

3.12. Monuments and Relics Act (1991)

This act make provision for the conservation, preservation and study of cultural heritage including places of distinctive natural beauty and of sites, buildings and objectives of archaeological, geological anthropological, ethnological, historical, per historical and other interests; and provide for the declaration of protected monuments and relics and acquisition thereof by the governments and relics and the acquisition by government for rights and trusteeship over monuments and relics and for the preservation thereof by agreement with the owners; and to provide for the listing of monuments and registration of monuments and relics; and to provide for the procedure to be followed in relation to the discovery, excavation, removal, sale, exportation and importation of monuments, relics and collections of cultural heritage; and to establish an advisory council to advise the Minister on matters aforesaid; and to provide for matters connected therewith or incidental thereto.

According to section 18 of the Act, if the Minister apprehends that a monument or relic is in danger of being destroyed, injured or allowed to fall into disrepair or decay, or that a monument or relics is threatened by any proposed change of use or use or development of land, he may make a report in that behalf to the Minister Responsible Land Matters and it shall be lawful for the Minister to acquire the monument or relic under the provision of the Land Act and Land Acquisition and Compensation Act as if the conservation or preservation of such monument or relic were public purpose within the meaning of that Act. The Benga – Dwangwa M005 passes near 5 (five) graveyards

along the road corridor. Graveyards link the present generation to their past and are regarded with high respect in many cultures in Malawi. The act has provided guidance in terms of what would be regarded as monument or relic within the project area. The field survey that was conducted during the development of this RAP revealed that there will be no form of a monument or relic whose removal or destruction would trigger the application of the act. In this circumstance the provisions of the Land Act 2016 and Land Acquisition and Compensation would apply in other aspects but not in terms of relics and monuments.

3.13. Forestry Act 1997 and Forest Amendment Act, 2017

The Forestry policy is embodied in the Forest Act of 1997, and now the Forest Amendment Act, 2017. This is an act that provides for participatory forestry, forest management, forestry research, forestry education, forest industries, protection and rehabilitation of environmentally fragile areas and international cooperation in forestry and for matters incidental thereto or connected therewith. Section 3 of the Act outlines the purposes of the act which aim at identifying, promoting and controlling all human activities relating to sustainable use of forestry products and biodiversity. It also seeks to protect fragile areas like steep slopes, riverbanks and water catchment by providing guidelines for planning and implementing forestry research and education.

Section 22 of the act provides that the Minister may, after consultation with the Minister Responsible Land Matters by order published in the Gazette, declares any public land nor already reserved for another public purpose to be a forest reserve. Section 23 continues to state that any area of land proposed for a forest reserve and which is not public land shall first be acquired in accordance with the provisions of the Land Act and Land Acquisition and Compensation Act. On the other hand, the forestry Gazette of 2010 provides guidance of how forestry tree can be valued but now this the 12th year the Gazette has been updated in line with prevailing cost and time value of money. The forestry Gazette provides that trees be assessed based on biomass (cubic metres) as opposed to size and type of the tree. This forms a premised on which the value estimation of trees in this RAP is based. The project area has trees in forest reserve that need to be assessed and both the Forestry Act 1997 and Forestry Gazette have provided

such guidance. In accordance with the provisions of the Forestry Gazette trees are classified as exotic and indigenous whose approach of assessing the value estimate is the same. Normally, the valuation of people's trees are done based on species of trees, measured diameter of breast height and market price in kwacha per cubic metre.

3.14. Relevant African Development Bank Safeguards Policies

The African Development Bank Policy on resettlement is outlined in OS2 - Involuntary Resettlement, Land Acquisition, Displacement and Compensation. The policy is summarized as follows:

3.14.1. Involuntary Resettlement, Land Acquisition, Displacement and Compensation (OS 2)

The aim of this OS2 is to facilitate the operationalization of the Bank's 2003 Involuntary Resettlement Policy in the context of the requirements of OS 1 and thereby mainstream resettlement considerations into Bank operations. This OS2 relates to occasions in which a Bank-financed project causes the involuntary resettlement of people. It seeks to ensure that when people must be displaced they are treated fairly, equitably, and in a socially and culturally sensitive manner, that they receive compensation and resettlement assistance so that their standards of living, income earning capacity, production levels and overall means of livelihood remain the same or are improved, and that they share in the benefits of the project that involves their resettlement.

The specific objectives are to:

- a) Avoid involuntary resettlement where feasible, or minimize resettlement impacts where involuntary resettlement is deemed unavoidable after having explored all other alternative project designs;
- b) Ensure that displaced people are meaningfully consulted and given opportunities to participate in the planning and implementation of resettlement programs;
- c) Ensure that displaced people receive significant resettlement assistance under the project, so that their standards of living, income-earning capacity, production levels and overall means of livelihood are improved beyond pre-project levels;

- d) Provide explicit guidance to borrowers, with support from relevant Bank staff, on the conditions that need to be met regarding involuntary resettlement issues in Bank operations in order to mitigate the negative impacts of displacement and resettlement, actively facilitate social development and establish a sustainable economy and society; and
- e) Set up a mechanism for monitoring the performance of involuntary resettlement programs in Bank operations and remedying problems as they arise so as to safeguard against ill- prepared and poorly implemented resettlement plans.

The OS2 requires the borrower to consider feasible alternative project designs, including re-siting and re-routing, to avoid or minimize physical or economic displacement, while balancing environmental, social and financial costs and benefits. When the resettlement implications of a project would appear to be particularly severe, the borrower shall consider either downsizing the project to reduce resettlement or finding other alternatives that can reasonably replace the project. For greater transparency and fairness, all stakeholder groups shall be involved as early as possible, at least at the time when the first project plans are drafted and thereafter through implementation. Since dissemination of findings is critical to developing effective measures for mitigating adverse impacts and optimizing benefits, it should be a continuous process incorporating the ongoing learnings from the communities and changes in the conceptual design of the project.

In order to enable access to information early in the design phase to help identify options for avoiding or mitigating adverse impacts that might pose risks to project costs, schedules, and affected people, the borrower shall continuously disseminate project plans and assessment findings to stakeholders. Client shall also involve all stakeholder groups and affected people before completion of the project design and assess and include their inputs so that the project design can be properly altered and ensure that their involvement is continued in the process of monitoring and evaluating resettlement and compensation projects and programs and options assessment.

The rehabilitation of Benga – Dwangwa M005 road section project will likely cause displacement of people. Therefore, in line with OS 2, the RAP has been prepared so that the affected people are treated fairly, equitably, and in a socially and culturally sensitive manner, that they receive compensation and resettlement assistance so that their standards of living, income earning capacity, production levels and overall means of livelihood are improved, and that they share in the benefits of the project that involves their resettlement.

3.15 Gaps between National Law and the Bank's Policy

Policies of the African Development Bank on resettlement and of Government of Malawi have a number of common aspects in management of resettlement. Firstly, both policies emphasise on minimisation of the extent of resettlement. Secondly, the policy recommends considerations of proper or fair, equitable, sensitivity, culturally and adequate compensations to affected persons. The following chapter addresses these gaps and how they will be mitigated. However, the current practice is that wherever the existing Malawi law does not provide direction on how compensations are to be administered, the policy of the project financiers will prevail. In the same vein, wherever the national laws are seen to seriously disadvantage the affected people the policy of the financiers, in this case, the African Development Bank, will be adopted. *Table 2* below presents some gaps between the policies of African Development Bank and those of Malawi Government.

Table 5: Gaps between Government Policies and Laws and AfDB Policies on Resettlement

African Development Bank's Safeguard Policies,	Law & Regulations of Government of Malawi	Countermeasures for filling gaps Appropriate measures for addressing the gaps.
<p>OS2 - Involuntary Resettlement, Land Acquisition, Displacement and Compensation</p> <p>The policy stipulates that land owners are entitled to compensation of land, destruction to structures and any form of compensation of building on full replacement costs, expenses on labour.</p> <p>The policy stipulates that the recommended option is compensation of land for loss land. Other losses to be compensated at replacement costs.</p> <p>The policy stipulates that temporary structures or buildings are entitled for in land compensation or cash compensation at full replacement costs including labour and relocation expenses prior to displacement</p>	<p>Public Roads Act (<i>chapter 69:02</i>)</p> <p>The law stipulates payment of cash compensation based on loss or damage or destruction to structures and any form of properties. No compensation on land.</p> <p>The law stipulates that land owners are entitled to reasonable compensation offered by government on customary land.</p> <p>The law stipulates that land owners can be compensated for land to land if alternative land is available.</p> <p>The law stipulates that land owners can be compensated for land to money if there is not alternative land or if the offered alternative land is not economically</p>	<p>Compensation of land for land to project affected persons.</p> <p>Compensation of all structures at full replacement costs prior to displacement</p> <p>Compensation of land for land to project affected persons will be the first priority.</p> <p>Compensation of money for land to project affected persons in cases of lack of alternative suitable land.</p> <p>Compensation of all structures at full replacement costs and labour costs prior to displacement</p> <p>Compensations on trees on real replacement values.</p> <p>Resettlement assistance to project affected</p>

African Development Bank's Safeguard Policies,	Law & Regulations of Government of Malawi	Countermeasures for filling gaps Appropriate measures for addressing the gaps.
<p>The policy stipulates that persons are entitled to full compensation regardless of the legal status of their structures or occupation of the land</p> <p>The policy stipulates that owners of buildings built illegally are entitled to in land compensation at full replacement costs including labour costs prior to displacement.</p> <p>The policy stipulates that owners of buildings built illegally are entitled to in land compensation at full replacement costs including labour costs prior to displacement.</p> <p>The policy stipulates that owners of buildings built illegally are entitled to in land compensation at full replacement costs including labour costs prior to displacement.</p> <p>The policy favours land for land compensations</p>	<p>productive.</p> <p>The law stipulates that no compensation to improvements on land within road reserves (section 44)</p> <p>The law stipulates that no compensation to squatters unless they occupy the land for continuously for a period of more than 7 years</p> <p>Land Acquisition and Compensation Act (2017)</p> <p>The law stipulates that compensation based on assessment done by government and agreed by parties.</p> <p>The law stipulates that compensation given when land is acquired.</p> <p>The law stipulates that compensation not to</p>	<p>persons.</p> <p>Compensation on labour costs based on real replacement values.</p>

African Development Bank's Safeguard Policies,	Law & Regulations of Government of Malawi	Countermeasures for filling gaps Appropriate measures for addressing the gaps.
in cases of loss of land by project affected persons.	<p>exceed market value.</p> <p>Land Act (2016)</p> <p>The law stipulates that reasonable cash compensation to loss of affected persons for loss of land.</p> <p>Customary Land Act (2016)</p> <p>The law favours land for land compensations.</p>	

Other gaps between the two approaches are in the following areas:

- i.* On aspects on compensations on land, the policies of Government of Malawi consider the different intrinsic values associated with various classes of land (customary land, leasehold land, freehold land, public land). In such cases, rates for compensation on land vary from one site to another and from one class of land tenure to the other. The AfDB policies do not distinguish such differential aspects of land classes and corresponding different market rates and instead insist on full replacement cost of the land regardless of its type.
- ii.* In cases on compensation of loss of land by project affected people, the AfDB policies prefer land for land compensation. In Malawi an option of land for land compensation is normally preferred in customary land transaction while option of land for money compensation is the preferred options in urban centres because the full replacement values used allow PAPs to get any land of their choice within the urban setting.
- iii.* The AfDBs compensation procedure stipulate that persons affected shall be compensated for their losses at full replacement cost prior to their actual move, before land and related assets are taken, or before project activities begin, whichever occurs first. Malawian policies do not clearly spell out this approach and in practice; resettlement is treated as a separate exercise outside project planning and implementation, sometimes taking place commencement of the project.
- iv.* The AfDBs policy recommends for adequate resettlement assistance and rehabilitation assistance to relocated people as a way of restoring and enhancing socio – economic living standards. This is supposed to be undertaken within the first years of relocation on the new sites. Malawi legislation does not clearly define the extent of resettlement assistance to relocated people. Much of available support is normally left in hands of District Commissioner and local chiefs within the district and area of relocation of the affected people.

- iv.* Eligibility and entitlements: Those who have no recognizable legal right or claim to the land they are occupying in the project area of influence with non-formal property rights, but are entitled to resettlement assistance in lieu of compensation for land to improve their former living standards (compensation for loss of livelihood activities, common property resources, structures and crops, etc.) and this does not apply in all instances in Malawi.
- vi.* Relocation and resettlement: The AfDB requires additional assistance with resettlement (such as establishment of new sites) while this is not provided in Malawi's laws.
- vii.* Livelihood restoration: The AfDB requires that livelihoods are improved or at least restored, while the Malawi's laws contain no requirements for livelihood restoration.
- viii.* Grievance redress mechanisms: The AfDB requires that a grievance redress mechanism is established as early as possible in the project development phase, while the Malawi Government does not specify on the same.

CHAPTER FOUR: PROJECT AFFECTED PERSONS (PAP) SOCIO-ECONOMIC PROFILE.

4.1 Introduction.

The valuation exercise recorded 633 individuals (including institutions) under trees, and 264 individuals (including institutions) under properties (plus 52 informal traders) bringing the total number of PAPs to 949.

Table 6. Distribution of PAP by project implementation phase and category.

	PHASE I	PHASE II
PROPERTIES	509 PAPs	124 PAPs
TREES	30 PAPs	234 PAPs

The figures in Table 6 represent potential displacement due to encroachments into the road reserve boundary necessitated by the rehabilitation of the M005 road. It is important to note that for feeder roads earmarked for rehabilitation in both Phase I and Phase II, the scope of work encompassing hand reshaping, gravelling, culvert cleaning, and the installation of concrete pads, check dams, and culverts is anticipated to be non-disruptive. According to the Nkhotakota Directorate of Public Works, such activities are typically part of annual district routine maintenance, confined within existing road pathways and unlikely to extend significantly into the road reserve area. Consequently, these works are not expected to result in displacement.

The client commissioned a socio-economic survey of the PAPs, undertaken by consulting services. The mandate of this survey did not include providing explanations of the compensation process to the individuals and institutions listed in the RAP report. Instead, the consultant focused on conducting individual interviews to collect data that would enrich our understanding of the overall socio-economic status of the PAPs. This approach was designed to ensure that the compensation and resettlement strategies developed are informed by a comprehensive understanding of the PAPs' needs and circumstances.

Minus institutions, 593 PAPs were listed under trees, 240 PAPs under properties and 52 informal traders, making a total of 896 PAPs. The survey managed to interview a total of 780 PAPs (87%); 240 PAPs (100%) under properties and 527 PAPs (89%) under trees.

Table 7. Total listed (minus institutions) against total interviewed

	Total listed (minus institutions) OLD & NEW	interviewed	% interviewed
Total PAP	896	780	87%
PAP structures	240	240	100%
PAP trees	593	527	89%
PAP informal trade	52	16	31%

The challenges and limitations that resulted in the failure to interview all listed PAPs include:

- Some of the listed names could not be identified by the locals in the corresponding areas.
- For rented properties, some tenants could not provide information about their landlords.
- Individuals living far from properties or trees marked for displacement made it difficult to give them prior notification to be present during the survey.
- The study coincided with the planting season, making it less likely for some listed PAPs to be present during the survey.

4.2 PAP Demography

4.2.1 Gender

Of the 1,592 listed PAPs, approximately 58% had socio-economic profiles generated during the survey. Among these, 73% were males, and approximately 27% were females. About 80% of the female PAPs belonged to female-headed households.

Table 8: Distribution of PAP by category, gender and household headship.

	Total
Male PAP	673 (73%)
Female PAP	250 (27%)
Male hh households	734 (80%)
Female hh households	189 (20%)

4.2.2. Age.

The majority of the PAP population falls within the age range of 25 to 64, accounting for 79% of male PAPs and 81% of female PAPs as seen in Table 9.

Table 9: Distribution of PAP by age and gender

AGE RANGE	MALE PAP	%	FEMALE PAP	%
15 TO 24	24	4%	9	4%
25 TO 34	113	17%	30	12%
35 TO 44	175	26%	62	25%
45 TO 54	168	25%	60	24%
55 TO 64	75	11%	49	20%
65 TO 74	64	10%	24	10%
75 TO 84	32	5%	7	3%
85 TO 94	8	1%	6	2%
95 TO 120	1	0%	1	0%

4.2.3 Marital Status.

Table 10 shows that the majority of male PAPs are married, accounting for 78% of all male PAPs. In contrast, only 52% of female PAPs are married, with 4% yet to be married. The remaining 37% of female PAPs are either divorced or widowed.

Table 10: Distribution of PAP by Marital Status within gender

	MARRIED	SINGLE	DIVORCED	WIDOWED
TOTAL PAP	724	51	47	83
% OF TOTAL PAP	78%	6%	5%	9%
MALE PAP	594	29	16	20
% OF MALE PAP	88%	4%	2%	3%
FEMALE PAP	130	22	31	63
% OF FEMALE PAP	52%	9%	12%	25%

4.2.4 Education Level.

According to survey findings in Table 11, only 6% of the listed PAPs cannot read or write, while 94% have either attended some formal schooling or can at least read and write. Across genders, the illiteracy percentage is 0.1% among female PAPs and 0.04% among male PAPs. Most of the listed individuals attended primary or secondary education, accounting for 84% of the total number of listed and interviewed PAPs.

The fact that the majority can read and write provides assurance that there will be a good uptake of the livelihood restoration program because the PAPs will be able to follow the skills to be imparted. This also gives the PAPs a wide choice of programs to participate in.

Table 11: Distribution of PAP by level of education attained, within gender

	CANT READ	CAN READ	PRIMAR Y	SECONDAR Y	TERTIAR Y
TOTAL PAP	52	33	471	306	45
% OF TOTAL PAP	6%	4%	51%	33%	5%
MALE PAP	27	25	330	243	37
% OF MALE PAP	4%	4%	49%	36%	5%
FEMALE PAP	25	8	141	63	8
% OF FEMALE PAP	10%	3%	56%	25%	3%

4.2.5 Disability status of PAP.

Table 12 insicate that, of the 923 PAPs interviewed, 48 were recorded as having a disability of one kind or another, with 42 being male and 6 female. These account for 5.2%, 6.24%, and 2.4% of the populations, respectively.

Table 12: Number of PAP with disabilities

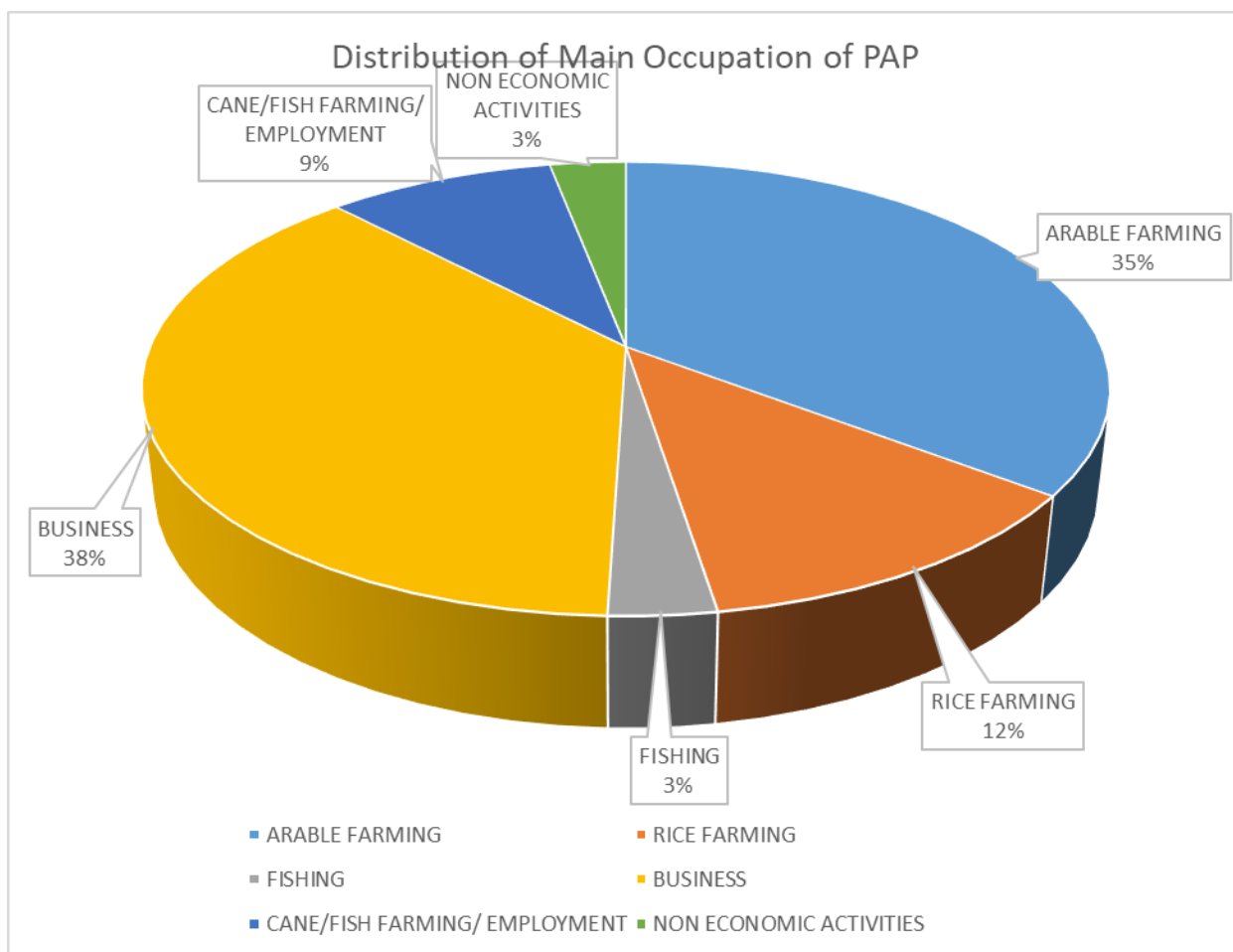
	ALL PAP	MALE PAP	FEMALE PAP
With disability	48	42	6
%	5%	6%	2%

4.2.6 Main occupation of PAP.

The survey captured data to establish the main occupation of PAPs. Table 13 shows the percentage distribution of PAPs by occupation and gender. Most PAPs are either engaged in general farming or business as their main occupations, accounting for 35% and 37%, respectively. Across gender, a larger proportion of female PAPs (45%) mentioned farming as their main occupation compared to male PAPs, who accounted for 32%. Interestingly, there are more female PAPs (45%) whose main occupation is general farming than those who mentioned other occupations. In contrast, male PAPs mentioned business (39%) as their main occupation.

Table 13: Distribution of PAP by occupation and gender

	ARABLE FARMING	RICE FARMING	FISHING	BUSINESS	CANE/FISH FARMING/ EMPLOYMENT	NON ECONOMIC ACTIVITIES
total PAP	326	107	25	343	84	24
	35%	12%	3%	37%	9%	3%
MALE PAP	213	78	23	263	69	12
	32%	12%	3%	39%	10%	2%
FEMALE PAP	113	29	2	80	13	12
	45%	12%	1%	32%	5%	5%



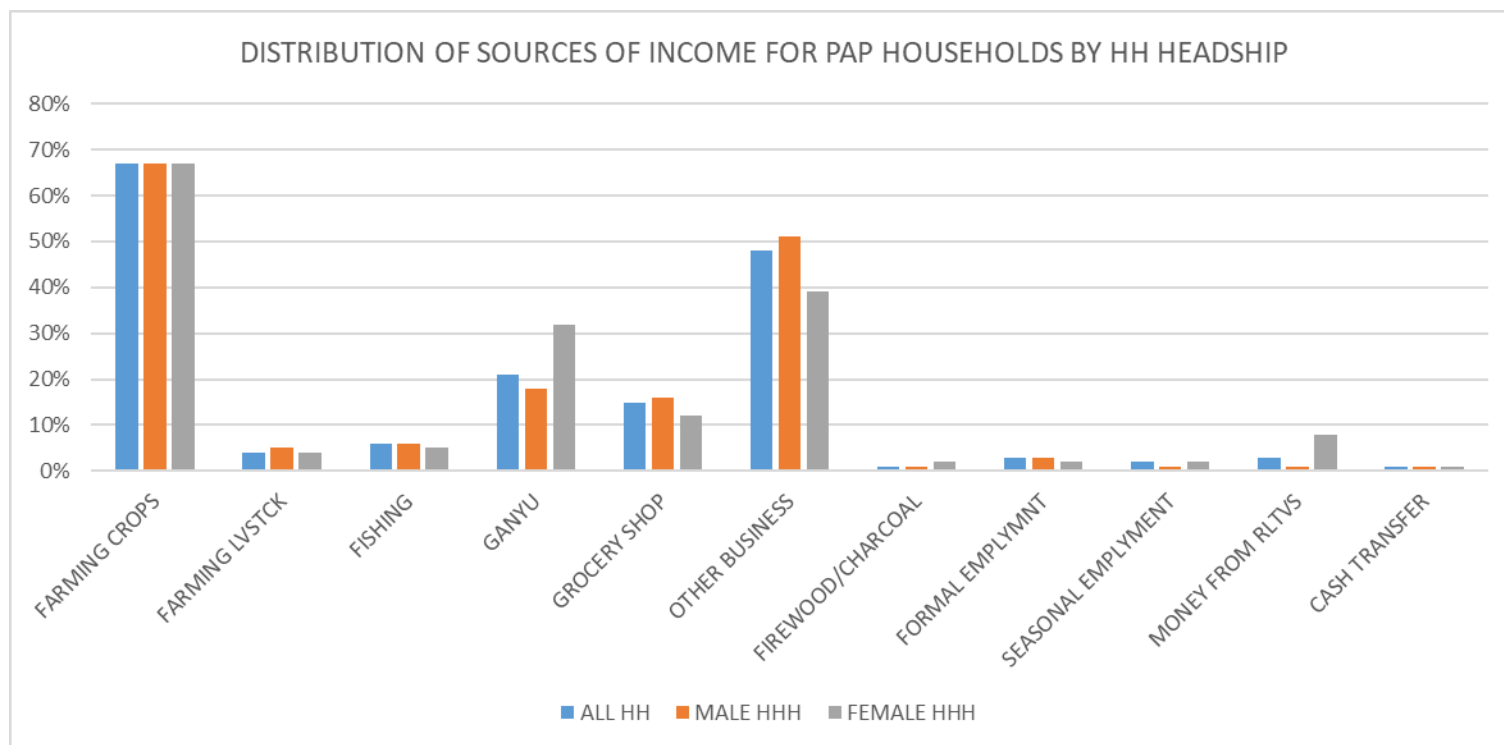
4.2.7 PAP Household sources of income.

According to Table 14, the majority of PAP households (67%) depend on crop farming as their source of income. Figure 6 below shows that male and female-headed households equally depend on crop farming, with significant differences in dependence on piece work (ganyu) and other businesses, 18% against 32% and 51% against 39%, respectively. There is a major departure in statistics regarding piecework from the previous household survey, with more female PAPs mentioning ganyu as a source of income. The current finding appears to be consistent with related economic indicators, making it more realistic. With the majority of PAPs involved in farming and doing business, financial literacy training will go a long way in boosting household resilience to economic shocks.

Table 14: Distribution of PAP households by source of income within gender of household head

	FARMI NG CROPS	FARMI NG LVSTCK	FIS HI NG	GA NY U	GROCE RY SHOP	OTHER BUSINE SS	FIREWOO D/CHARC OAL	FORMAL EMPLYM NT	SEASONAL EMPLOYEE NT	MONEY FROM RLTVS	CASH TRANS FER
ALL HH	67%	4%	6%	21 %	15%	48%	1%	3%	2%	3%	1%
MALE HHH	67%	5%	6%	18 %	16%	51%	1%	3%	1%	1%	1%
FEMALE HHH	67%	4%	5%	32 %	12%	39%	2%	2%	2%	8%	1%

Figure 7: Distribution of PAP households by source of income and gender of household head



4.2.8 PAP household size

The average household size for listed PAPs was calculated at 8 members, with 53% of total household members being 18 years of age and above (See Table 15). In most vulnerability indices, a household size larger than four scores higher, indicating increased vulnerability to economic shocks. Thus, displacements resulting from the project are likely to have far-reaching effects beyond the individually identified PAPs, necessitating resettlement approaches that deliberately target PAPs at the household level.

Table 15: Number of PAP's household members and average household size

	# of household members	# of Members under 18 years		# of members 18 year above	
		MALE	FEMALE	MALE	FEMALE
AVERAGE	7.5	2.2	2.0	2.0	2.1
MODE	6	2	1	1	1
SUM	6825	1651	1576	1757	1848
%	100%	24%	23%	26%	27%

4.6 PAP household source of cooking energy

The majority of households (76%) use firewood as their cooking fuel, with no significant difference between male-headed households (75%) and female-headed households (79%) (See Table 16). Second to firewood as cooking fuel is charcoal, which is used by 18% of PAP households (See Table 16). Considering that there are very few forest resources remaining in the project area, except in areas falling under Nkhotakota Wildlife Reserve, the inclusion of the promotion of sustainable cooking energy sources and reforestation interventions will go a long way in restoring and protecting environmental resources in project communities.

Table 16: PAP household source of Cooking Energy

	ELECTRICITY	FIREWOOD	CHARCOAL	GAS
ALL HH	4%	76%	18%	0%
MALE HHH	5%	75%	18%	1%
FEMALE HHH	3%	79%	17%	0%

4.2.9 PAP household source of lighting

Most PAP households use hand torches at 62%, followed by households connected to the ESCOM grid at 20%. Table 17 shows significant differences in proportions of household headship against the source of lighting energy. Male-headed households have higher proportions in the use of ESCOM power for lighting than female-headed households: 22% against 12%. In contrast, there are proportionally more female-headed households (71%) using torches than there are male-headed households (62%).

Table 17: PAP household source of Lighting

	ESCOM	SOLAR	TORCH	CANDLE
ALL HH	20%	15%	62%	1%
MALE HHH	22%	15%	60%	1%
FEMALE HHH	12%	16%	71%	1%

4.2.10 PAP household source of drinking water

The majority of the PAP households (76%), regardless of the gender of headship, get drinking water from boreholes; only 9% have access to piped water. Any displacement of boreholes will have significant repercussions on community health and sanitation. All boreholes marked for displacement by the road project should be replaced before the actual displacement occurs to ensure that the PAPs continue to enjoy clean portable water in the area.

Table 18: PAP household source of drinking water.

	PIPE D	BOREHOL E	PRTCD WELL	UNPRTCD WELL	OPEN SOURCE
ALL HH	9%	76%	7%	5%	1%
MALE HHH	10%	74%	8%	6%	1%
FEMALE HHH	7%	84%	4%	4%	1%

4.3 Magnitude and Extent of displacement

4.3.1 Magnitude of displacement

Tables 19 and 20 reflects various displacement aspects such as crop production, business income, agricultural income, wages, natural resources income, dwelling units, homestead space, cooking energy, and natural resources again at the end.

Table 19. Magnitude of Displacement - Phase I

Category	Count	% of Total	Whl Temp	Whl Perm	Part Temp	Part Perm
Crop Production	26	2.4%	0%	81%	0%	15%
Business Income	518	55.2%	0%	86%	0%	7%
Agricultural Income	24	2.4%	0%	100%	0%	0%
Wage	10	1%	0%	100%	0%	0%
Natural Resources Income	39	4.1%	0%	100%	0%	0%
Dwelling Units	80	8.5%	0%	89%	0%	9%
Homestead Space	30	3.2%	0%	100%	0%	0%
Cooking Energy	79	8.4%	0%	100%	0%	0%
Natural Resources	46	4.9%	0%	100%	0%	0%

In Phase I, the loss of crop production affects a relatively small proportion (2.4%) of the total displacements but has profound implications for those involved. The majority of this impact is permanent (81%), particularly affecting rice producers in waterlogged areas. This permanent loss significantly affects agricultural income, necessitating targeted compensation and rehabilitation measures that support agricultural recovery and sustainability.

Business income losses represent the largest category of displacement (55.2%), with a predominant portion (86%) being permanent due to the demolition of shops and permanent business structures. This extensive impact requires a multifaceted approach to compensation, including financial assistance, support for relocation or rebuilding,

and potentially, business development services to ensure economic recovery and sustainability.

Losses related to wage employment are limited (1%) but entirely permanent. The displacement of businesses leads to job losses, highlighting the need for employment support services, retraining programs, and facilitation of employment opportunities in other sectors or businesses unaffected by the project.

The complete and permanent loss of income from natural resources (4.1%) and the broader benefits from natural resources (4.9%) underscore the environmental and economic repercussions of the project. Compensation strategies should thus extend beyond immediate financial restitution to include long-term environmental restoration and access to alternative livelihood resources.

With dwelling units constituting 8.5% of displacements, and homestead space 3.2%, the majority of these impacts are permanent. This necessitates a comprehensive resettlement strategy that includes not just the reconstruction of homes but also the restoration of community structures and access to essential services, ensuring displaced families can rebuild their lives with dignity and security.

The loss of sources for cooking energy, affecting 8.4% of PAPs, is entirely permanent. Addressing this loss requires providing sustainable and accessible alternatives for cooking energy, ensuring displaced communities have the means to maintain their nutritional health and food security.

Table 20. Magnitude of Displacement - Phase II

Category	Count	% of Total	Whl Temp	Whl Perm	Part Temp	Part Perm
Crop Production	6	0.6%	0%	81%	0%	15%
Business Income	130	13.8%	0%	86%	0%	7%
Agricultural Income	6	0.6%	0%	100%	0%	0%
Wage	2	0.2%	0%	100%	0%	0%

Category	Count	% of Total	Whl Temp	Whl Perm	Part Temp	Part Perm
Natural Resources Income	10	1%	0%	100%	0%	0%
Dwelling Units	20	2.1%	0%	89%	0%	9%
Homestead Space	8	0.8%	0%	100%	0%	0%
Cooking Energy	20	2.1%	0%	100%	0%	0%
Natural Resources	12	1.3%	0%	100%	0%	0%

For Phase II of the Rehabilitation of Benga to Dwangwa M005 Road Section Project, the impacts on Project Affected Persons (PAPs) are proportionately smaller due to the phase's reduced scale, involving 20% of the overall displacements. Despite this, the distribution and nature of impacts closely mirror those observed in Phase I, emphasizing the continuity in the type of losses experienced by the PAPs. The detailed breakdown from Table 20 elucidates these impacts further.

With crop production representing a small fraction (0.6%) of the total displacements in Phase II, the loss primarily affects rice producers utilizing waterlogged areas. These losses are overwhelmingly permanent (81%), reflecting the significant impact on agricultural income, particularly for those relying on rice as a cash crop. This underscores the need for specific attention to agricultural livelihoods in this phase, ensuring that compensation and support measures are adequately tailored to address these permanent losses.

The largest impact in Phase II concerns business income, constituting 13.8% of displacements. Similar to Phase I, a significant majority of these losses (86%) are permanent, reflecting the demolition of permanent structures and the loss of established business locations. This calls for comprehensive business restoration strategies, including financial compensation, relocation assistance, and support for business re-establishment, to mitigate the long-term economic impacts on affected entrepreneurs.

Wage employment impacts are minimal (0.2%), yet entirely permanent, highlighting the disruption of livelihoods for those employed in affected businesses. Addressing these impacts necessitates integrating employment support and vocational training into the resettlement action plan, ensuring affected individuals have pathways to regain stable income.

The complete and permanent loss of income from natural resources (1%) and other benefits derived from natural resources (1.3%) such as ecosystem services highlights the broader environmental and socio-economic implications of the project. Efforts to compensate for these losses should consider both immediate financial compensation and longer-term environmental restoration or alternative resource provision.

The displacement affecting dwelling units and homestead space, though smaller in scale (2.1% and 0.8%, respectively), remains predominantly permanent. This necessitates a focused approach to housing and resettlement, ensuring that affected families are provided with housing solutions that meet their needs and preferences, alongside support for moving and resettlement.

The loss of cooking energy sources affects a small portion of the population (2.1%) but is entirely permanent. This loss signifies a critical need for alternative cooking solutions, emphasizing the importance of sustainable and accessible energy sources for displaced families.

4.3.2 Extent of displacement.

The valuation exercise captured 1,592 individual PAP displacements and 13 informal market displacements. PAP informal traders captured were stand-alone businesses without permanent structures, while PAP crops were those with standing crops falling in the road reserve.

Total PAP displacements in the survey encompassed all forms of displacements from interviews with 923 listed PAPs. Physical displacements included structures, trees, and standing crops, while economic displacements included unlisted farming land, listed

informal trading, listed tenants, and listed employees (listed or unlisted under valuation records).

Table 22 provides an overview of the extent of displacement captured in the PAP household survey. It distinguishes between physical displacement (including structures, trees, and standing crops) and economic displacement (involving unlisted farming land, listed informal trading, listed tenants, and listed employees).

Table 21. Extent of Displacement

	PAP	HOUSEHOLD	
	SURVEY		
TOTAL DISPLACEMENTS	PAP	940	100%
PHYSICAL DISPLACEMENT		924	98%
ECONOMIC DISPLACEMENT		66	7%

4.4 Vulnerability Status of PAP

4.4.1 Vulnerability to poverty

Vulnerability to poverty is the likelihood that a household or an individual may fall below the poverty line in the event of a shock. The PAP household survey used household headship, disability, age, household size, level of education attained, and economic status as proxies to determine PAP's level of vulnerability to displacements that will be caused by the project. The concept of economic vulnerability was loosely applied in the study against the other vulnerability factors to determine their context in the targeted PAP population.

Table 21 provides insights into the magnitude of displacement associated with different forms of losses. It examines the percentage of PAPs affected by various types of displacement and the extent to which these losses are considered permanent or temporary. The table also breaks down the displacements by specific factors, such as

crop production, business income, agricultural income, wages, natural resource income, dwelling units, homestead space, cooking energy, and natural resources. It offers a comprehensive view of the impact of these displacements on the affected population.

Table 22. Magnitude of Displacement

	TEST POSITIVE	NOT POSITIVE
ACCESS TO SMART PHONE	None	
PAP MAIN OCCUPATION	Arable farming, fishing, student, or economically inactive	
HHH MAIN OCCUPATION	Arable farming, fishing, student, or economically inactive	
HHH SOURCE OF INCOME	Crop production, fishing, piece work, remittance, and/or social cash transfer	Livestock production, grocery shop, other businesses, employment
SOURCE OF COOKING ENERGY	Firewood	
SOURCE OF LIGHTING ENERGY	Torch	
SOURCE OF DRINKING WATER		Piped water

4.4.2. Economic vulnerability

Economic vulnerability looks at the degree to which people, property, resources, systems, and cultural, economic, environmental, and social activities are susceptible to harm, degradation, or destruction when exposed to an economic or environmental hostile agent or factor. Table 22 highlights the extent of displacement among the PAPs as captured in the household survey. The table provides a breakdown of these displacements, shedding light on the percentage of PAPs affected in each category. It

offers valuable insights into the scope of displacements resulting from the M005 road rehabilitation project. In this study, 'economic vulnerability' looked at a combination of several economic factors as proxies for determining household vulnerability to poverty, as shown in Table 22; 9% of the PAPs reached by the study can be considered 'economically vulnerable', holding all other factors constant.

Table 23. Extent of Displacement

	Number	%
Female hhh	189	20%
Disability	48	5%
Elderly (65 above)	143	15%
Hh size 5 above	779	84%
No formal education	118	13%
Economically vulnerable	80	9%

4.4.3. Other Vulnerability Factors (Gender, Disability, Education, and etc)

On vulnerability factors, gender factors which were explored in the study were household headship and age; Table 22 shows that 20% of the total PAP households reached by the study were female headed, while PAP aged 65 years above formed 15% of the sample. Other vulnerability factors explored include disability with 5% of the sample being persons living with disability; household size with 84% of households have 5 or more members; and level of education attainment, with 13% of PAPs interviewed not having attained any formal schooling.

By isolating the 9% PAP households classified as the most economically vulnerable, all other vulnerability factors were tested to determine correlation. Disability percentage doubled among the 'economically vulnerable' for 5% in the general sample to 10%; also notable was the increased representation of PAP with no formal education from 13% in the general population to 19% among the 'economically vulnerable'. The other factors decreased in percent representation with households with 5 or more members dropping from 84% in the general sample to 19%.

Table 23 explores various vulnerability factors within the PAPs to assess their susceptibility to economic and social challenges resulting from the road rehabilitation project. It categorizes vulnerability factors into different dimensions, including gender (female-headed households), disability, age (elderly individuals aged 65 and above), household size (5 members or more), and education level (no formal education). This table provides valuable insights into the distribution and prevalence of these vulnerability factors within the PAP population, helping to identify groups that may be more susceptible to adverse impacts caused by project-related displacements.

Table 24. Vulnerability Factors Among Project-Affected Persons (PAPs)

Economic Vulnerability	count	% of group	
Female hhh	21	11%	
Disability	5	10%	
Elderly	17	12%	
Hh size 5 above	67	9%	
No formal education	23	19%	

These findings are indicative that PAPs with no formal education and those living with disabilities are most likely to be affected the most by displacements that will result from the M005 road rehabilitation project.

4.5 Socio-cultural Characteristics

4.5.1 Cultural Context

The cultural dynamics in the PAP communities are better understood in the context of ethnicity and religious affiliations of the communities in the project area. From the PAP survey, 74% of PAPs are chewa with the remaining 26% being distributed Tonga, Tumbuka, Ngoni, Yao and other ethnic groups. This is in line with NSO's statistic for the district which put chewa at 75% (NSO 2018). In terms of religious affiliations, the latest national household census puts Christians in the district at 69%, with Anglican taking 15%, and Muslims at 24%. From focus group discussions with representatives of

VDCs falling along the project road in each TA, Muslims dominate TA Malenga Chanzi with significant presence in TAs Mphonde and Kalimanjira. This is in line with historical records that puts the first ever mosque to be built in Malawi at Nkhotakota Boma which is in TA Malenga Chanzi (SEP 2017).

Being a predominantly Chewa area marriage arrangements follow a matrilineal system where the husband leaves his parents' home to live in the village of his wife. The children born in the family are considered the responsibility of the wife's brother who holds the power to make critical decisions regarding these children. Such marriage arrangement is called chikamwini and the husband is known as Mkamwini. According to FGD participants in TA Kalimanjira, the Chewa culture regarding marriage requirements in the area make it difficult for a man to marry but very easy to divorce; this has resulted in more cases of divorce in the community.

For community members with Islamic affiliation, a man is encouraged to marry more than one wife. In such cases of high cases of divorces, one man divorced may equal to two or more women divorced; this has created communities with more divorced women than men, especially in face of cultural prejudices that makes it easier for a man to remarry than it is for a woman. Results from the household survey indicate that 12% of the female PAPs interviewed are divorced, compared to 2% of the male PAPs. Furthermore, 25% of the female PAPs are widowed, whereas only 3% of the male PAPs are widowers (See Table 24). In addition to the mentioned factors, other women are abandoned by men who travel to South Africa in search for greener pastures, which is a common practice in the project area and the district at large (Kalimanjira FGD).

Notable also from the survey is the significant percentage of widowed women at 25% of female PAPs interviewed compared to 3% of male PAPs; from the different FGDs with the VDCs leaders in affected TAs, participants attributed this to the tendency among men in the area having multiple sexual partners and divorcing and remarrying multiple times. This is in part due to the cultural context described above; this could be the cause of HIV and STIs being among the major health issues in the district at large

(DHSS 2023), with HIV positivity rate at 2.1 and STI prevalence at 1.6 as of March 2023 (DHMIS 2023).

The different forms of displacement that will result from the project will cause general economic instability at household level which may further contribute towards the already existing marital instability cause by the different cultural factors. In addition, considering that most PAPs are male (73%) and the majority of whom are married (88%), the compensation payouts may result in men leaving their wives to spend the money with other women, which should be expected in a culture with weak marital commitment.

Table 25. Ethnic and Religious Composition of PAP Communities.

	MARRIED	SINGLE	DIVORCED	WIDOWED
TOTAL PAP	724	51	47	83
% OF TOTAL PAP	78%	6%	5%	9%
MALE PAP	594	29	16	20
% OF MALE PAP	88%	4%	2%	3%
FEMALE PAP	130	22	31	63
% OF FEMALE PAP	52%	9%	12%	25%

4.5.2 Social Interactions

Social interaction is an exchange between two or more individuals and is a building block of society. For the purpose of these study a number of determinants were examined to help provide general picture of social interaction dynamics among the PAP community members, these include technology, religion and culture; the study tools were not specifically designed to methodically understanding social interaction among PAP but rather to have an overall picture of different characteristics of the same, including social interactions.

The PAP household survey results showed that 97% of the interviewed PAP had access to a cell phone, with 48% of PAP households having access to a smart phone. This indicates a community at an early stage of transitioning from dependence on transactional encounters to more non-transactional forms of social interactions. The coming of the project may increase disposable income in the community either through compensation money or employment and business opportunities during construction phase; these in turn will increase individual capacities to access smart phones thereby making the community shift much quickly from relying on transactional encounters as the primary source of social interactions. Such an accelerated social change may have result in some groups like the elderly, with limited capacity to change, feeling left out and lonely. In addition, such an abrupt exposure to cyber space without properly proper aware about related vices many leave the community members vulnerable to associated atrocities. On the upside, the project could utilize mobile messaging to disseminate targeted information to PAP and the project affected communities.

As discussed under PAP cultural characteristics, the PAP communities are strongly influenced by Chewa culture. The matrilineal practices that govern marital arrangements dictate that a man's children are the responsibility of the wife's brother and the father has not power to make decisions regarding the children; thus the man is less likely to invest emotionally or otherwise in his own children. This means that any project benefits that come through the husband in a household are less likely to benefit the hold household as opposed to such benefits coming through the wife.

Being highly religious communities, community members in project area easily interact and relate through their religiously affiliated groups, both mixed and gender specific. Religious leaders are held in high esteem and messages delivered by such are easily received and assimilated. The road project will require a lot of information dissemination and awareness creation; such solidarity networks can be utilized in avoiding conflicts that may occur between the project and community. On the downside, both Christianity and Islam have been known to directly and indirectly promote male dominance among followers; meaning that women are more likely to be sidelined in decision making processes regarding matters that affect them directly or

otherwise. Without taking deliberate measures to meaningfully involve women, the road project may end up disempowering women more by further asserting male dominance in the project communities.

4.5.3 Social Access

Through focus group discussions with VDC representatives from communities along the project road in each of the affected TAs, the study looked at the current status of and anticipated project effect on social service provision, with focus on access to portable water, health and sanitation service provision, access to primary and secondary school education, and early childhood development centers. Table 25 offers a comprehensive overview of the current status of essential social services in the project area and anticipates the potential impact of the road construction project on these services. The assessment focuses on key aspects of social access, including portable water sources, sanitation facilities, healthcare services, primary and secondary school education, and early child development and community-based care centers (CBCCs).

Table 26. Social Access Assessment

Current status	Project dynamics
ACCESS TO PORTABLE WATER	
<p>Boreholes are the main source of portable water for all the communities in the project area with exception of Nkhotakota town planning (TA Malenga Chanzi) area which is mainly supply by Central Region Water Board (CRWB); none the less, the piped water supply system is very limited in capacity since it was designed long time ago for a smaller population. As such the CRWB reported to supply water by rationing.</p>	<p>The project threatens to worsen the water situation across the project area considering that over 29 boreholes across are either falling in or just outside the road reserve; the most affected being Mwadzama having 12 boreholes out of the total. The valuation exercises (the initial and the latest) only capture 3 boreholes as falling directly in the road reserve, 2 in TA Kanyenda and 1 in TA Mwadzama.</p>
<p>Apart from boreholes, TA Mphonde area is also supply by a gravity fed system through 5 water kiosks located across the area.</p>	<p>The coming of migrant workers into the communities may also increase pressure only the few water points.</p>
<p>In most of these communities the boreholes do not sufficiently much population size resulting in congestion at water points; in other areas the water points far apart causing some communities to travel longer distances to access portable water.</p>	<p>According to Nkhotakota CRWB office, the road construction works may disturb water supply lines crossing the M5 road which will worsen the situation around Nkhotakota town</p>

Current status	Project dynamics
<p>Due to accessibility challenges, some communities in TA Mphonde and Mwadzama drink from shallow wells and rivers which dry up during the dry season.</p> <p>In some areas like TA Kalimanjira, some boreholes dry up resulting in increased pressure on the few functioning boreholes.</p>	<p>planning area, including disturbing water supply to essential institutions like St. Annies Hosipital and Nkhotakota Prison.</p> <p>FGD participants proposed for the project to consider drilling replacement and additional boreholes before displacement occurs. They also proposed supplement water supply using water boozers during construction phase.</p> <p>CRWB proposed for the project to properly coordinate with CRWB and budget for the replacement of any infrastructure that may be displaced by the project.</p>
SANITATION	
<p>The majority of households use pit latrines.</p> <p>Not every household has a latrine toilets and a rubbish pit.</p> <p>Most communities in TA Mwadzama have water logged condition during rainy season resulting in collapsing of most pit latrines.</p>	<p>The road project will generate a lot of waste during construction phase which, if not properly managed and disposed of will create hazardous conditions for the surrounding community and the district at large, threatening human, animal and plant life.</p>

Current status	Project dynamics
<p>Nkhotakota market rubbish collection facility does not get emptied resulting in overflowing of rubbish waste.</p> <p>Nkhotakota has one fully functioning dumpsite at Kasasa operated by Illove Company; other two designated sites, Mbewe for Nkhotakota Market and Dwangwa for Dwangwa Market, are currently being used as landfills since they do not have necessary facilities to qualify as dumpsites (EDO 2023).</p> <p>According to the district environmental office (EDO), the district is experiencing poor waste management especially in trading centers. There is illicit disposal of wastes in drains, streams, rivers and other areas resulting in pollution, water contamination and land degradation.</p>	<p>They should have a specific places where to dispose their waste and have enough toilets around their premises.</p>
HEALTH	
<p>The number of Health Surveillance Assistances does not match the population, and most of them live far from the communities following proximity to social amenities like electricity.</p>	<p>During road construction there will be road obstruction affecting accessibility of health facilities.</p>

Current status	Project dynamics
<p>Shortage of medicine in health facilities.</p> <p>Very few health facilities located far apart; people walk longer distances to access a health facility;</p> <p>There are nearby private clinics in most communities but few can afford paying services especially with free public health services available.</p> <p>Across the project road length, there are 22 health facilities, with only 5 public health facilities one of which is a hospital. The whole district has two hospitals (private and public), both located at Nkhotakota town.</p>	<p>Most of the private health facilities in the project area are located close to the M5 road with some falling within the road reserve; this will mean that service delivery in these health facilities will be compromised due to dust and noise pollution, with other facilities losing infrastructure which fall within the road reserve.</p> <p>Air pollution by dust during road construction will be health hazard to surrounding communities; need for the project to reinforce dust suppression measures.</p>
PRIMARY AND SECONDARY SCHOOL EDUCATION	
<p>The schools have very high teacher-pupil ratio with teaching and learning facilities like books and classroom blocks.</p> <p>Very few primary schools in the project area located far apart; pupils travel long distances to get to school; in some communities, parents with infants wait for their children for the children to reach 10 years</p>	<p>Children will be destructed during the road construction since others use or cross the M5 road to get to school.</p> <p>Road construction activities will attract children away from school activities.</p>

Current status	Project dynamics
<p>before starting school so they can manage to walk longer distances to school.</p> <p>They are even fewer secondary schools in the project area; TA Kanyenda area has only one public secondary school.</p> <p>Culturally, most communities in the project area do not value school; a lot of school going children drop out to start fishing, mining or even get married at a very young age.</p> <p>There are a lot of destructive activities happening around other school, which attract pupils' attention from school, like pool tables, video showrooms and beer halls.</p> <p>Most teachers travel long distance to get to schools because they opt to for accommodation in areas with better access to amenities like electricity; this affects the duration and quality of lesson delivery to pupils.</p>	<p>Some pupils, especially boys, may opt for employment on road construction works and drop out of school.</p> <p>School going girls may get sexually involved with construction workers resulting in early pregnancies and child marriages.</p>

Current status	Project dynamics
<p>Many teachers who prove capable are transferred from the rural schools to Nkhotakota town as a way of promotion (case of TA Mwadzama), leaving schools in most of the project communities with less capable teachers.</p>	
EARLY CHILD DEVELOPMENT/COMMUNITY BASED CARE CENTRES	
<p>Most centers do have toys and other appropriate learning facilities.</p> <p>Centers are very few and located far apart making it impossible for other toddlers to attend.</p> <p>Most centers used to be housed in church buildings but the councils instructed against such arrangements resulting in closing of some centers.</p> <p>ECD caretakers/teachers work as volunteers and untrained, making them less capable and less committed to their work.</p> <p>NGO's other players provide support to selected CBCCs, in form of feeding support, toys and other materials, leaving other CBCCs in</p>	<p>During construction phase of the project, CBCCs operating close to the road will be disturbed and not conducive for children due to noise and dust pollution.</p> <p>Toddlers will be attracted to construction activities thus increasing the risk of construction related accidents involving children.</p> <p>Obstruction of passage of children going to CBCCs since other use or cross the road to get to these centres.</p>

Current status	Project dynamics
<p>the same area out; these demoralizes other center and affect continuity.</p> <p>Most parents do not appreciate the importance of these centres.</p> <p>In some communities (case of TA Kalimanjira), the only functioning ECD centers are privately owned and parents pay to send their children; most parents in the project area cannot afford to send their children to paying ECD centers.</p>	

CHAPTER FIVE: RESETTLEMENT IMPACTS AND MITIGATION

5.1. Introduction

The project will require involuntary acquisition of land. This will result in physical relocation, loss of assets or access to assets, and/or loss of income sources or means of livelihood whether or not those affected by the project must move to another location. Such acquisition of land will adversely affect the wellbeing of the people whose assets will be acquired, as well as the communities in which they live and this will give rise to severe social and economic risks.

This Section defines who is eligible for compensation, and outlines the types and levels of compensation and other supplementary measures that will assist each category of eligible-affected people, and at the same time achieve the objectives of national (Malawian) legislation and policies and international best practice.

5.2. Potential impacts

The Project will impact on a wide range of households, business operators, institutions and community members. These impacts, however, manifest at individual and group level. Some of the losses qualify for compensation and resettlement assistance include:

- a) **Loss of residence:** People who will be displaced by having to move their place of residence to allow for the construction of the road, construction camps, access roads, or any other associated infrastructure. This has been minimised.
- b) **Loss of business:** People who will be displaced by having to move their places of business to allow for the construction of the road related infrastructure. These are business shelters, places such as brick ovens, rice drying and selling points etc.
- c) **Loss of land:** People will lose land over which they have no established ownership or rights of usufruct (either in a permanent or temporary fashion) to allow for the construction of the road associated infrastructure.
- d) **Communal resources:** Members of communities who will lose access to their communal resource base. These will include a borehole, market places and other resources.
- e) **Archaeology and cultural heritage:** There are no known archaeological remains and structures of historical importance within the road reserve. Places of cultural

heritage include the five graveyards identified along the proposed road project which will not be affected by the project. *Table 28* defines resultant socio-economic hardships due to major impacts envisaged in this project.

Table 26 that follows defines resultant socio-economic hardships due to major impacts envisaged in this project.

Table 27: Project Major Potential Impacts

Category of losses	Social and economic impacts
Displacement from land	<ul style="list-style-type: none"> • Landlessness • Loss of productive resource for agriculture • Loss of businesses • Impoverishment of people
Loss of houses	<ul style="list-style-type: none"> • Landlessness, homelessness • Disturbance of house production systems • Loss of sources of income • Loss of or weakening of community system and social networks. • Loss of access to social amenities such as hospitals and schools. • Loss of traditional authority.
Loss of assets or access to assets and cultural sites	<ul style="list-style-type: none"> • Impoverishment • Loss of sources of income • Loss of employment opportunities (self – employment)
Loss of income sources or means of livelihood	<ul style="list-style-type: none"> • Impoverishment • Loss of self – employment opportunities • Affects rights to education, health etc
Damage to graveyards	<ul style="list-style-type: none"> • Loss of identity and culture
Loss of access or proximity to social	<ul style="list-style-type: none"> • Loss of sources of income as people may start buying the service

Category of losses	Social and economic impacts
amenities e.g. water sources	<ul style="list-style-type: none"> Increased time to access resources. Loss or shortage of time for other activities
Blockage of footpaths/pathways	<ul style="list-style-type: none"> Increase in travel distance due to longer route

Mitigation measures for these impacts have been presented in an ESIA report prepared alongside this RAP.

5.3. Eligibility

Those who will be affected by asset loss and resettlement and are eligible for compensation and other assistance require definition and identification, with criteria set for determining their eligibility. The Resettlement/Compensation safeguard suggests the following three categories of affected people:

- i. Those who have formal rights to land (including customary/village land, traditional, and religious rights recognized under Malawi law);
- ii. Those who do not have formal legal rights to land at the time the census begins, but have a claim to such land or assets, provided that such claims are recognized under the national and local laws or become recognized through a process identified in the resettlement plan; and
- iii. Those who have no recognizable legal right or claim to the land they are occupying, using, or obtaining their livelihood from.

People described under (i) and (ii) will be compensated for the land they lose and provided other assistance in accordance with African Development Bank Operational Safeguard 2 (OS2). People described under (iii) will be provided with resettlement and other assistance in lieu of compensation for the land they occupy, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date that is acceptable to the Bank and established by the local traditional leaders in close consultation with the potential PAPs, local community leaders, and respective village and district administration. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All

persons included in (i), (ii), or (iii) will be compensated for loss of assets other than land.

Therefore, it is clear that all PAPs, irrespective of their status or whether they have formal titles or legal rights or are squatters or otherwise encroaching illegally on land, will be eligible for some kind of assistance if they occupied the land before the entitlement cut-off date. People who encroach the area after the socioeconomic study (census and valuation) are not eligible for compensation or any form of resettlement assistance.

5.4. Determining Criteria

The key issue is how any project-affected persons (PAPs) will be determined along the proposed road corridor. For this reason, the RAP focuses on the identifiable PAPs. The identification of persons eligible for compensation and resettlement will be based on the following criteria:

- a) Persons losing land with or without legal title;
- b) Persons losing temporary or permanent access or rights to services;
- c) Persons losing business or residential property;
- d) Person with homes, farmland, structures or other assets within the proposed project area;
- e) Vulnerable individuals who may be too old or ill to fend for themselves. These PAPs shall receive additional assistance;
- f) Members of the household who cannot reside together because of cultural rules, but depend on one another for their livelihood;
- g) Members of the household who may not eat together but provide housekeeping or reproductive services, critical to the family's maintenance; and
- h) Persons that incur losses whether partial or total and whether they have their own land or rent land, including those that rent or occupy buildings individually or as a group for business or as households.

5.5. Identifying the Eligible

The land laws consider all titled landowners, customary landowners, encroachers, persons affected by loss of access to sources of income and persons affected by loss of access to natural resources (water, wood, grazing areas etc.), as PAPs. Therefore, PAPs will be entitled to compensation based on the status of their occupation of the affected areas. The survey identified PAPs as being land owners, tenants, squatters and shop owners.

5.6. Relocation and entitlements

Land for land is considered to be appropriate for people whose livelihoods are land based. However, the consultation meetings established that there is no idle land in the project impact area which the traditional leaders can allocate to the PAPs, hence cash compensation will be effected. Consultations with the potential PAPs further showed that the PAPs prefer cash compensation.

PAPs whose houses are affected by the Project will be provided with cash compensation reflecting the full replacement value of the structure. This will be in accordance with the cost of the structure as per non-depreciated rates. For fruit trees it is the value of production lost until replacement seedlings mature. For the loss of business or income, the reported income and employee wages will be taken into consideration.

5.7. Cut-off Date to Entitlements

The Project Affected Persons are those recorded by the cut-off date which is the date of completion of the socio-economic survey (1st April, 2022). To prevent further encroachment, all affected persons, village heads and other Traditional Authorities were informed of this date. This therefore means that any new inhabitants coming to the Project affected area after this date will not be considered for compensation. The second cut-off date is for activities in the road reserve which has to coincide with the harvest of any crops to allow for road works to start.

5.8. Validation of affected assets

Validation of the affected properties will be conducted based on the provisions in the Malawian legislation for consistence and accountability. All the factors explained in the Public Roads Act will be considered in the valuation process. The properties to be verified shall include: Physical assets; Crops and fruit trees; Forests (exotic and indigenous); Fruit trees; Exotic trees; Indigenous trees; Houses; Land; and Business. The entitlement matrix prepared for the Project is given in Table 29.

Table 28: Entitlement matrix

<i>Entitlement Matrix</i>			
Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Commercial Land	Land used for business partially affected Limited loss	Title holder/ business owner	Cash compensation for affected land, taking into account full resettlement value. Opportunity cost compensation until the income is restored in the new place (it could be equivalent to 5% of net annual income based on tax records for previous year, or tax records from comparable business, or estimates where such records do not exist). They can be considered for loss of daily income for up to one month. The business startup capital will be assessed based on the new business selected by the PAP where business will be provided to ensure success and sustainability
		Business owner is lease holder	Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist).
	Assets used for business severely affected	Title holder/business owner	Compensation in cash according to PAP's choice, taking into account full replacement calculations for materials.

Entitlement Matrix				
Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits	
	If partially affected, the remaining assets become insufficient for business purposes		<p>If an ancillary building is affected but not the main structure, cash compensation will be paid to replace the acillary structure.</p> <p>Relocation assistance (costs of shifting + allowance)</p> <p>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates)</p>	
		Business person is lease holder	<p>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher.</p> <p>Relocation assistance (costs of shifting + allowance)</p>	
Residential Land	Land used for residence partially affected, limited loss Remaining land viable for present use.	Title holder	Cash compensation for affected land equal to replacement value, taking into account full replacement calculations for the land.	

Entitlement Matrix			
Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
	Land and assets used for residence severely affected Remaining area insufficient for continued use	Title holder	Land for land replacement or compensation in cash according to PAP's choice based on replacement value, taking into account full replacement calculations for the land. Transfer of the land to the PAP shall be free of taxes, registration, and other costs to the PAP but the project owner, Roads Authority, will find means to pay the costs. Relocation assistance (costs of shifting + allowance)
		Rental/lease holder	Refund of any lease/ rental fees paid for time/ use after date of removal Relocation assistance (costs of shifting + allowance)
Buildings and structures	Structures are partially affected Remaining structures viable for continued use	Owner	Cash compensation for affected building and other fixed assets based on its replacement value without including depreciation, and taking into account full replacement calculations for the structures and materials. Cash assistance to cover costs of restoration of the remaining structure

Entitlement Matrix			
Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
		Rental/lease holder	Disturbance compensation equivalent to two months rental costs
	Entire structures are affected or partially affected Remaining structures not suitable for continued use	Owner	Cash compensation for entire structure and other fixed assets without depreciation, and taking into account full replacement calculations for the structures and materials. Right to salvage materials without deduction from compensation Rehabilitation assistance if required (assistance with job placement, skills training)
Squatters and encroachers		Rental/lease holder	Cash for affected assets (verifiable improvements to the property by the tenant), taking into account values for materials. But there is no compensation for the land because it is the legal land owner who will claim compensation for the land Right to salvage assets. Assistance in relocating to a place where they can live and work legally. Ensure there is no double compensation of the land

Entitlement Matrix			
Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			Assistance with restoring livelihoods.
		Squatter/informal dweller	<p>Cash for affected structure without depreciation, taking into account values for materials.</p> <p>Right to salvage materials without deduction from compensation</p> <p>Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available.</p> <p>Assistance with restoring livelihoods through skills training and business startup capital.</p>
Standing crops	Crops affected by land acquisition or temporary acquisition or easement.	PAP (whether owner, tenant, or squatter)	Cash compensation equivalent to average of last 3 years market price per kg for the mature and harvested crop.
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees plus 10% premium. For fruit trees it is the value of production lost until replacement seedlings mature. Fruit trees replacement will be at 5 seedlings per one fruit tree lost taking into consideration that not all trees seedlings will survive to maturity.

<i>Entitlement Matrix</i>			
Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Loss of grazing land, fishing rights or sand harvesting rights, communal property	Loss of livelihoods	PAPs depending on the affected resources	<p>Livelihood Restoration Plan including compensation for loss of livelihoods; road should be designed in such a way to ensure that it facilitates access to resources e.g. crossings for human and livestock, construction of new communal properties if affected.</p> <p>Access to communal property will be negotiated with the DC's office. So far there is a plan to construct a market which will accommodate all the vendor that have been displaced from the road sides.</p>

5.9 Principles of this RAP

Computation of compensation and resettlement was based on core principles as follows:-

5.9.1. Minimization of displacement

In line with resettlement policies, displacement under the project will be minimized through the following design procedures:

- a) Wherever inhabited dwellings may potentially be affected by the proposed project, the latter will be re-routed to avoid any impact on such dwellings and to avoid displacement/relocation accordingly;
- b) The same applies to structures used for commercial activities and other businesses. Wherever the impact on the land holding of one particular household is such that the household may not be sustainable in the long term, even if there is no need to physically displace this household, the sub-project shall be redesigned (facility relocation, rerouting) to avoid any such impact; and
- c) To the extent possible, Project facilities will utilize public easements- pipelines, public taps, other linear infrastructures etc will be routed inside existing right-of-ways (roads, streets, and power lines) wherever possible.

5.9.2. Livelihoods restoration Plan

One of the objectives of this RAP is to ensure that livelihoods are improved or restored to pre-displacement levels. Compensation for affected property will therefore seek to facilitate full and smooth recovery without exposing the PAPs to vulnerability and this applies to people who are not necessarily physically displaced but who are affected by a land loss that affects their sustainability. Some of the livelihood restoration measures include:

- ✓ **Provision of agricultural extension services:** Severely affected farmers and vulnerable affected people will be assisted to improve productivity on remaining agricultural land, by linking them with pre-existing government – run programs. The project will assist them with farm inputs to be used on the remaining land. These are a minimum 2 bags of fertiliser and 10 kgs of maize seed. Labour costs have already been included in the compensation assessment.
- ✓ **Skills Training:** All PAPs will undergo Financial Literacy Training to enable them acquire gender budgeting skills for whatever finances they will get.

- ✓ Severely affected PAPs and those from vulnerable groups will be given the option to select any training they wish, which would help them to maintain and/or improve their income generation potential. The skills training program will be designed during project implementation after needs assessment. Opportunities for training in Savings and Investment already exists in the district through the Savings and Investment Promotion (COMSIP). The Business skills training would be organized by COMSIP so that Vulnerable PAPs and other capable PAPs can have savings and investment skills which would improve their incomes and livelihood sources for a long period of time. Village Savings Loans groups were observed on the ground especially for women – Their involvement could also bring a gender aspect which may just require some strengthening.
- ✓ **Project related job opportunities:** Severely affected persons will be prioritized in gaining employment in the works linked to the Project. Roads Authority and the contractor will ensure that this is included in the contractors' specifications wherever possible.
- ✓ **Assistance through Corporate Social Responsibility (CSR) program:** As part of its CSR program, the contractor and the Roads Authority will explore means of remaining engaged in communities adversely affected by the proposed project. This could be through assistance to community based projects in the targets area.
- ✓ The project will make available finances for the construction of a market which will assist all vendors especially women who were plying their trade along the road to have market stalls. These PAPs will also be assisted a business start-up capital to restore their earning power.
- ✓ **Resettlement must be seen as an inevitable upfront cost:** All compensation will have to be paid and concluded before ground breaking-before recruitment of contractors.
- ✓ **An independent Grievance Redress Mechanism to be put in place:** Provision for this is made in Chapter Six below. The team must comprise of people who are not stakeholders to the compensation. These will be people of good standing with integrity in the community. There has to be a gender balance in the membership of the Grievance Redress Committees.

CHAPTER SIX: PROCEDURES FOR ACQUISITION AND NOTIFICATION.

6.1 Land acquisition

Land will have to be acquired for establishment of camps, borrow pit areas, access roads to borrow pit and in some cases extreme diversions. There will be tenancy agreements signed with land owners for the duration of the project or for as long as the land is in use.

After details of the land to be acquired for the project have been identified then the Ministry of Lands and the Roads Authority will begin negotiations for the land with the affected persons. The affected persons will include the actual individuals as well as the chiefs and other traditional leaders, such as the village headman and group village leaders. However, the chiefs may get honoraria or an allowance per visit for their assistance during the project implementation.

Since most of the land required for the road is customary land, the Ministry of Lands shall through the Traditional Authorities ascertain the actual owners of the land. This is to ensure that those people who had rented land from someone else do not eventually get the compensation. When the land to be acquired has been finalized by the Roads Authority through their Consultants, then the Ministry of Lands can do the second assessment of the properties to be affected and including the names. The survey will capture the profile of each affected individuals. For a household, the affected individual is the owner of the land on which the household is built whilst for business the owner of the business or business premises will be recorded. The record will have the following:-

- a) The land to be acquired;
- b) Names of owners or occupiers of the land, as far as they can be ascertained. In the case of customary land, the name of the person who is the holder of the right over the land as ascertained by the traditional leaders and other bona fide local residents;
- c) Names of the traditional and community leaders or representatives to assist in the process of land acquisition and resettlement; and

- d) The estimated magnitude of impacts relative to the need for resettlement or compensation and valuation of assets for the compensation.

Financial records to be maintained by the Ministry of Lands, District Councils and Ministry of Economic Planning and Development to permit calculation of the final cost of resettlement and compensation per person or household. Each person receiving compensation will have a dossier containing:

- a) The person's detailed identification information, including name, date and place of birth, next of kin, marital status ;
- b) Number of persons she or he claims as household or homestead dependants;
- c) The amount of land available to the person or household when the dossier is opened
- d) Assets - including structures, resources, crops; and
- e) Means of livelihood.

The dossiers will provide the foundation for monitoring and evaluation, as well as documentation of compensation agreed to, received and signed for. Additional information will be required for individual's eligibility for resettlement or compensation. This information will include:

- a) Level of income and of production;
- b) Inventory of material assets and any improvements made on the land; and
- c) Debts;

The authority responsible for acquiring land shall also make the following available to all key stakeholders in the land acquisition process:

- a) Proposed compensation offers and draft agreements to be signed by the affected persons and the developer;
- b) Details of alternative land (if applicable) inclusive of ancillary support services such as transport for physical resettlement, provision of housing, provision of crop starter packs and food support or any other relevant assistance that may be required;
- c) Details of resettlement after-care and assistance, where appropriate;
- d) Available employment opportunities for the PAPs to participate in the Project activities; and
- e) Mechanisms for monitoring and evaluation.

The land acquisition and compensation procedures shall ensure that persons affected either physically or economically by the Project maintain or improve their livelihood.

6.2 Notification Procedures

The Ministry responsible for land matters shall publish its intention to acquire land in a newspaper with wide circulation. The areas of land to be acquired will be stated in the advert. Personalized notices should also be served to each person who owns and occupies land in the affected areas as long as the addresses of the persons are known to the Ministry. The notice to be published will contain the following:

- a) Government's Proposal to acquire the land;
- b) Public purpose for which the land is required;
- c) Proposal or plan may be inspected at the Ministry or in the Office of Lands during working hours;
- d) Any person affected may by written notice object to the transaction with reasons to the Principal Secretary of the Ministry within 30 days of the first publication of the Notice; and
- e) Only objections other than those relating to the amount and method of payment of compensation shall be admissible.

CHAPTER SEVEN: STAKEHOLDERS ENGAGEMENT PLAN

7.1 Introduction

For effective and efficient implementation of the RAP it is necessary to engage stakeholders that will have the responsibility for managing the plan, coordinating and monitoring the resettlement. This Stakeholder Engagement Plan (SEP) outlines technically and culturally appropriate communication protocols in regard to the development, disclosure and implementation of the RAP for the Benga – Dwangwa road. The objective of the SEP is to provide guidance in the identification and engagement of those community members and other stakeholders whose livelihoods will be impacted (or potentially impacted) by the proposed Project.

The SEP outlines the protocols for facilitating an inclusive process of culturally appropriate engagement and communication to ensure Free, Prior and Informed (FPI) consent. ‘Free’ means that Project-affected people and other stakeholders provide their opinions willingly and are not persuaded, tricked or forced to say or agree to certain things. ‘Prior’ means Project-affected people and other stakeholders are notified of consultations in advance, and carries out the consultation before project plans and designs are confirmed so that there is sufficient opportunity to voice their opinions and concerns – and to allow for scope to influence Project planning and design. ‘Informed’ means presenting all relevant information to Project-affected people and other stakeholders, including positive and negative aspects and the options to mitigate the latter.

The SEP also provides guidance for the following:

- Managing the expectations of Project-affected people and other stakeholders in regard to perceived Project benefits;
- Facilitating processes to register and address grievances from Project-affected people and other stakeholders; and
- Allocation of resources and responsibilities for implementing the engagement activities in regard to Project-affected people and other stakeholders.

Ultimately, the Project must be well received by Project-affected people and other stakeholders. Hence the implementation of the SEP is crucial in demonstrating local

regulatory compliance and Performance Standards issued by the International Finance Corporation (IFC) and the AfDB.

7.2 Stakeholder Engagement

Stakeholder groups that may be affected by and/or interested in the implementation of the Project, as well as proposed communication methods and media for each group. During pre-construction phase, the project will continue engaging with the public, stakeholder groups, communities, and affected/project beneficiaries. The following section has details of the stakeholders to be engaged in the implementation of the RAP:

7.2.1. Resettlement Steering Committee (RSC)

A RSC chaired by the area District Commissioner (DC) should be formed as the resettlement advisory group that will coordinate the implementation of the RAP. The committee should draw membership from the client (Roads Authority), relevant Government Departments and Ministries that include Social Welfare Department, the Ministry of Lands, Department of Physical Planning and Surveys, Malawi Environment Protection Authority (MEPA), Department of Forestry, Department of Agriculture, Lands and Valuation, Chair of the Finance Committee, Chair of the Welfare Committee, Representative of PAPs, NGOs involved in support of resettlement, Local Chiefs and Opinion Leaders including Religious Leaders, representative from the vulnerable groups, representatives from host communities and Women and Youth leaders.

The RSC will be responsible for the following:

- a) Oversee the implementation of the RAP;
- b) Oversee the formation of PAP Committee (PC);
- c) Ensure maximum participation of the affected people in the planning of their own resettlement and post resettlement circumstances;
- d) Accept financial responsibility for payment or compensation and other designated resettlement related costs;
- e) Ensure detailed valuation of the structures is done according to the policies of government and AfDB in order to determine the case to case value of each component of the project and agree upon a value for compensation;
- f) Pay the affected people compensation to the amounts agreed;

- g) Ensure monitoring and evaluation of the PAPs and the undertaking of appropriate remedial action to deal with grievances and to ensure that income restoration are satisfactorily implemented; and
- h) Ensure initial baseline data is collected for the purposes of monitoring and evaluation report as per the indicators provided by the RAP
- i) Appointing an implementing agent for the RAP.

The RSC will also be responsible for identification of alternative sites, selection of resettlement site(s), site preparation and relocation with the following core functions:

- a) Development of institutional and technical arrangements for identifying and preparing relocation sites for which a combination of productive potential, location advantages and other factors, should be at least comparable to ancillary resources;
- b) Development of procedures for physical relocation including timetable for site preparation and land transfer and description of resettlements sites;
- c) Development of measures to prevent the influx of ineligible person (encroachers and squatters) into the selected sites such as the identification and recording of affected people at the project identification stages;
- d) Establishment of legal arrangements for regularizing tenure and transferring ownership to resettled persons; and

7.2.2. Project Implementation Unit

For effective implementation of the project, RA will establish a Project Implementing Unit (PIU). In this case two Safeguards specialists will be engaged and these will be the Environmental specialist and Social Specialist. The unit will report directly to the RA Chief Executive Officer and the AfDB.

7.2.3. AP Committee (PC)

The formation of the PAP committee will allow active participation of the PAPs. Participation is a continuous process which has to go on throughout all the stages of the project. There has to be two-way communication between the PAPs and the project

coordinators by ensuring constant feedback. The committee shall comprise of the following:

- a) A specified number of Project Affected People Representatives to be appointed by PAPs (the number shall be mutually agreed)
- b) Local council representative
- c) The local area Chiefs
- d) District Lands Officer
- e) District Social Welfare Officer
- f) District Gender Officer
- g) Environmental District Officer
- h) District Community Development Officer
- i) Director of planning and development
- j) Director of public works
- k) CSO representative

The PC shall have a Chairperson and a Secretary appointed or elected by PAPs. The chairperson ought to be from the affected communities. The PC will be concerned with the following:

- a) Public Awareness: Includes extensive consultation with the affected people so that they can air out their concerns, interests and grievances. This consultation will ensure that they own up the whole process of resettlement so that they do not oppose the implementation of the overall project;
- b) Compensation: Involves ratifying compensation rates and also serves as dispute resolution body to negotiate and solve any problem that may arise relating to resettlement process. If it is unable to resolve any such problems, it will channel them through the appropriate grievance procedures laid out in this RAP report;
- c) Monitoring and Evaluation (M&E): Involves developing the monitoring and evaluation protocol for the whole process;
- d) Logistics: Involves exploring all mechanisms by which RAP can be implemented; and
- e) Employment, Training and Counseling: Involves employment protocol in the project.

7.6 Implementing Agent

The official implementation agent for the RAP is Roads Authority. Considering the complexity of issue of resettlement, RA may use its discretion to employ a resettlement qualified expert. The duties of the agent will include, but not limited to, liaising with the civil works contractor, the PAPs and other key stakeholders. The RAP Implementing Agent could also form part of the Design and Supervision team and the scope of activities will include the following:

- a) Awareness Creation: - The implementing agent will, in consultation with the local administration and RSC, sensitize the PAPs on various aspects of RAP activities from project inception to completion.
- b) Conduct Head Counts of PAPs;
- c) Identify resettlement area (s) and prepare layout plans;
- d) Demarcate, survey and number plots where necessary;
- e) Allocate plots/ farms to the PAPs;
- f) Monitoring the relocation of PAPs to the new site;
- g) Promotion or sensitization on resettlement;
- h) Undertaking technical supervision of new structures to be built; Ensure that the PAPs are resettled according to RAP Guidelines;
- i) Facilitate full community participation in the planning and implementation of the RAP;
- j) Promote linkages between the PAPs and NGOs in respect of income generation activities;
- k) Facilitate for provision of security of land tenure for the eligible groups; and
- l) Monitor PAPs involvement in Economic and Employment Opportunities.

7.7 Stakeholders Engagement Budget

For Stakeholders to actively participate, there is need to come up with implementation costs. The detailed budget is presented in *Table 30*:

Table -29. Stakeholders Engagement costs

Item	Description	Total Cost (MWK)	Remarks
1	• Resettlement Steering Committee	432, 000, 000. 00	• Lump sum
2	• Project Implementing Unit	172,800, 000.00	• Lump sum
3	• PAP Committee (PC)	288, 000, 000. 00	• Lump sum
4	• Implementing Agent	360, 000, 000. 00	• Lump sum
Sub Total		1,252, 800, 000.00	
10% Contingency	To cater for unforeseen costs that include inflation and some unquantifiable items.	125, 280, 000. 00	
TOTAL		1, 378, 080, 000.00	

CHAPTER EIGHT: PROCEDURES AND CONFLICT RESOLUTION AND RESETTLEMENT.

8.1. Introduction.

Even when the Project can ultimately claim successful resettlement, there may still be individuals and groups who feel that they have been treated inadequately or unfairly. Providing a credible and accessible means for PAPs to pursue grievances allows the Project to address genuine issues in a timely manner and decreases the chances of resistance to the Project from disgruntled PAPs. Grievances relating to any aspect of the Project must be dealt with through negotiations aimed at reaching consensus between the Project and the PAPs.

8.2. Grievance Redress Principles

Grievance redress will be based on the following principles:

- The grievance redress procedure to be followed will take into account community and traditional dispute settlement systems. Traditionally people approach traditional leaders to resolve disputes, particularly in issues relating to use and ownership of land, trees and housing structures. Although it may be inevitable that, in the process of grievance management, PAPs continue to follow customary procedures, they are likely to accept project-related structures if they are consulted on the matter;
- Information about all dispute and grievance procedures, including the functions of each structure and the processes to follow, must be widely disseminated to all stakeholders, through project structures, governmental and non-governmental organizations (NGOs). This will not only fulfil the function of dissemination of information, but also transparency around project-related matters;
- Affordable and accessible procedures must be made available for the settlement of disputes arising from resettlement;
- Anybody assigned for reviewing grievances is required to be independent and impartial to foster the trust and confidence of all stakeholders;

- A written record of all disputes/grievances raised and dealt with on a Project level will be kept by the appropriate body. The entire grievance resolution process will be recorded, and a copy made available to the aggrieved person(s); and
- All records will be monitored regularly by an independent monitoring team and the Evaluation Panel appointed for the Project, as part of an on-going monitoring and evaluation process. The Evaluation Panel's Terms of Reference (ToR) will include the function of reviewing reported grievances and grievance management.
- The principle of confidentiality will apply to all processes. Confidentiality of the complainant, if so requested, and to information provided by any of the parties to a complaint.

8.3. Procedures negotiations and resolution of conflicts

The negotiations between Government and the affected persons shall be done in the spirit of finding amicable solutions with full respect of all the parties concerned. The negotiations will be guided by the following:

- Procedure** – The procedures to be followed in raising grievances will be discussed and agreed between the Roads Authority and the affected persons. All the institutions involved will provide their contact details to the people;
- Full Disclosure**- Full disclosure of the implications and provisions of the displacement will made to the affected people;
- Willingness** – All parties will enter into the agreements willingly without any force from anyone and if no agreement is made further deliberations should be made;
- Back and Forth Discussions**- Adequate time shall be given to the affected communities to discuss the matter amongst themselves with their traditional leaders and they should be allowed to do so for as long as they feel necessarily without necessary causing unwarranted delays in project implementation;
- Recording for Proceedings**- All proceedings from negotiations meetings shall be filed and be open to all for reference purposes. The local language shall be used in recording so that the local people can understand the minutes; and
- Court of Law**- The court of law will be a last resort for all parties as the spirit will be to have some kind of consensus among the negotiating teams.

Various legislation, including the Constitution of Malawi makes provision for grievances to be addressed through the formal court system. This is a constitutional right but practice has shown that this can be a costly and time consuming exercise. The complaints and grievances mechanism as outlined below is readily accessible to deal with complaints expeditiously. However if this fails the aggrieved party can refer the matter to the formal court system.

8.4. Grievance

At the time that the individual resettlement plans are approved and individual compensation contracts are signed, PAPs and households will have been informed of the process for expressing dissatisfaction and to seek redress. The grievance procedure will be simple and will be administered as far as possible, at local levels to facilitate access by PAPs. Since Government through the RA will be party to the contract, they will not be the best offices to receive, handle and rule on disputes. Therefore, all grievances concerning non-fulfilment of contracts, levels of compensation, or seizure of assets without compensation will be addressed to a local committee comprising traditional leaders of the affected area and representatives of the District Council.

8.4.1. Grievance redress process

All attempts shall be made to settle grievances amicably. Those seeking redress and wishing to state grievances will do so by notifying their Local Leaders. The Local Leaders will inform and consult with the Resettlement Working Group (RWG) to determine validity of claims. If valid, the Local Leaders will notify the complainant and s/he will be assisted. If the complainant's claim is rejected, the matter shall be brought before the District Councils for settlement. All such decisions must be reached within a full growing season after the complaint is lodged.

It has to be noted that in the local communities, people take time to decide to complain when aggrieved. Therefore, the grievance procedures will give people up to the end of the next full agricultural season, after surrendering their assets, to allow for enough time to present their cases. The grievance procedures will ensure that the PAPs are adequately informed of the procedure, before their assets are taken.

The grievance redress mechanism will be designed with the objective of solving disputes at the earliest possible time, which will be in the interest of all parties concerned and therefore, it implicitly discourages referring such matters to the Tribunal for resolution. Contracts for compensation and resettlement plans will be binding under statute, and will recognize that customary law is the law that governs land administration and tenure in the rural areas. This is the law that most Malawians living in these areas, are used to and understand.

All objections to land acquisition shall be made in writing, in the language that the PAPs understand and are familiar with, to the Local Leader. Channelling complaints through the Local Leader is aimed at addressing the problem of distance and cost the PAPs may have to face. The Local Leaders shall maintain records of grievances and complaints, including minutes of discussions, recommendations and resolutions made. The procedure for handling grievances will be as follows:

- a) The affected person should file her/his grievance in writing (in English or the local language that s/he is conversant with), to the Local Leader. The grievance note should be signed and dated by the aggrieved person. Where the PAP is unable to write, he should obtain assistance to write the note and emboss the letter with his thumb print.
- b) The Local Leader should respond within 14 days during which any meetings and discussions to be held with the aggrieved person should be conducted. If the grievance relates to valuation of assets, experts may be requested to revalue the assets, and this may necessitate a longer period of time. In this case, the aggrieved person must be notified by the Local Leader that his/her complaint is being considered. If the local leader cannot provide an appropriate solution to the problem, the problem will be referred to the RGW to use established mechanisms of grievance redress, which may include the presence of peers of the PAP and other local leaders.
- c) If the aggrieved person does not receive a response or is not satisfied with the outcome within the agreed time (s)he must lodge his grievance to the District Council and the District Council must inform Government of the complaint

- d) The Council will then attempt to resolve the problem (through dialogue and negotiation) within 14 days of the complaint being lodged. If no agreement is reached at this stage, then the complaint is taken to the Courts of Law.

Figure 7 presents a systematic diagram for addressing grievances.

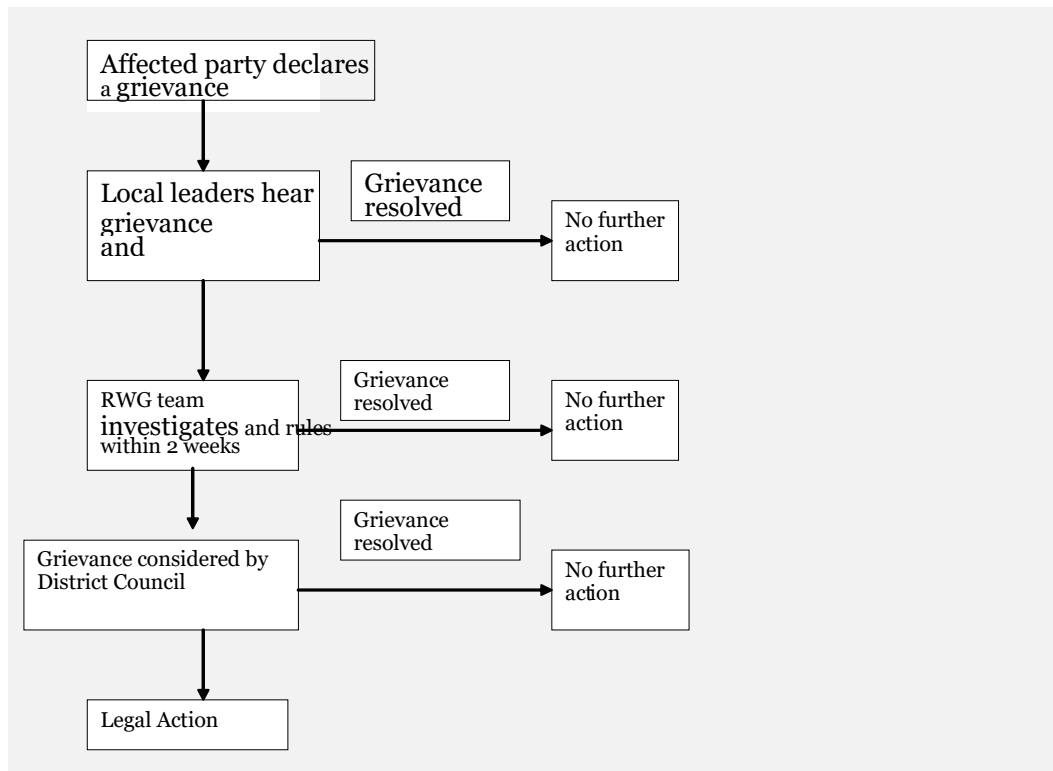


Figure 8: Grievance Redress pathways

As can be seen from the figure above, the RWG is central to handling grievances from the PAP. It takes necessary action to address the grievances. Should grievances not be resolved RWG refers them to the District Council. If the value of compensation is not agreed within two months then the aggrieved party will refer the matter to a Compensation Board which will be made up of the Resident Magistrate and two assessors.

The compensation board will consult the local leaders in case of customary land to verify the existence of the land in question and proceed to determine the amount of compensation to be given. The determination is done after hearing submissions from Government and the affected person. In the event that disagreements will not have been settled then the claimant has the right to take the matter to court as per their

constitutional right. However all appeals should be settled within a reasonable period so that people's lives can go on.

CHAPTER NINE: MONITORING AND EVALUATION.

9.1. Introduction

Monitoring and evaluation will form an integral part of project implementation, providing the necessary information about the involuntary resettlement aspects of the project, measuring the extent to which the goals of the resettlement plan have been achieved and the effectiveness of mitigation measures. Problems and successes will be identified as early as possible so that timely adjustment of implementation arrangements will be made. The process needs to be undertaken for a reasonable period after all resettlement and related development activities have been completed.

The RAP specifies the methods to be employed, frequency of measurement, reporting procedures, and the organizational arrangements to be made to undertake the activities including the involvement of those affected in the process.

9.2. Indicators

Indicators and targets will be established for the project as a whole, in consultation with representatives of the affected communities and other key stakeholders. Indicators will be grouped into the following categories:

- a) **Input indicators** – will measure the resources (financial, physical and human) allocated for the attainment of the resettlement objectives, such as livelihood restoration goals.
- b) **Output indicators** – will measure the services/goods and activities produced by the inputs. Examples will include compensation disbursements for acquired assets.
- c) **Outcome indicators** – will measure the extent to which the outputs will be accessible and used, as well as how they will be used. They will also measure levels of satisfaction with services and activities produced by the inputs. Examples will include the ways in which recipients used compensation. Although they are not measures of livelihood restoration in themselves, they will be key determinants of well-being.
- d) **Impact indicators** – will measure the key dimensions of impacts to establish whether the goals of the Resettlement Plan will be achieved. Examples will

include restoration and diversification of income levels and the sustainability of income-generating activities, as dimensions of livelihood restoration and well-being.

- e) **Process indicators** – will measure and assess implementation processes. Examples will be the functioning of liaison/participation structures, the levels of representation of different social categories/interest groups, and the processes by which conflicts and disputes are resolved.

Indicators will also be disaggregated to ensure that social variables are properly accounted for. Table 29 provides details of different indicators and variables to be monitored.

Table 30: Indicators and Variables to be monitored

Aspect	Indicator	Variable
Land	Affected land	<ul style="list-style-type: none"> • Area of cultivable land acquired for road developments • Area of communal land acquired for road developments • Area of private land acquired • Area of Government land acquired
Buildings/Structures	Affected Buildings	<ul style="list-style-type: none"> • Number, type and size of private buildings affected • Number, type and size of community buildings affected • Number, type and size of government buildings affected
	Other Structures affected	<ul style="list-style-type: none"> • Number, type and size of other private structures affected • Number, type and size of other community structures affected
Trees	Affected trees	<ul style="list-style-type: none"> • Number and type of trees affected

Aspect	Indicator	Variable
Compensation, Re-establishment and Rehabilitation	Compensation and re-establishment of affected owners/individuals	<ul style="list-style-type: none"> • Number of homesteads affected (buildings, land, trees, crops) • Number of owners compensated by type of loss • Amount compensated by type and owner • Number of replacement houses constructed • Size, construction, durability and environmental suitability of replacement houses • Possession of latrines • Water supply access • Number of replacement businesses constructed
	Re-establishment owned resources	<ul style="list-style-type: none"> • Number of community buildings replaced • Number, type of plants lost • Number of seedlings supplied by type • Number of trees planted
Hazards and Disturbances	Introduction of nuisance factors	<ul style="list-style-type: none"> • Number of homesteads affected by hazards and disturbances from construction (noise levels, blasting, increased traffic levels)
Social/ Demographic	Changes to homestead Structure	<ul style="list-style-type: none"> • Homestead size • Gender distribution • Marital status • Relationship to homestead head • Status of “vulnerable” homesteads
	Population migration	<ul style="list-style-type: none"> • Residential status of homestead members • Movement in and out of the homestead (place and residence of homestead members)
	Changes to access	<ul style="list-style-type: none"> • Distance/travel time to nearest water source, communication facility, school, energy source, church, shop, village

Aspect	Indicator	Variable
	Changes to health Status	<ul style="list-style-type: none"> • Number of people with disease, by type (STDs, diarrhoea, malaria, ARI, Immunizable disease) • Mortality rates • Access to health care services (distance to nearest facility, cost of services, quality of services) • Utilization of health care services • Disease prevention strategies • Extent of educational programs • Latrine provision at schools (school child population per VIP on site)
	Changes to educational status	<ul style="list-style-type: none"> • Literacy and educational attainment of homestead members • School attendance rates (age, gender) • Number, type of educational establishments
	Changes to status of Women	<ul style="list-style-type: none"> • Participation in training programs • Use of credit facilities • Landholding status • Participation in jobs and other activities resulting from the project

Aspect	Indicator	Variable
	Homestead earning Capacity	<ul style="list-style-type: none"> • Ownership of capital assets • Landholding size, area cultivated and production volume/value, by crop • Landholding status (tenure)• • Employment status of economically active members • Earnings/income by source, separating compensation payments • Changes to income-earning activities (agriculture) – pre- and post disturbance• • Access to income-generating natural resource base (wood, grass, sand, stones)
	Changes in social Organization	<ul style="list-style-type: none"> • Organizational membership of homestead members • Leadership positions held by homestead members
	Population influx	<ul style="list-style-type: none"> • Growth in number and size of settlements, formal and informal • Growth in market areas
Consultation	Consultation program operation	<ul style="list-style-type: none"> • Number of local committees established • Number and dates of local committee meetings • Type of issues raised at local committees meetings • Involvement of local committees in RA development planning • Number of participating NGOs

Aspect	Indicator	Variable
	Information Dissemination	<ul style="list-style-type: none"> • Number, position, staffing of Information Centres • Staffing, equipment, documentation of Information Centres • Activities of Information Centres • Number of people accessing Information Centres • Information requests, issues raised at Information Centres
	Grievances resolved	<ul style="list-style-type: none"> • Number of grievances registered, by type • Number of grievances resolved • Number of cases referred to court
Training	Operation of training Program	<ul style="list-style-type: none"> • Number of local committee members trained • Number of affected population trained in Project-related training courses
Management	Staffing	<ul style="list-style-type: none"> • Number of implementing agencies by function • Number of GOM ministry officials available by function • Number of office and field equipment, by type
	Procedures in Operation	<ul style="list-style-type: none"> • Census and asset verification/quantification procedures in place • Effectiveness of compensation delivery system • Number of land transfers effected

At the end of the compensation and resettlement period the RAP shall be evaluated on its performance. The evaluation will assess the number of people who were to be resettled, issued to be addressed versus what will have been achieved in the agreed period. The evaluation will be done by an independent NGO which will be decided and will determine modifications to be done on future similar projects in the District.

9.3. Monitoring and Reporting Plan

Monitoring is critical in guaranteeing that the compensation process is fairly executed and the benefits of the affected persons are equitably delivered, the implementation of

the RAP will be under monitoring throughout the whole process. Monitoring will cover both internal and external monitoring. Internal monitoring will be conducted by the project agency whilst external monitoring will be conducted by a qualified independent agency.

In order to achieve the resettlement objective, resettlement activities such as physical relocation, payment of compensation, reconstruction of houses, and construction of basic infrastructure, public consultation and participation activities, and income restoration and development efforts among affected communities will need to be monitored for their effectiveness. Effective monitoring will ensure that activities are not deviating from the desired outline. Constant monitoring will allow timely identification of problems and resolution of these problems are critical to achieving desired resettlement outcomes.

9.3.1. Internal Monitoring

Internal monitoring would primarily consist of a follow-up on the quantitative aspects of resettlement implementation and focus more on processes and delivery of inputs.

9.1.1.1. Monitoring Indicators

A. *Budget and Time Frame*

- Land expropriation and resettlement team appointed and mobilized for work on schedule;
- Resettlement implementation activities achieved against implementation plan
- Funds for resettlement released on time
- Funds disbursed according to RAP
- Social preparation implemented on schedule
- Land obtained and occupied in time for project implementation

B. *Delivery of Entitlement*

- Affected persons receive entitlements according to numbers and categories of loss set out in the entitlement matrix

- Have PAPs received payments on time
- Have PAPs received agreed transport costs, relocation costs and any resettlement allowances according to schedule
- Number of PAPs receiving housing as per relocation options in the RAP
- Number of PAPs occupying new houses
- Replacement land plots provided
- Income and livelihood restoration activities implemented as agreed
- Affected businesses receiving entitlements as agreed

C. Consultation, grievance and other issues

- Implementation of scheduled consultation meetings
- Number of affected persons who know their entitlements
- No of affected persons who have used the grievance redress procedure
- Number of resolved conflicts
- Outcomes of resolved conflicts

D. Benefit Monitoring

- Changes that have occurred in income and expenditure patterns of the PAPs
- Changes that have occurred in patterns of occupation, production and resource use by the PAPs
- Changes that have occurred in key social and cultural parameters
- Changes that have occurred for vulnerable groups.

9.3.2. External Monitoring

External monitoring focuses more broadly on outputs, outcomes, and the qualitative aspects of implementation. If an external, independent monitoring agency is to be engaged, the contractual arrangements should be finalized before the start of implementation. The agency can then monitor early resettlement, a time when many problems of timely provision of required inputs and services arise. A process should be established for systematic tabling of the results of internal and external monitoring at the meetings of the group coordinating the resettlement program. Each coordination

meeting should discuss the follow-up of the issues and problems identified through internal, and especially external, monitoring.

9.3.3. Independent Audit

Both levels of monitoring will be complemented and supported at the end of the process by an independent Audit to assess whether the displacement process has been done in conformity with the approach set out in the associated RAP.

9.4. Reporting

Reporting on the activities around involuntary resettlement forms an integral part of monitoring and evaluation, to:

- Ensure early detection of conditions that necessitate particular mitigation measures, and
- Provide information on the progress and results of mitigation.

Reporting methods of any resettlement activities on the project to date seem to have been limited to reports from consultants working on different aspects of the project.

It is recommended that in the future all consultation and disclosure activities be reported in detail, internally and externally.

CHAPTER TEN: IMPLEMENTATION SCHEDULE

The implementation schedule for the RAP is provided in *Table 30*. In order to facilitate the resettlement process given the proposed construction timing, the following key activities will be initiated immediately upon commencement of the Project:

- a) Finalizing the detailed configurations of the various project components (borrow areas, spoil disposal areas etc.) so that land acquisition requirements and recording exercises can be undertaken;
- b) Appointing staff within RA and the affected district councils to commence with preparatory activities, including ongoing consultation with affected communities;
- c) Updating the socio-economic baseline, including completing socio-economic questionnaires for all affected households not surveyed during the preparation of the RAP;
- d) Establishing a Compensation Determination Committee to finalize compensation principles, norms and rates; and
- e) Contracting suitable NGOs to assist with the preparation of the social environment, including preparation of capacity building and skills enhancement programs.
- f) Formation of a Resettlement Working Group at each one of the major trading centres with membership from minor or smaller trading centres.
- g) Implementation of Grievance Redress Mechanism (Formation of a Grievance Redress Committee at district, community, and project levels).

These committees will be provided with training or orientation on their roles and tasks just before the compensations are made.

Table 31: Implementation Schedule

Task Name	Timeline(2024)											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Updating the socio-economic baseline												
Asset valuation and validation												
Appointing staff within RA and the affected district councils to commence with preparatory activities												
Contracting suitable NGOs to assist with the capacity building and skills enhancement programs.												
Conducting sensitisation meetings with PAPs												
Identification of relocation sites												
Establishing a Compensation Determination Committee to finalize compensation principles, norms and rates.												
Signing compensation agreements with PAPs.												
Payment of compensation.												
Formation of a Resettlement Working Group at each one of the major trading centres with membership from minor or smaller trading centres.												
Implementation of Grievance Redress Mechanism (Formation of a Grievance Redress Committee at district, community, and project levels). These												

Task Name	Timeline(2024)											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
committees will be provided with training or orientation on their roles and tasks just before the compensations are made.												
Update database.												
Provision of assistance to PAPs on grievances.												
Termination of assistance to PAPs.												

CHAPTER ELEVEN: IMPLEMENTATION BUDGET

An estimation of the total resettlement implementation cost for the construction of the road is presented below in Table 33. The budget covers payment for compensation, RA/PIU Monitoring of RAP implementation; livelihood restoration; Capacity building on financial literacy skills for PAPs on management of cash compensation; Support to vulnerable persons; relocation of graves; RAP Implementation and Audit Report Costs (External & Independent); and Capacity Building training costs for RAP Implementers and Grievance Redress.

Public Participation with the PAPs will be carried out to initiate the compensation process as part of an ongoing process that started at the planning stages when the technical designs were being developed. The process will seek the involvement of PAPs in a participatory approach from the beginning.

These activities together with notification of land resource holders, Agreement on Compensation and Preparation of Contracts and Compensation Payments will all require a budget to execute. Land lost to road construction shall be compensated by land. Therefore this implementation budget will not include the cost of land.

Table 32 Implementation Budget.

Item	Description	Total Cost (MWK)	Remarks
1	<ul style="list-style-type: none"> Residential, Commercial Structures, Mixed Use and Other Structures 	2,180,205,785. 40	
	<ul style="list-style-type: none"> Economical 	57,392,389.50	
2	<ul style="list-style-type: none"> Fruit Trees and exotic trees 	117,135,060.00	
3	<ul style="list-style-type: none"> Monitoring and evaluation (RA/PIU Monitoring of RAP implementation; Cost of monitoring and evaluation professionals- per diem; Cost audit team end of project 	172,800, 000.00	<ul style="list-style-type: none"> 12month x 20 staff 468,000/month/person
4	<ul style="list-style-type: none"> Livelihood restoration 	432,000,000.00	Construction of the market at an area provided by the Nkhotakota District council.
5	<ul style="list-style-type: none"> Capacity building on financial literacy skills for PAPs on management of cash compensation. 	216,000,000.00	Lump sum
6	<ul style="list-style-type: none"> Assistance for vulnerable groups. This is the payment of vulnerability allowance to 	72, 000, 000. 00	Lump sum

Item	Description	Total Cost (MWK)	Remarks
	the chronically ill, elderly or child headed household PAPs		
7	<ul style="list-style-type: none"> Relocation of borehole 	7,200,000.00	
8	<ul style="list-style-type: none"> RAP Implementation and Audit Report Costs (External & Independent); 	172, 800, 000. 00	Lump Sum
9	<ul style="list-style-type: none"> Capacity Building training costs for RAP Implementers and Grievance Redress etc. Community awareness campaigns and training (Cost of preparing the community of the upcoming resettlement and skills training to restore lost income. 	144, 000, 000. 00	Lump sum
10	<ul style="list-style-type: none"> Stakeholders Engagement Plan 	1, 378, 080, 000.00	
Sub Total		10, 631, 459, 795. 40	

Item	Description	Total Cost (MWK)	Remarks
10% Contingency	To cater for unforeseen costs in this RAP that include inflation and some unquantifiable items	1,075, 817, 979. 54	
TOTAL		11, 833, 997, 774. 94.	

CHAPTER TWELVE: CONCLUSION AND RECOMMENDATIONS

The Project's major disadvantage is the displacement and relocation of both people and businesses. However if this resettlement action plan is followed then the people displaced will suffer minimum inconvenience. It is therefore recommended that the following should be done:

- a) The institutions recommended for negotiations and RAP implementation i.e. RWG, and DC Team should be set up as soon as approval of the project is given;
- b) Alternative land close to the improved road should be found for those households who cannot continue to live in their current location; and
- c) The RAP be modified in line with situations experienced when the actual resettlement begins. In particular the monitored indicators are discussed at least quarterly so that appropriate measures and readjustments can be made.
- d) Conduct sensitisation meeting to restrain people from encroaching the road reserve With all procedures for resettlement and compensation implemented, it is recommended that the project should be undertaken. It will be constituted in such a manner as to be regarded as the primary representative voice of the affected persons. The composition of the RWG will be as follows:
 - e) Persons affected shall be compensated for their losses at full replacement cost prior to their actual move, before land and related assets are taken, or before project activities begin;
 - f) Representatives of the affected communities/villages. This will be made up of two members from each of the Traditional Authorities areas defined as affected. At least one of the two members will be a woman. The PAP will elect these members;
 - g) Representatives of the Traditional Authorities in each of the areas affected;
 - h) Representatives of RA; and
 - i) One representative from the District office. This will be the District Commissioner or his designated representative.

REFERENCES

1. Government of Malawi (2017), Environment Management Act, Environmental Affairs Department, Lilongwe
2. Government of Malawi (1997), Forestry Act, Forestry Department, Lilongwe
3. Government of Malawi (2017), Forestry (Amendment) Act, Forestry Department, Lilongwe
4. Government of Malawi (1998), The Local Government Act, Ministry of Local Government and Rural Development, Lilongwe.
5. Government of Malawi (2017), Local Government (Amendment) Act, Ministry of Local Government and Rural Development, Lilongwe
6. Government of Malawi (1967), The Land Act, Ministry of Lands, Physical Planning and Surveys, Lilongwe
7. Government of Malawi (2016), The Land Act, Ministry of Lands, Physical Planning and Surveys, Lilongwe
8. Government of Malawi (2016), Land Survey Act, Ministry of Lands, Physical Planning and Surveys, Lilongwe
9. Government of Malawi (1988), Town and Country Planning Act, Ministry of Lands, Physical Planning and Surveys, Lilongwe
10. Government of Malawi (1970), Land Acquisition Act, Ministry of Lands, Housing and Urban Development Lilongwe.
11. Government of Malawi (2017), Land Acquisition (Amendment) Act, Ministry of Lands, Housing and Urban Development Lilongwe.
12. Government of Malawi (1967), The Registered Land Act, Ministry of Lands, Housing and Urban Development Lilongwe.
13. Government of Malawi (2017), The Registered Land (Amendment) Act, Ministry of Lands, Housing and Urban Development Lilongwe.

14. Government of Malawi (1962), The Public Roads Act, Ministry of Transport and Public works, Lilongwe.
15. Government of Malawi (2017), The Public Roads (Amendment) Act, Ministry of Transport and Public works, Lilongwe.
16. Government of Malawi (1990), Monument and relics Act, Lilongwe
17. Government of Malawi (1995), The Constitution of Republic of Malawi, Lilongwe
18. Government of Malawi (2016), National Forestry Policy, Forestry Department, Lilongwe
19. Government of Malawi (2002), National Land Policy, Ministry of Lands, Physical Planning and Surveys, Lilongwe
20. Government of Malawi (2004), National Environmental Policy, Environmental Affairs Department, Lilongwe
21. National Statistical Office (2018). Population Census Report. Zomba: Government Print.
22. Department of National Parks & Wildlife (2012); Environmental and social framework, Effective management of Nkhotakota Wildlife Reserve Project; Government of Malawi
23. Nkhotakota district council (2020); Public Reforms Areas; Government of Malawi
24. Nkhotakota district council (2017); Socio-economic Profile, 2017 -2022; Government of Malawi
25. IUCN Red list of Threatened Species, 2017 , National Parks & Wildlife (Protected, endangered and listed species) (declaration) order, 2017; Government of Malawi
26. Dowsett-Lemaire, F.; Dowsett, R.J.; Dyer, M. (2017); Important Bird Areas in Africa and associated islands – Malawi; BirdLife International

ANNEXES

ANNEX 1: LIST OF STAKEHOLDERS CONSULTED

A1.1. District Level Stakeholders

A1.2. Community Level Stakeholders

ANNEX 2: GRIEVANCE REDRESS MECHANISM (GRM) FORMS

A2.1: Community Grievance Log & Resolution Form

District Name:

Community Name:

Name of Catchment:		Sub Project Name				Dates:	
Names Dr/Mr/Ms/Mrs)		Address/Contact		TA& VGE		Contacts/Email	
Ref No.	Date of Grievance	Official Recording	Grievance/Complaint	Follow-up/Investigation		Resolution Made	Referred to
				Date	Person Assigned		
G1							

If case is closed, GRM Committee members & complainant to sign below

GRM Committee Chair _____

Name

& Signature of PAP _____

GRM Committee Secretary _____

Date:

Referred to Area/ Council

Ref No.	Date of Referral	Official Referring:	Name of Complainant:

A2.2: District Grievance Log & Resolution Form



DISTRICT REGISTER

Government of Malawi

GRM...../.....

District

Reference No.

1. Complainant's Information				
(This information must be provided. The identity of complainants will be kept confidential if they request so. Anonymous complaints will not be accepted).				
Names & Titles (Dr/Mr/Ms/Mrs)	Sub Project Name:	Positions/Organizations (if any)	Addresses:	Email:
Name of EPA :	Case Ref. No.	Cycle:	Contact Tel:	TA/VGE
Please indicate how you prefer to be contacted (e-mail, mobile, etc.):				
2. Brief Description of the Grievance or Complaint:				
3 Previous Efforts to Resolve the Complaint				
(a) Have you raised your complaint with any other authorities/institutions? <input type="checkbox"/> Yes <input type="checkbox"/> No				
(b) If yes (Please, provide the following details) When?				
• How and with whom the issues were raised				

<p>• What was the outcome/resolution:</p>		
<p>(c) If No, why? Or if Outcome was referral from AGRMC</p>		
<p>(d) How do you wish to see the complaint resolved?</p>		
<p>(e) What harm do you believe the project caused or is likely to cause to you?</p>		
<p>(f) Why do you believe that the alleged harm results directly from the project?</p>		
<p>(g) Do you have any other supporting documents that you would like to share?</p>		
<p>(h) Outcome at District Level</p>		
<p>4. If a referred case, or case recorded at District is closed:</p> <p>(i) PAP Signature _____ (ii) District GRM Chair _____</p> <p>(iii) District GRM Secretary _____</p>		
<p>If not closed, PAPs will be advised to seek justice from Civil Courts, Comment:</p>		
<p>5. Name of the person who completed this form:</p>	<p>Signature:</p>	<p>Date:</p>

ANNEX 3: Questionnaire

Project Affected Persons (PAP) Socio-Economic Census Questionnaire

NO.	QUESTION AND FILTERS	CODING CATERGORIES
1. PAP/ASSET IDENTIFICATION		
1.1	<u>Location</u> of road section	
1.1.1	<u>GVH</u>	
1.1.2	<u>TA</u>	
1.2	<u>Name</u> of PAP	
1.3	PAP's <u>phone number</u>	
1.4	<u>Category of Asset</u> [use one questionnaire per asset category]	Structures.....1 Trees.....2 Crops.....3 Informal trade.....4 Registered Land.....5 Unregistered land.....6 Other natural resource (specify) _____
1.4.1	<u>Category of PAP</u>	Owner.....1 Tenant.....2 Employee.....3 Right holder.....4 Squatter.....5
1.4.1.1	If tenant or employee, what is the <u>Name of asset owner</u>	
1.4.1.2	<u>Phone number</u> of asset owner	
1.4.2	<u>Use of asset</u> by PAP	Crop production.....A Source of income (agriculture).....B Source of income (business).....C Source of income (wage).....D Source of income (natural resource)E Dwelling unitsF Livestock shelter.....G Livestock grazing.....H Homestead space (kitchen, stores, latrine)I Source of water (agriculture).....J Source of water (drinking).....K Source of water (domestic).....L Source of cooking energy.....M Source of other Natural resources (specify) ____N Other (specify) _____

1.5	What is the anticipated <u>nature of displacement</u> due to project activities?	Will lose whole asset, temporarily.....1 Will lose whole asset, permanently2 Will lose part of asset, temporarily.....3 Will lose part of asset, permanently.....4
2. PAP SOCIO-ECONOMIC CHARACTERISTICS		
2.1	Does PAP (or hh member) own a <u>smart phone?</u>	Yes.....1 No.....2
2.2	<u>Gender</u> of PAP	Male.....1 Female.....2
2.3	<u>Age</u> of PAP	
2.4	<u>PAP</u> highest level of <u>education</u>	No formal education but can read & write.....1 No formal education and can't read & write....2 Primary school.....3 Secondary school.....4 Tertiary level.....5
2.5	<u>Marital status</u> of PAP	Married.....1 Single.....3 Divorced.....4 Widowed.....5
2.6	Main <u>Occupation</u> of PAP	Arable Farmer.....1 Cane grower.....2 Rice farmer.....3 Fish farmer.....4 Fishing.....5 Business person.....6 Employee (informal).....7 Government employee.....7 Private sector employee.....8 Ngo employee.....9 Other (specify)_____
2.7	<u>Ethnicity</u> of PAP	Chewa1 Yao.....2 Nyanja.....3 Tonga.....4 Tumbuka.....5 Ngoni.....6 Lomwe.....7 Sena.....9 Non-Malawian.....10 Other (specify)_____
2.8	<u>Home district</u> of PAP	
	Does PAP have any <u>disability?</u> Specify	Yes.....1 No.....2

3. PAP HOUSEHOLD CHARACTERISTICS		
3.1	Name of household head (hh Head)	
3.2	Gender of household head	Male.....1 Female.....2
3.3	Ethnicity of household head	
3.4	Main Occupation of household head	Arable Farmer.....1 Cane grower.....2 Rice farmer.....3 Fish farmer.....4 Fishing.....5 Business person.....6 Employee (informal).....7 Government employee.....7 Private sector employee.....8 Ngo employee.....9 Other (specify)_____
3.5	Relationship of PAP to household head	Hh head.....1 Spouse.....2 Son/daughter.....3 brother /sister.....4 Son/daughter in-law.....5 Servant.....6 Other relative.....7 Non-relative.....8
3.6	Total Number of household members	
3.7	Number of members under 18	Male _____ Female _____
3.8	Number of members 18 years above	Male _____ Female _____
	Household sources of income (3 main)	Farming (crops).....A Farming (livestock).....B Fishing.....C Piece work (ganyu).....D Grocery shopE other business F VSL..... G Firewood/charcoal salesH Formal employment.....I informal employment..... J Money from relatives.....K

		Social Cash transfer..... L Remittances.....M Other (specify)_____
3.9	Household source of cooking energy	Electricity.....1 Firewood.....2 Charcoal.....3 Gas.....4
3.10	Household source of lighting	Electricity(ESCOM).....1 Solar.....2 Torch (battery or solar charged)3 Candle.....4 Other (specify)_____
3.11	Household source of drinking water	Piped water.....1 Borehole.....2 Protected well.....3 Unprotected well.....4 Open source(river, pond or lake).....5
4. PAP RESETTLEMENT PREFERENCES		
4.1	How best can the project assist in mitigating anticipated effects of your possible displacement?	Pay replacement cost in cash..... A Pay replacement cost in kind.....B Provide cash support.....C Provide material support (specify) _____D Provide capacity building support (specify)____E Relocate us to other place..... F Other (specify) _____
4.1.1	If Relocation, what would be your next preferred location?	Along M5 road..... A Within the local community (TA)..... B Within the district.....C Anywhere in the country..... D Where we can start a new village..... E Specific place (name) _____
4.1.1.1	If specific place , why	Ideal for agriculture.....A Closer to current location..... B Familiar sociocultural environment.....C Easy access to social amenities..... D Ideal for business..... E Other (specify) _____
4.2	[Capture any other issues raised by PAP]	

Checklist for institutional and communal assets

#	QUESTION AND FILTERS	CODING CATERGORIES
1	Location	
1.1	GVH	
1.2	TA	
2	Asset category	Structures.....1 Trees.....2 Crops.....3 Land.....4 Other natural resource.....5
2.1	Asset description	
3	Name of institution responsible for asset [if not applicable skip to 4]	
3.1	Name and contact of a representative	
	Do surrounding communities use asset? [if 'NO' skip to 5]	Yes.....1 No.....2
4	Names of communities (GVH) using asset [indicate TA if GVH falls under a different TA]	
4.1	Name and contact of VDC member	
5	<u>Form of displacement</u>	Will lose whole asset, temporarily.....1 Will lose whole asset, permanently2 Will lose part of asset, temporarily.....3 Will lose part of asset, permanently.....4
5	What is the preferred form of <u>resettlement</u> ?	Pay replacement cost in cash.....A Pay replacement cost in kind..... B Provide cash support.....C Provide material support (specify) _____D Provide capacity building support (specify)_____E Relocate us to other place.....F Other (specify)_____
	If Relocation, what would be your next preferred location?	Along M5 road..... A Within institution premises..... B Within the community.....C Specific place (name) _____
	If <u>specific place</u> , why	
	[Capture any other <u>issues raised</u> by PAP]	

ANNEX 4: PRELIMINARY VALUATION

Dated 10th December, 2023

Telephone: (265) 01 774 766

Fax: (265) 01 772 523

E-mail: lands@globemw.net



MINISTRY OF LANDS
DEVELOPMENT
PRIVATE BAG 311
CAPITAL CITY
LILONGWE 3
MALAWI

Please address all
communications to:
Secretary for Lands

REF NO: CL/BDKK/RD/002

10th December, 2023

The Chief Executive Officer
Roads Authority
Private Bag B346
Lilongwe 3

Dear Sir,

**COMPENSATION ASSESSMENT REPORT FOR PROPERTIES AFFECTED BY THE ROAD
REHABILITATION PROJECT (BENGA-NKHOTAKOTA TO DWANGWA IN
NKHOTAKOTA DISTRICT**

1.0 Instruction

Reference is made to the above subject matter.

In accordance with your request and instructions given to us to assess the value of properties affected by the rehabilitation of **BENGA-NKHOTAKOTA TO DWANGWA** road project for compensation purposes payable to the Project Affected Person (PAP's) in Traditional Authorities Kanyenda, Mphonde, Malengachanzi, Kalimanjira and Mwadzama in Nkhotakota District.

We write to confirm that we carried out inspections and made relevant enquiries and obtained such further information as we deem necessary to derive opinion as to the current values for compensation purposes as at 10th December, 2023.

We now certify that having considered all relevant factors regarding the current property market in this area and based on our knowledge of the market, we are of the opinion that the total compensation value for all the affected properties under consideration as at 10th December, 2023 is in the sum of

MWK 2,369,122,744.90 (Two billion, three hundred sixty-nine million, one hundred twenty-two thousand, seven hundred forty-four point nine Malawian Kwacha) Only.

2.0 RELEVANT DATE OF INSPECTIONS AND VALUATION

The valuation date is as at 10th December, 2023.

3.0 PURPOSE OF VALUATION

This valuation is for compensation purposes of properties affected by the rehabilitation of **BENGA-NKHOTAKOTA TO DWANGWA road** project.

4.0 BASIS OF VALUATION

The bases of valuation of assets in this project are the local laws and policies and the African Development Bank (AfDB)/World Bank Involuntary Resettlement policies.

Local Provisions: There are a number of legal provisions in Malawi which govern compensations in the event that one's assets are affected.

- Section 28 of the Constitution of Malawi provides that every person shall be able to acquire property and that having acquired that property, no person shall be arbitrarily deprived of the property. Section 44 (4) further states that expropriation of property shall be permissible only when done for public utility and only when there has been adequate notification and appropriate compensation, provided that there shall always be a right to appeal to a court of law.

- Section 14 of the Land Act 2016 provides that "any person who by reason of any acquisition made under section 13 (1) or Sections (2) and (3)), suffers any disturbance of or loss or damage to any interest which he may have or immediately prior to the occurrence of any of the events referred to in this section, may have had in such land shall be paid such compensation for such disturbance, loss or damage as is reasonable.
- Additionally, the Land Acquisition and Compensation Act (2016) Sections 9 to 11 provides the procedure for the assessment of appropriate compensation and the grounds for the same.

The World Bank Involuntary Resettlement Policy specifically requires that compensation should be done on full replacement basis without depreciation of the affected asset and the value of the salvage materials are not to be considered, nor is the value of the benefits derived from the Project subtracted from the gross value of the assets.

African Development Bank Operational Safeguard 2 (OS2) for involuntary resettlement/land acquisition, displacement and compensation of persons ensure that displaced people receive significant resettlement assistance under the project, so that their standards of living, income earning capacity, production levels and overall means of livelihood are improved beyond pre-project levels. Compensation items include i) value of the land; ii) value of un-exhausted improvements (dwelling house, other house structures, trees, crops, hedges/fences and other properties). Compensation is effected for any loss of interest on land and includes various kinds of allowances – disturbance, transport, accommodation and loss of profit.

The IVSC (2011) defines Market Value as “the estimated amount for which a property should exchange on the date of valuation, between a willing buyer and a willing seller, in an arm’s- length transaction after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion.”

The chapter describes the valuation approach and methodology used in the valuation of Project affected assets.

5.0 STATEMENT OF APPROACH

There are several principles that have been followed on this assessment for compensation of the property:

Section 29 (1&2) of the Constitution of Malawi says “every person shall be able to acquire property.” And that having acquired that property “no person shall be arbitrarily deprived of such property

Section 28 of the Land Act (Cap 57:01) provides that any person, who suffers any disturbance of, or loss or damage to any interest which he had shall be compensated for such disturbance, loss or damage as is reasonable.

The Land Acquisition Act (Cap. 58:04) section 9 & 10 provides for the procedures to be followed to assess fair compensation. However, the stipulations in this act can be superseded by what can be agreed between the parties see section 10(1).

Section 44(4) states that ‘expropriation of property shall be permissible only when done for public utility, and only when there has been adequate notification and appropriate compensation, provided that there shall always be a right to appeal to a court of law’

Chap.4:16 of the Malawi National Land Policy (2002) provides for payment of compensation for customary land based on open market value (in the meantime, Malawian laws do not provide for assessment for injurious affection and severance though these heads of claims have been proposed by special law commission).

The Involuntary Resettlement OS2 applies to all project-affected people regardless of the number of people affected, the severity of impact and the legality of land holding. It calls for particular attention to the needs of the vulnerable groups especially those below poverty line, the landless, the elderly, women and children, indigenous groups, ethnic minorities and other disadvantaged persons.

6.0 LAND PARTICULARS

The description of the land falls in Traditional Authorities Kanyenda, Mphonde, Malengachanzi, Kalimanjira and Mwadzama

7.0 PURPOSE OF THE PROPOSED ACQUISITION

The land in question is for the rehabilitation of BENGA-NKHOTAKOTA TO DWANGWA road.

8.0 BASIS OF COMPENSATION

Based on the provisions of the Malawi National Land Policy (2002) Chap. 4:16 the World Bank's safeguard policy op 4.12 and Land Act Cap. 57:01, section 28 the project affected people (pap) will be compensated for:

- i. Land taken regardless of the "legality of landholding"
- ii. Loss of livelihood by compensating for buildings, crops and exotic and fruit trees that maybe destroyed.
- iii. Loss of improvements on the land

These items have formed heads of claims for compensations.

9.0 DISTURBANCE

Section 28 of the Land Act (cap 57:01) provides that any person who suffers any disturbance of or loss or damage to any interest which he had shall be paid compensation for such disturbance, loss or damage as is reasonable.

The fundamental principle in compulsory acquisition compensation is the amount so far as money can do so, to put the owner in the same position as if his property has not been acquired. Therefore, compensating the owner at full compensation value for the property taken from him goes only part of the way to attain this end. So, in addition, monetary compensation has to be payable to reimburse the claimant for 'disturbance' or any other matter not directly based on the value of the property.

Disturbance compensation is a sum added to the purchase price of the property compulsorily acquired. It is not payable in respect of the property retained by the claimant. First there is an acquisition price and, if there is such a price disturbance compensation can be included in it.

From elsewhere, the Milledge principle based on *commonwealth v Milledge* (1953), better explains the notion of disturbance. In part it says:

“disturbance, is relevant only to the assessment of the difference between, on the one hand, the value of the property to a hypothetical purchaser the kind of use to which the owner was putting it at date of resumption, and on the other hand, the value of the property to the actual owner himself for the precise use to which he was putting it at that date.’

It is therefore, noteworthy that compensation for the affected properties taken plus disturbance will not always fulfill the requirements of the principle expressed above. There is an idea of severance and injurious affection which has not been included in this assessment as the current law does not stipulate its use.

The disturbance costs to be awarded to the project affected persons (PAPs) relate to:

- Costs of transportation for salvaged items
- Cost of salvaging the properties

Having considered the above provisions, a reasonable percentage has been added to the compensation values as disturbance allowance for transportation of salvaged materials.

Vulnerable Groups

A monetary consideration has also been provided for the vulnerable group by way of a percentage of the total compensation amount payable. This group was identified by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage, or social status.

At a more specific level it refers to those social categories whose livelihoods may be particularly vulnerable to disturbances created by the Project, for which special provisions need be made so that they are better equipped to deal with Project-induced changes. Households classified as ‘vulnerable’ are affected households who may, by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage or social status, be particularly vulnerable to Project implementation, and changes induced by the Project. These may include:

- Women-headed households;
- Households with an aged household head older than 60 years;
- Child-headed households (headed by children under the age of 18);
- Households where the household head has a physical or mental disability;

Vulnerable groups were identified based on census and social economic surveys carried out by social-economic survey team, however, Individual support measures for vulnerable people will be identified prior to the implementation of the RAP during the exit Survey. The respective consultations will be undertaken under the lead of Project Implementation Unit, through project committees.

10.0 VALUATION APPROACH

10.1 METHODOLOGY

The appropriate approach in determining the amount of compensation is always a question of an act. The most accurate and appropriate methods of valuation used for improvements on the land acquired are comparison and contractor’s method.

10.2 CONTRACTOR’S METHOD

For the improvements lost, as sales are rare if not non-existent in this area, the contractor’s method was relied upon. This method, alternatively known as the cost approach or depreciated replacement cost (DRC), is used for properties for which there is no market or for which there is insufficient direct comparable market evidence. Costs of constructions were assessed on replacement basis.

In this approach, costs of materials, labour, transportation as they currently exist were assessed. Straight line depreciation was used to bring the cost of structure whose materials, labor and transportation was calculated hypothetically to current position and thus arrived at the compensation

11.0 STATEMENT OF COMPENSATION

Subject to stipulations and assumptions contained in this report and a thorough examination of property market information available to us and from our knowledge, we certify that compensation assessment value for the acquisition of the land in the area of Traditional Authorities Kanyenda, Mphonde, Malengachanzi, Kalimanjira and Mwadzama in is in the sum of **MWK 2369122744.9 (Two billion, three hundred sixty-nine million, one hundred twenty-two thousand, seven hundred forty-four point nine Malawian Kwacha) Only.**

In accordance with our standard practice, the valuation report is for the stated purpose and for the sole use of the client. It is confidential to the client and the client's professional advisors. The surveyor accepts responsibility to the client alone, that the report is prepared with skill, care and diligence reasonably to be expected of a competent valuation surveyor, but accepts no responsibility whatsoever to any parties other than the client.

Therefore neither the whole nor any part of this report or references thereto should be included in any published document, circular or statement ,nor published in any way without prior written approval from the surveyor. Any such parties who may rely on this report for any other purpose rather than the intended purpose may do so at their own risk.

12.0 VALIDATION OF THE VALUATION

The above compensation value is based on the date of inspection and may be regarded as valid for a period of six months from the date hereof unless there is a substantial material change in the circumstances.

13.0 RECOMMENDATIONS

- It is recommended that payment of compensation money be done before the project commences.
- Payment should be done at once, and if possible everyone should be paid at the same time.
- After payment, the beneficiaries should be given time limit to salvage their belongings if any and an agreement should be made with the village headmen and other stakeholders on the commencement of the project.

CYNTHIA CHILIMA Bsc.Land Man. (Est.Man)

Graduate Valuation Surveyor

For: THE SECRETARY FOR LANDS

ANNEX 5: EXPROPRIATION OF PROPERTIES BUILDINGS AFFECTED BY BENGAL TO DWANGWA ROAD RESETTLEMENT

DWANGWA TO BENGAL ROAD COMPENSATION ASSESSMENT.xlsx

Refer to the attached excel sheet

ANNEX 6: EXPROPRIATION OF TREES AFFECTED BY BENGAL - DWANGWA ROAD
RESETTLEMENT

DWANGWA TO BENGAL ROAD COMPENSATION ASSESSMENT.xlsx

Refer to the attached excel sheet

ANNEX 7: EXPROPRIATION OF ECONOMICAL AFFECTED BY BENGAL - DWANGWA
ROAD RESETTLEMENT

DWANGWA TO BENGAL ROAD COMPENSATION ASSESSMENT.xlsx

Refer to the attached excel sheet

ANNEX 8: EXPROPRIATION OF CROPS AFFECTED BY BENGAL - DWANGWA ROAD
RESETTLEMENT

DWANGWA TO BENGAL ROAD COMPENSATION ASSESSMENT.xlsx

Refer to the attached excel sheet

ANNEX 9: BENGWA – DWANGWA ESIA TERMS OF REFERENCE

TERMS OF REFERENCE FOR THE UPDATING OF RESETTLEMENT ACTION PLAN FOR THE REHABILITATION OF BENGWA TO DWANGWA ROAD PROJECT

1.0 INTRODUCTION

The Government of Malawi through Roads Authority (RA), with support from the African Development Bank (AfDB), is planning to rehabilitate the Bengwa to Dwangwa (M005) Road. An Environmental and Social Impact Assessment (ESIA) and Resettlement Action Plan (RAP) were prepared in 2013. The rehabilitation of Bengwa – Dwangwa (M005) road section project will likely cause displacement of people. The road shall take up some land to accommodate the required width and road reserve. The assessment was conducted by Lands Department/Office which identified the types of structures, infrastructures, pieces of land and vegetation to be affected and converted into the current land market value for compensation. Therefore, in line with OS 2, the RAP was prepared so that the affected people are treated fairly, equitably, and in a socially and culturally sensitive manner, that they receive compensation and resettlement assistance so that their standards of living, income earning capacity, production levels and overall means of livelihood are improved, and that they share in the benefits of the project that involves their resettlement.

The compensation payment are underway, eighty percent (78%) of PAPs whose structures will be affected along the road have been paid. The remaining PAPS on structures had name mismatched and District Lands Office is making corrections. PAPS whose trees will be affected due to diversions; payment is been processed. By end of November, 2023; all the PAPs (on trees and structures) will be paid. GRM committees will be established along the stretch to help in managing and registering the grievances for the road project.

There are no changes in design of the road; the road project will emphasize on upgrading all main roads to bitumen standard linking to world-class national and regional motor ways fully supported with multi-year maintenance programmes. All single lane bridges along the proposed project shall be replaced with new bridges.

Hydrological studies were carried out on these crossings to establish the flood discharges and openings required for the bridges. A minimum 1 in 50 years flood frequency was assumed for the design of bridges. There shall therefore be 18 new bridges 5 of which shall be 3 spans, 8 shall be 2 spans and 5 shall be single spans.

Even though the RAP was disclosed in May, 2022, time has elapsed since the development of the RAP. It is expected that changes have happened on the environmental and social aspects in the project impact areas, and possibly the legal/regulatory framework and policies that are applicable to the project. It is important to review and update the existing ESIA and RAP as required by the Environmental Management Act (2017) and the African Development Bank's Integrated Safeguards System. It is against this background that RA plans to recruit a consultant to update RAP for the project.

The consultancy services are required for the review and update of RAP in line with African Development Bank Integrated Safeguards System (ISS), Environmental and Social Impact Assessment Guidelines of Malawi and Roads Authority's Environmental and Social Management Guidelines and applicable national environmental and social regulations and policies.

2.0 OBJECTIVES

2.1 MAIN OBJECTIVE

The main objective of this consultancy is to review and update the Resettlement Action Plan for Benga to Dwangwa road project.

2.2 SPECIFIC OBJECTIVES

The specific objectives of the consultancy include but not limited to the following:

- i. Update the Project Area of Influence.

- ii. Provide update of all applicable national policies and regulations including but not limited to EMA (2017), National Environmental Policy (2004), Water Resources Act (2013), Land Acquisition Act 2017 and the Integrated Safeguards System (ISS) with specific reference to the climate change and green growth policy Operational Safeguards (OS) and Gender strategy of the African Development Bank; update the gap analysis by incorporating any changes in legislative framework and provide measures for filling identified gaps. The gap analysis should also indicate which OS will be applicable for the project.
- iii. Update and review the Livelihood Restoration Plan of the project;
- iv. The review and update of the RAP should present the baseline socioeconomic conditions, asset inventory to identify Project Affected People (PAPs), affected assets, loss of livelihood, loss of access to resources and provide for mitigation measures and compensation in accordance to the Government of Malawi regulation and the African Development Bank's Safeguards policies, ensuring that compensation frameworks guard against increasing gender inequality risks.

2.0 SCOPE OF WORK FOR UPDATING RAP

The broad scope of the work is to review the general description of the project as well as the potential involuntary resettlements impacts of the project including review of the following:

- i. Right of Way and new Right of Way;
- ii. The zone of impact of activities;
- iii. Alternatives considered to avoid or minimize resettlement; and
- iv. Mechanisms established to minimize resettlement, to the extent possible, during project implementation,
- v. Provision of appropriate maps (in various scales) to describe the project area, population settlements and location of PAPs.

The activities to be undertaken by the Consultant under this TOR shall include the following:

Task 1: An Update of Legislative and Regulatory Framework

Update and review all the legislative and regulatory framework as applicable to land acquisition and resettlement and ensure all appropriate regulations are articulated including review of the analysis of the following: -

- i. The scope of the power of eminent domain and the nature of compensation associated with it, in terms of both the valuation methodology and the timing of payment;
- ii. The applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal timeframe for such procedures, and any available alternative dispute resolution mechanisms that may be relevant to resettlement under the project;
- iii. Relevant laws (including customary and traditional law) governing land tenure, statutory mechanism for land acquisition, valuation of assets and losses, compensation; customary personal law related to displacement; and environmental laws and social welfare legislation and policies that are related to resettlement;
- iv. Laws and regulations relating to the agencies responsible for implementing resettlement activities; Indicate the provisions of African Development Bank Safeguard Standards, comparing them against Malawi's regulations related to involuntary resettlement; present the similarities, differences and gaps, and provide mechanisms to address the gaps, confirming which set of standards is to set precedence in this RAP;
- v. Any legal steps necessary to ensure the effective implementation of resettlement activities under the project, including, as appropriate, a process for recognizing claims to legal rights to land including claims that derive from customary law and traditional usage

Task 2: An update of Socio-economic data

Review and update a socio-economic data to ensure that relevant data pertaining to the following is presented:

- i. Apply an acceptable methodology to delineate the area of potential resettlement impacts and identify all the affected persons through a census survey. Ensure that the PAPs census survey covers all people living along the affected area and using a cut-off date establish a baseline to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance.
- ii. Undertake using an acceptable participatory methodology a socio-economic survey of affected people. The results of the socio- economic survey will include: -
 - A demographic profile with socio-economic characteristics of the potential PAPs;
 - The magnitude of the expected loss (total or partial) of assets, and the extent of displacement, physical or economic;
 - A profile on vulnerability clearly stipulating the levels of vulnerability of different categories of PAPs;
 - Socio- cultural characteristics of PAPs;
 - Develop a profile of PAPs, providing identification corresponding to assets (structures/properties/crops) to be affected;
 - Mapping of project area, settlements and location of the PAPs. The maps should bein appropriate scales and should be easy to interpret;

Task 3: An Update of Public Participation, Consultation and Communication

This component entails the preparation of a public consultation, participation and communication strategy and should describe in clear terms the methodology for consultation, communication and participation by the PAPs in the process taking into account gender considerations and vulnerable groups. Review and update the following:

- i. A description of the strategy for the interactive consultation with and participation of stakeholders and PAPs in the design, implementation of the resettlement activities and modalities for disclosure of information;
- ii. Provide a stakeholder analysis and matrix stipulating the level of power and interest and modalities of communication and involvement in the ARAP project cycle;
- iii. A summary of the views expressed and how these views were taken into account in preparing the resettlement plan;
- iv. A review of the resettlement alternatives presented and the choices made by PAPs regarding options available to them, including choices related to forms of compensation and resettlement assistance;
- v. Institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that vulnerable groups such as the poor, and women are adequately represented;
- vi. Development of effective channels of outreach to those most vulnerable by use of community based organizations and official representative channels and authorities;
- vii. Documentation of the consultation and participation processes for this ARAP and for subsequent activities. The records of consultation and participation should be attached as an annex to the final ARAP report.; and
- viii. Coordinate with the client and prepare a program undertake the disclosure of the ARAP to the PAPs.
- ix. Develop governance, representation and stakeholder engagement that will be effected during ARAP preparation and implementation;

Task 4: An update of Impacts of Project

Review and update inventory of losses and impact survey component of the RAP ensuring that the results entail and describe the following: -

- i. Mapping the affected properties (structures, crops, trees, fences) with an acceptable accuracy;

- ii. Placing of permanent survey marking (pegging/beaconing) of the extent of the new Right Of Way (ROW) at an acceptable distance;
- iii. The patterns of social interaction in the affected communities, including social access and how they will be affected by the project;
- iv. Analysis of potential displacement of communal assets including public infrastructure and social services that will be affected;

Task 5: An update of Valuation of and Compensation for Losses

Review and update the valuation of losses to determine replacement cost; and a description of the proposed types and levels of compensation under local law and such supplementary measures as are necessary to achieve replacement cost for lost assets. When reviewing the system for compensation, the following should be verified and completed:

- i. Identification and preparation of an inventory of impacted assets and livelihoods for each household whether land owner licensee, tenant, or illegal occupant, classified by type (female headed, male headed, child headed) and indicating gender (number of males and females) per household.
- ii. Established compensation criteria and strategies;
- iii. Definition of the methodology to be used in valuing losses, to determine their replacement cost; and a description of the proposed types and levels of compensation under Government of Malawi regulations and such supplementary measures as are necessary to achieve replacement cost for lost assets;
- iv. Verify valuation of all land affected both within the ROW and assets including structures, properties, trees, crops and livelihoods affected by the project (disaggregated data) in order to provide the basis for compensation/resettlements; to be acquired and livelihoods lost;
- v. Specify procedures for compensation payment, paying attention to gender relations, power and control;

- vi. Ensure provision for assistance to vulnerable groups – specify who are vulnerable, weighting and ranking of PAPs depending on vulnerability and the type of assistance;
- vii. Review and develop effective and sustainable livelihood restoration and enhancement measures of PAPs especially the informal traders;

Task 6: Determine Eligibility; Propose Resettlement Measures and Entitlement Matrix

Review and update the definition of displaced persons, criteria for determining their eligibility for compensation and other resettlement assistance. Determine the cut-off date for eligibility for compensation and a means for making this information (on cut-off date) reach the wider public. Review and update an entitlement matrix, listing all likely effects, both permanent and temporary land acquisition and explaining the reasoning behind the entitlement as proposed in the matrix providing a description of the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons including vulnerable populations. The update on entitlement matrix should include update of the following:

- i. All categories of affected people, including property owners, land rights holders, tenants, squatters etc.;
- ii. All types of loss associated with each category, including loss of physical assets; loss of access to physical assets; loss of wages etc.; and
- iii. All types of compensation and assistance to which each category is entitled, including compensation for or replacement of land and natural resources, compensation for structures, assets, wages etc. In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preferences of the displaced persons and prepared in consultation with them;

Task 7: Grievance Redress Procedures

Review and update an appropriate grievance redress mechanism that is aligned to the existing Grievance mechanism that has been instituted at project level to ensure affordable and accessible procedures for third-party settlement of disputes arising from resettlement. The different forms of receiving complaints and stages of going through

the process should be clearly described in a flowchart. Attach to this RAP the appropriate documentation including grievance registration and resolution forms to be used as defined in existing Grievance mechanism that has been instituted at project level.

Task 8: Institutional Arrangements

Review and update an organizational framework for implementing resettlement, including identification of agencies responsible for delivery of resettlement measures/activities and provision of services; This section should spell out the actual process for delivering the entitlements including the roles for the different agencies and reporting formats (assets inventories management, providing compensation, undertaking relocation work, responsibility for income restoration, supervision, management and monitoring the implementation of land acquisition and resettlement etc.);

Review and update the arrangements to ensure appropriate coordination between agencies and jurisdictions involved in implementation; analyze the institutional capacities, identify gaps and recommend an institutional strengthening strategy and measures (including technical assistance) needed to strengthen the implementing agencies' capacity to design and carry out resettlement activities;

Task 9: Measures for Monitoring and Evaluation

Review and update the arrangements for internal monitoring of resettlement activities by the implementing agency, supplemented by independent external monitoring as considered appropriate by the lenders; to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities and means of verification; propose current and participatory methodologies for the involvement of the displaced persons in the monitoring process;

Task 10: Prepare an Implementation Schedule

Review and update an implementation schedule and ensure that all resettlement activities from the review of the RAP through implementation including timelines for

the achievement of expected benefits to potential PAPs and termination of the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project. The RAP shall in addition to the implementation schedule identify potential risks that could impede the smooth implementation of the resettlement actions and suggest plausible mitigation measures to serve as a guide to the agency teams that will be working on implementation.

Task 11: Prepare Resettlement Cost Estimates and RAP Budget

Review and Update the costs of the resettlement process and total budget for the ARAP in table format showing itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement.

3. Coordination

The Consultant will coordinate with the Roads Authority (RA), the Ministry of Transport and Public Works, and the African Development Bank (AfDB). The client will facilitate initial contacts with all relevant parties and should be invited to all subsequent meetings with all relevant stakeholders. It is anticipated that the Ministry and Roads Authority will assist the consultants in identifying appropriate permit requirements. Coordination with the client's engineering team is extremely important to ensure that the environmental and social impacts and risks are well taken into consideration. This coordination is also necessary to ensure that all work streams are being efficiently done in parallel that is RAP and ESIA update.

Schedule of the Study and Reports

- **The assignment is expected to be completed within two (2) months (8 weeks).**
- **The Consultant will submit to the Client:**
 - (a) **Inception Report:** to be provided after the desktop review, describing the project site to be assessed, a detailed work plan outlining the schedule of field work within three (3) weeks of commencement.

- (b) **Interim Report:** to be provided within six (6) weeks of commencement. This shall include the updated RAP report.
- (c) **Draft Final Report:** draft final report to be provided within eight (8) weeks for review by the AfDB, the client and national authorities. All comments provided shall be included in the revision.

Facilities to be Provided by the Client

The Client will provide the following facilities:

- a) All previous Resettlement Action Plans (RAPs)
- b) Desktop map of the existent project site
- c) Access to relevant information to the extent of its availability.
- d) Access to the site belonging to the Clients as may be necessary.

Conduct of Work

The consultant/s will be expected to be fluent in English and be able to work closely with the clients' staff and other third parties relevant to the assessment. All documentation shall be in English and work is expected to be completed within Eight (8) weeks of signature.

4. Consultant Profile:

Consultant's profile: This assignment is expected to require around one and half staff/months of key staff and to be delivered over two months' period. It is expected that the Consultant would establish a strong core team of specialists. It is envisaged that an experienced social specialist would serve as the Project Team Leader. The Consultant should complement the skills of the core team with other social, environmental, technical, and institutional specialists with experience in AfDB funded projects. Ideally, the social specialists will have previous experience working with the African Development Bank's social safeguards requirements and prior experience in developing RAP and social safeguards instruments.

The team is expected to provide pragmatic and insightful planning to complete the above scope of work. The Consultant shall propose and justify the range of disciplines to be included in the core Project team and the complementary skills of other short-term specialists. The inputs of all specialists shall be clearly indicated as it is anticipated that most of the work program would be carried out by individuals highly experienced in their professional fields and aligned with the tasks assigned.

Primary skills and specialties of the team are suggested below:

- a. **ESIA Team Leader:** He/she shall have as a minimum a Masters in Environmental Sciences or Masters in any related natural science degree from a recognised university with a minimum of 5 years proven experience in conducting similar assignments and a minimum of five projects as an Environmental specialist including Bank funded projects.
- b. **Social Expert:** He/she shall have as a minimum Masters in Social Sciences or Gender Studies from a recognized university with a minimum of 5 years proven experience in conducting similar assignments and a minimum of three projects as a Social Specialist including Bank funded projects.
- c. **Land valuer:** He/she shall have as a minimum BSC in land valuation or surveying from a recognized university with a minimum of 5 years proven experience in conducting similar assignments and a minimum of three projects as a land valuer specialist including Bank funded projects.

The team shall include specialists who are highly familiar with specifying detailed mitigation measures, focused training programs, and structured monitoring programs. Also, the Consultant could include other specialists.

The Consultant shall name individuals to participate in specified roles within the Project Team and provide full curricula vitae and any other information considered relevant by the Consultant. The Consultant shall name the Project Leader, and the other core team members and key short-term specialists and provide an assurance that all members of the proposed team will be made available as specified in the proposal, if the Consultant is named. The team members should have experience in resettlement issues of large-scale infrastructure projects in Africa and must have familiarity with the African Development Bank requirements and guidelines. The Consultant should have experience in social and environmental studies and be fully familiar with the African Development Bank Safeguard policies, as well as other related guidelines and procedures.

ANNEX 10: VALUATION METHODOLOGY

BASIS OF VALUATION METHODS

The bases of valuation of assets in this project are the local laws and policies and the African Development Bank (AfDB)/World Bank Involuntary Resettlement policies.

Local Provisions: There are a number of legal provisions in Malawi which govern compensations in the event that one's assets are affected.

- Section 28 of the Constitution of Malawi provides that every person shall be able to acquire property and that having acquired that property, no person shall be arbitrarily deprived of the property. Section 44 (4) further states that expropriation of property shall be permissible only when done for public utility and only when there has been adequate notification and appropriate compensation, provided that there shall always be a right to appeal to a court of law.
- Section 14 of the Land Act 2016 provides that "any person who by reason of any acquisition made under section 13 (1) or Sections (2) and (3)), suffers any disturbance of or loss or damage to any interest which he may have or immediately prior to the occurrence of any of the events referred to in this section, may have had in such land shall be paid such compensation for such disturbance, loss or damage as is reasonable.

Additionally, the Land Acquisition and Compensation Act (2016) Sections 9 to 11 provides the procedure for the assessment of appropriate compensation and the grounds for the same.

The World Bank Involuntary Resettlement Policy specifically requires that compensation should be done on full replacement basis without depreciation of the affected asset and the value of the salvage materials are not to be considered, nor is the value of the benefits derived from the Project subtracted from the gross value of the assets.

African Development Bank Operational Safeguard 2 (OS2) for involuntary resettlement/land acquisition, displacement and compensation of persons ensure that displaced people receive significant resettlement assistance under the project, so that their standards of living, income earning capacity, production levels and overall means of livelihood are improved beyond pre-project levels. Compensation items include i) value of the land; ii) value of un-exhausted improvements (dwelling house, other house structures, trees, crops, hedges/fences and other properties). Compensation is effected for any loss of interest on land and includes various kinds of allowances – disturbance, transport, accommodation and loss of profit.

The IVSC (2011) defines Market Value as “the estimated amount for which a property should exchange on the date of valuation, between a willing buyer and a willing seller, in an arm’s- length transaction after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion.”

The chapter describes the valuation approach and methodology used in the valuation of Project affected assets.

Valuation methods used

Valuation for loss of structures: Different types of structures with different finishing were surveyed. The Valuer conducted market survey to determine the current replacement costs of structures affected. This resulted in matching several unit costs to the types of structures of similar construction, to determine the gross replacement costs of the PAPs structures along the road. Government rates for cost of buildings depending on the type of the structure range from MK3, 000 – MK70, 000. This generally is in agreement with resettlement measures required by the AfDB OS 2 which recommends compensation at full replacement value (not depreciated). In this RAP, compensation will be full replacement value.

Valuation for loss of business: The normal method for valuation of business is by using the profit method. This method requires that financial records be inspected for the past 3 to 5 years and a market multiplier be used to arrive at the value for the business.

However, since the area is rural and the keeping of records is a challenge to many business owners. Hence, the use of the profit method would not be of help as there will be lack of evidence. Therefore, Replacement cost of the structure and allowances for the profit loss have been proposed. Profit losses are based on the type of business and projected profit levels. An allowance for loss of profit per month (between 1-3 months by type of structure and nature of business): An average amount of **MK 60,000.00 and MK 150,000.00** was used in the valuation to cover losses in profit and inconveniences of transition. This is regarded as an opportunity cost compensation until the income is restored in the new place.

Disturbance allowance: The National Laws require that disturbance allowance should be paid to those affected in involuntary displacements (physically or otherwise). Therefore, a percentage of total compensable value has to be decided and applied accordingly. The principle is that monetary compensation has to be payable to reimburse the claimant for 'disturbance' or any other matter not directly based on the loss considered above. Therefore, disturbance allowance is the sum added to the property value (Gross replacement cost) of properties compulsorily acquired. The approved rate for disturbance allowance is 20 percent of the loss value.

Shifting allowance: This would be applicable to those PAPs who are required to relocate their structures from their current location due to loss of structures in the road reserve. The percentage adopted was the Reserve Bank of Malawi lending rate. From data obtained the rate used was at 12% at the date of valuation. Therefore, the obtained total property value was multiplied by 12% to obtain the shifting allowance

Vulnerability Allowance: The African Development Bank defines vulnerable groups as distinct groups of people who might suffer disproportionately from resettlement effects. Some World Bank documents define vulnerable groups as people who lack capacity to cope with uncertainty and risks and are often characterised by low levels of assets and at risk of chronic poverty e.g. widows, orphans, disabled and chronically ill. As required by the World Bank and the African Development Bank, special attention has been given to the vulnerable PAPs who might be less capable of coping with the Project induced

impacts. Therefore, a top-up allowance of 12%, on the base compensation amount payable, is proposed as “additional financial assistance”.

Loss of trees: For loss of trees along the road reserve, the Government Forestry Gazette of 2010 offered a basis for calculation of the values. It is realised that these rates are old but they cannot be changed until the law is revised.

Loss of fruit trees: In the construction of rates for fruit trees, it was recognized that most of these fruits are not only for consumption but also for commercial purposes. In practice, to find the rates for fruit trees, consideration is given to the average market price per kilogram of the fruit, the average yield per tree per year, expected productive lifespan and the number of fruit trees being considered. All these variables are multiplied together and to the product is added the average establishment (planting and caring) costs, to arrive at a final commercial value of the fruit. This approach is used by almost all institutions in Malawi for fruit tree compensation purposes.

Calculation of total compensation figure: Property replacement cost (calculated differently for houses, structures and trees) + disturbance allowance + shifting allowance + disturbance allowance (+ loss of profit where applicable) and Vulnerability allowance where applicable.

Annex 11: Team of Experts

Name	Key Qualification	Key Role
Tommy Wakana Kamanga (Team Leader)	Master of Science in Forest and Environmental Management – Pending Master of Science in Global Sanitation. Bachelor's Degree in Environmental Management.	ESIA Expert
Lwana Palwendo Kamanga	Master of Management in Public Management. Bachelor of Social Science (Economics, Sociology),	Social Expert
Temwa Bingiza Gondwe	BSc Land Valuation	Valuer

ANNEX 12: PAP MAPS

Refer to the attached Maps