PREPARATION OF FEASIBILITY STUDIES, DETAILED ENGINEERING DESIGNS AND TENDER DOCUMENTS FOR THE 234 KM KIA TURN-OFF TO MZIMBA TURN-OFF SECTION OF THE M1 IN MALAWI

MAI3293 RESETTLEMENT ACTION PLAN

AUGUST 2019

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Acronyms / Abbreviations

AC Asphalt Concrete

AfDB African Development Bank
ADCs Area Development Committee

BoQ Bill of Quantities
CBR Crude Birth Rate
CDR Crude Death Rate

COMESA Common Market for East and Southern Africa

DC District Commissioner

DEC District Executive Committee
DCC District Consultative Committees

DP Displaced Person(s)

EAD Environment Affairs Department
EMP Environmental Management Plan

ESCOM Electricity Supply Commission of Malawi ESIA Environmental and Social Impact Assessment

EIB European Investment Bank FGD Focus Group Discussions

GIS Geographic Information Systems

GoM Government of Malawi

HH Household

HIV Human Immuno Deficiency Virus
KIA Kamuzu International Airport

MDHS Malawi Demographic and Health Survey

MoAWD Ministry of Agriculture and Water Development

MoH Ministry of Health

MoLMD Ministry of Labour and Manpower Development

MLGCD Ministry of Local Government and Community Development

NAC National Aids Commission

NGO Non-Governmental Organisation

NMT Non-motorised Traffic
NSO National Statistical Office

OP 4.12 Operational Policy (World Bank) 4.12

PAP Project Affected Person

RA Roads Authority

RFA Roads Fund Administration RAP Resettlement Action Plan

RoW Right of Way

RWG Resettlement Working Group

SADC Southern Africa Development Community

STIs Sexually Transmitted Infections

TA Traditional Authority
TOR Terms of Reference
VC Village Committee

Definitions

Unless the context dictates otherwise, the following terms shall have the following meanings:

Affected person orhousehold Person or household affected by project-related changes in the use of land, water or other natural resources.

AssetsAll properties, including resources, income earning opportunities or livelihood means for which compensation is due.

Assets inventoryAnassembly of specified individual, communal, institutional and public assets (fixed properties) as determined or collected at a certain point in time using specific aerial photos, mapping, field survey, land survey, etc., for which assets register will be developed and compensation payments processed.

Assets register A compiled record of affected assets and ownership as adjudicated and valued, and ready to be used for compensation discharge processing. The information may also be stored in the computerized database for easy manipulation, long term tracking of compensation liability discharge, and for settlement of disputes.

Business or commercial property Licensed permanent buildings or structure, premises, facility or asset used primarily for the purposes of business activity.

Census means a field survey carried out to identify and determined the number of Project Affected Persons (PAP) or Displaced Persons in accordance with procedures, satisfactory to the Ministry, including criteria for eligibility for compensation, resettlement and other measures, emanating from consultations with affected communities and the local chiefs.

Compensation

Direct replacement or payment in cash or in kind for an asset, resource or income that is acquired or affected by the Project at the replacement time.

Cash or payment in kind to which those affected by the Project are entitled to, as decreed by state regulations or laws in order to replace the lost asset, resource or income.

Replacement of property/assets with in-kind or its monetary equivalent, or as a payment for loss of usage rights or income from annual production in the case of arable land, or income from any other affected sources.

Compensation Principles Any RAP should have principles that will be adhered to during its implementation. For European Investment Bank (EIB)-funded projects, it is expected that these principles should at the very least be based on the safeguards set by the World Bank OP 4.12.

Compensation register A complete list of all the affected together with their compensation entitlements as derived from the Assets Register.

Communal resources /assets Land-based assets communally owned and accessed in a regulated manner by community members, such as pasture-land, medicinal plants, valuable grasses, wild vegetables, river sand, *etc*.

Culture shared beliefs, customs practices, and social behaviour of a particular group.

Cut-off date Date of completion of the census and asset inventory of persons affected by a project. Persons occupying the project area after the cut-off date are not eligible for compensation or resettlement assistance.

Development comprises provision of infrastructure, facilities and amenities in the affected area as a foundation upon which the affected community members can launch their livelihoods restoration activities. Development may be embodied in the action plan of the Project.

Displacement The compulsory requirement for an asset to move out of the way or be destroyed by Project activity or impact, hence triggering the need for compensation including resettlement or relocation in the cases of homesteads, premises and such facilities, or where the means of livelihoods is affected.

DwellingA building (house) or group of buildings within a residential site, used for human habitation.

Eligibility The criteria for qualification to receive benefits under a resettlement programme.

Entitlement Range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation that are due to affected people, depending on the nature of their losses, to restore their economic and social base.

Expropriation Government's sovereign action in taking property or modifying property rights.

Garden means land forming part of a homestead.

Grievance An issue, concern, problem, or claim (perceived or actual) that an individual or community group wants a Contractor to address and resolve.

Head of household A person in the family who generally runs the affairs of the household and is regarded by other members as the main decision-maker.

HomesteadA building (house) or group of buildings within a residential site, inclusive of any other associated structures and facilities, occupied by a household as a home, otherwise same as dwelling.

Host population Community residing in or near the area to which affected people are to be relocated.

Household All members of a family, whether related or not, operating as a single economic unit and living together in a homestead.

Housing Displacement Allowancemeans a payment which a physically relocating household receives to cover expenses incidental to the change of residence above and beyond compensation for lost or damaged assets.

InfrastructureAccess roads/streets, water supply, sanitation, power supply lines, *etc.* provided in an area to facilitate physical and economic development. Social services facilities such as schools, police stations, health centres, other community and social facilities serving the general area also form social part of area infrastructure.

Income restoration Re-establishing the income sources and livelihoods of affected people.

Incomplete structureA building whose construction had not been completed at the time of assets adjudication exercise, and had to be valued as such for compensation purposes.

Informal trader/businessSmall informal sector outlet usually located within the busy road reserves or public land adjacent to busy areas such as bus-stops and busy road junction areas. The owner of such informal sector outlet or small business is called 'squatter' if the location has no approval of the local authority, but in most cases, such tenures are informally allowed, and compensation will have to take care of its displacement so long as an informal business existed prior to the cut-off date.

Involuntary Resettlement Necessity for people affected by a development project to relocate and to rebuild their lives, incomes and asset bases elsewhere. Resettlement is involuntary when it occurs without the informed consent of the displaced or if they give their consent without having the power to refuse resettlement.

Land refers to agricultural and non-agricultural land and any structures thereon whether temporary or permanent and which may be destroyed / required by / for the Project.

Land acquisition The taking of or alienation of land, buildings or other assets thereon for purposes of the Project.

Livelihoods Households' means with which to survive and thrive in their existing or new localities.

LocalityA place which shares common resources and or services under one or more chiefs.

OP 4.12 World Bank Operational Policy (OP) on Involuntary Resettlement, embodying the basic principles and procedures that underlie approach to involuntary resettlement associated with its investment Programmes.

OrphanA child up to 18 (eighteen) years of age whose parents are both dead.

Outbuildings Stand-alone structures associated with the homestead, business or facility premises, which the assets adjudication exercise count and value separately for compensation purposes.

Project-Affected Person (PAP)Any person (individual, household, public body, etc.) whose fixed or movable assets, or land and related resources, or income source, are permanently or temporarily lost to or affected by the Project, and therefore are entitled to some form of compensation.

Physical DisplacementLoss of shelter and/or assets caused by acquisition of related land by the Project and hence triggering resettlement or relocation.

RelocationRemoval of affected household, business, facilities, etc. from present affected location to a new one within the same locality.

Replacement Re-building or re-establishing the affected asset or facility with a new one in-situ or in a new location.

Replacement costThe rate of compensation for lost assets calculated at full replacement cost, that is, the market value of the assets plus transaction costs. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the Project deducted from the valuation of an affected asset.

ResettlementThe entire process of relocation and rehabilitation or livelihoods restoration resulting from Project-related activities and effects. It also covers all non-displaced persons experiencing land acquisition and/or negative impacts on assets and income.

Resettlement Action Plan (RAP) A time-bound action plan, with budget, setting out resettlement strategy, objectives, entitlement, actions, responsibilities, and monitoring and evaluation measures. The RAP is developed following a process of consultation with affected people, undertaken before key resettlement decisions are made, to build their capacity to deal with resettlement.

Resettlement Assistance means the measures to ensure that Displaced Persons who may require to be physically relocated are provided with assistance during relocation, such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement. The assistance further covers non-moving affected persons with respect to rehabilitation and livelihoods restoration measures meant to re-establish income-sustaining activities.

Resettlement Effect Loss of physical and non-physical assets, including homes, communities, productive land, income-earning assets and sources, subsistence, resources, cultural sites, social structures, networks and ties, cultural identity, and mutual help mechanisms.

Residential SiteA piece of land allocated or leased for the purpose of residence.

Stakeholders Any and all individuals, groups, organizations, and institutions interested in and potentially affected by a Project or having the ability to influence a Project.

StructureA building of various shapes, forms and types of materials meant for human habitation. It extends to other constructed objects or facilities also meant for human activity purposes.

Technical ValuationThe carrying out of valuation exercise by professionally qualified and licensed valuator, whether from private or public sectors.

TenantA person who rents somebody's property for residence or other uses. It also includes a person who has a long term lease with the affected site or property owner which has allowed him/her to invest in the construction of own structures. These structures would then be valued and compensated for separately from those of the site owner.

TreesStemmed woody plants of a size sufficient to make them useful for practical purposes such as fencing posts, construction timber or fuel, fruit bearing, *etc*.

Useful GrassesThose which have a practical use, apart from providing fodder for livestock, such as for construction, handicrafts, *etc*.

Valuation Calculation of the cash value of the affected asset, taking account of its market value and/or full replacement costs.

Voluntary ResettlementThe free choice by a PAP to be compensated for any asset that may be required in support of the Project activity, e.g. if a Contractor requires land for the purposes of a

laydown area, the Contractor has to compensate the affected party and the affected party has a choice (voluntary) whether to accept the compensation or not.

Vulnerable Persons Persons who by virtue of gender, age, physical or mental disability, economic disadvantage, etc. may be more adversely affected by the Project, especially the resettlement aspect, than others, and who may be limited in their ability to claim or take advantage of assistance, benefits and opportunities availed by the Project.

E1. EXECUTIVE SUMMARY

Introduction

The Government of Malawi, through the Roads Authority (RA) intends to rehabilitate and upgrade a section of the M1 national road starting from the Kamuzu International Airport (KIA) turn-off to the Mzimba over a distance of 234 km. The Roads Authority with funding from COMESA awarded Roughton International Ltd (United Kingdom) in association with Wataya Consulting Engineers Ltd (Malawi) and African Economic Group (Malawi) the contract to conductthe Feasibility Study and Detailed Engineering Design of the 234 km road from the KIA turn-off to Mzimba turn-off.

Infrastructure development, such as the rehabilitation and upgrade of the M1 road shall invariably require the involuntary acquisition of land. Such acquisition can adversely affect the wellbeing of the people whose assets are acquired, as well as the communities in which they live, often giving rise to severe social and economic risks. As the proposed road upgrade will result in the economic and involuntarily displacement of stakeholders, a Resettlement Action Plan (RAP), this report, has been developed. The RAP is part of the Feasibility Study and Detailed Engineering Design and is designed to meet the legal requirements of the GoM and follows the Word Bank Operational Policy (OP) 4.12 requirements.

Rationale for the project

The M1 is the backbone of Malawi's road network and it facilitates regional trade and tourism with Mozambique and with other neighbouring countries such as Zambia and Tanzania. The upgrade will provide national benefits as it is a major route from Lilongwe northwards and carries significant local traffic serving district administrative centres and trading centres along its route.

Various forms of traffic make use of the project road including heavy and light duty goods vehicles, buses, pick-ups, mini-buses, passenger cars and non-motorised traffic (NMT), mainly bicycles and pedestrians. Animal drawn carts also use the road. The cyclists and pedestrians must share the road with fast moving vehicles because the road does not have sealed shoulders for most of its length. This results in dangerous situations, which will be alleviated through the proposed rehabilitation and upgrading of the M1 Road. The upgrading of the proposed road is aimed at providing a reliable and durable bituminous road and concrete deck bridges, which will enhance the usage of the road network.

Scope and Objectives of the RAP

The scope of the RAP is based on the terms of reference (ToR) included as Appendix A. The RAP outlines that land that is to be acquired and indicates why resettlement is necessary. The RAP further clarifies the principles for social impact mitigation with regards to compensation for loss of property, livelihood and relocation or resettlement of PAPs.

The key resettlement aims and objectives of this RAP are to:

- Resettle as few people as possible consistent with the requirements of the Project;
- Ensure that all PAPs¹ will not be worse off or impoverished following resettlement;
- Raise awareness of the Project and its consequences amongst the general public and particularly among those people who will be directly affected by the Project;

¹ All persons affected by resettlement are collectively referred to as 'Project affected persons' in this RAP. This term is synonymous with 'displaced persons'. All PAPs, including those who have no recognisable legal right or claim to the land they are occupying, are eligible for compensation or other assistance commensurate with the nature and extent of the impact involved.

- Set out strategies to mitigate against adverse effects suffered by the PAPs, including provision of channels and platforms for negotiations;
- Assess the potential extent of involuntary resettlement relating to the Project and identify the
 potential impacts of such resettlement;
- Identify and quantify different categories of PAPs who will require some form of assistance, compensation, rehabilitation or relocation;
- Provide guidelines to stakeholders participating in the mitigation of adverse social impacts of the project; and
- Estimate the costs necessary for resettlement and compensation.

Project Description and Activities

The existing road conditions were assessed by the Project Engineers to determine the necessary upgrade and rehabilitation measures and to inform the preliminary design. Based on the prevalence of the defects and traffic volumes, the Project road has been divided into three sections (see Table 1):

Section 1 runs from KIA to Kasungu (102 km long);

Section 2 runs from Kasungu to Jenda (83 km long); and

Section 3 runs from Jenda to the Mzimba turn-off (49 km long).

The investigations undertaken by the Project Engineers found that in general, the paved width is too narrow to safely accommodate the mix of traffic using the road, particularly between the KIA turn-off and Kasungu (Section 1). Further, it was found that sections of the road, particularly in Section 1, have reached the end of their design life and require rehabilitation. It is proposed that the carriageway be widened and the shoulders sealed. The existing road has a number of potholes and cracks have developed in many places making passage of vehicles extremely difficult. Current efforts by the RA to maintain the road surface by carrying out routine maintenance in the form of patching, reconstruction of washed away sections and drainage improvement have proved ineffective and costly.

The proposed Project will upgrade the existing road through strengthening of pavement structure, widening and surfacing the main carriage way. The horizontal road alignment will remain mainly unchanged. The design speed of 100 km/h was applied throughout the horizontal alignment except for in the trading centres where the road design speed is 60 km/h.Traffic calming measures are recommended in the trading centres.

Works proposed in the main trading centres include widening of the road to 11 m surfaced width, use of rumble strips, speed humps and centre islands; raised pedestrian walkways; concrete-lined side drains; and bus stops and truck lay-by's. All bridges will need to be widened to accommodate the proposed wider cross-section of the road and ensure safe passage of NMT. Pedestrian access and safety will be improved by providing kerbs between the carriageway and the shoulder on the bridges that are in trading centres. Other ancillary upgrade activities include replacing road signs, upgrading safety barriers and cleaning culverts and side drains.

Road construction activities will be implemented under four major phases, *i.e.* planning, construction, demobilization, and operation and maintenance phases. Activities undertaken during the planning phase (current phase) included surveying the road, identification of borrow pits, geometric design of the road, earthworks design, bridge and culvert designs, road pavement design, feasibility studies including economic analysis, ESIA and RAP preparation and budget calculations.

Activities under construction phase (next phase) shall include site establishment and mobilization including construction of camps, construction of diversions, site clearance, maintenance of bridges and culverts, construction of earthworks, construction of pavement layers (gravel and crushed stone materials), asphalt surfacing, construction of ancillary works such as bus bays, marker and kilometre posts, guardrails, road marking and landscaping.

Activities under the demobilization phase will include making safe components of the Project, and this will include restoring the areas occupied by the Project to other beneficial uses. Activities during operation and maintenance phase of the road will include commissioning of the road for use.

The road upgrade and construction activities will require water and the extraction of source materials such as sand, stone and gravel. Where feasible, existing borrow pits and quarries will be used by the Contractor, rather than establishing new borrow pits and quarries. Rehabilitation and reinstatement measures for borrow pits and quarries are included in the Environmental Management Plan (EMP). The requirement for compensation to land owners for use of borrow pits is described in this RAP.

An inventory of the utilities that may be affected by road construction activities was carried out and the potential impacts on existing utilities was discussed with the relevant agencies.

The location of construction camps and laydown areas is not known at this time but it is likely that the Contractor will use road camps used during previous road construction and upgrade activities. Compensation will be paid to land-owners, as appropriate, by the Contractor. The compensation process will be overseen by the Engineer on behalf of the RA, relevant local government officials (Council) and Traditional Authorities.

There will be temporary disruptions to traffic and to the local population living along the route during the upgrade and establishment of side roads, drains, pavements, bus shelters, *etc.* Traffic will be managed during the construction phase through the establishment of diversion roads or by using half-width construction methods. The diversion roads will be approximately 7 m wide and mostly, if not all, within the 60 m road reserve / right of way (RoW). The Contractor will be required to compensate affected land-owners if diversion roads are located outside the 60 m road reserve.

The proposed design standards have taken into account the road environment, road conditions, traffic characteristics and driver behaviour with the aim of providing a road with an alignment and cross-section that are not only the best compromise between operational efficiency, safety and economy but also minimises any adverse environmental and social, including resettlement, and cultural impacts.

Approach and Methods

Observations of existing conditions undertaken during site visits along the route by the RAP team, both prior to and after finalisation of the detailed engineering design phase, have informed the approach and methods used to develop this RAP. The visits further provided an opportunity for the team to interact with community members and staff from relevant Ministries and Departments of four District Councils, *i.e.* Lilongwe, Dowa, Kasungu and Mzimba.Interviews were held with government authorities and local government officials. Meetings that included focus group discussions (FGD) were also held with communities along the route.

Information for this RAP was collected through a desktop review of primary and secondary data sources. Typical implementation approaches and processes used for road upgrade and rehabilitation works were reviewed. The site visits and the data obtained from the desktop study were used to inform the social baseline status in the project area.

The approach adopted for this RAP is based on the following principles:

- Principle 1: Resettlement must be avoided or minimised;
- Principle 2: Genuine consultation and participation must take place;
- Principle 3: A pre-resettlement socio-economic survey and database must be established;
- Principle 4: Assistance with relocation to be made available;
- Principle 5: A fair and equitable set of compensation options must be negotiated;
- Principle 6: Resettlement must take place in accordance with national legal requirements and international best practice;

- Principle 7: Vulnerable² social groups must be specifically provided for;
- Principle 8: Resettlement must be seen as an 'Upfront' Project cost;
- Principle 9: An independent monitoring and evaluation process must be in place once compensation has been effected; and
- Principle 10: A grievance procedure must be in place.

National Legislation and World Bank OP 4.12

In terms of the Environmental Management Act (EMA) of 1996, the scope and nature of works associated with the rehabilitation and upgrade of the M1 Road includes listed activities (Category 1 Project) and therefore an Environmental and Social Impact Assessment (ESIA) was undertaken for the Project. As the proposed road upgrade may result in economic and involuntarily displacement of stakeholders, a RAP (this report) has been prepared.

This RAP provides the contents of a typical resettlement plan and is intended to guide the RA during the implementation of this plan. The requirements of national legislation pertaining to resettlement is listed and the World Bank OP 4.12 requirements are outlined. The World Bank's OP 4.12 and national legislation and policies of the GoM have a number of common aspects in the management of resettlement. Firstly, all emphasise the need to minimise the extent of resettlement. Secondly, all require fair and adequate compensation be paid to PAPs. However, there some gaps which exists between the policies of the World Bank and those of the GoM and these relate primarily to entitlement to compensation based on land tenure status, timing of compensation and compensation payments, relocation and resettlement assistance, livelihood restoration and institution of a grievance redress mechanism.

Baseline Social Environment

The section of the M1 road to be rehabilitated is located in four of the 28 administrative districts, *i.e.* Lilongwe, Dowa, Kasungu and Mzimba. It is noted that the entire length of the M1 road is located within the gazetted road reserve space (in eachof the four districts that are traversed by the M1 road). Therefore, compensation matters and impacts that are typically related to customary land are not applicable. Trading centres have developed in a linear fashion along the M1 road and play an important role in terms of economic development. Rural households outside of the trading centres are typically scattered and are constructed of both clay bricks and thatch or of a plastered house and a zinc roof.

It is noted that resettlement impacts identified in this RAP are located predominantly within the road reserve in the urban trading centres. In the rural areas (areas between trading centres), the key issue relates to compensation of crops located within the road reserve. This matter will be addressed through timely notification to PAPs not to plant their crops in the road reserve once the commencement date for the project is known. PAPs who have been notified will not be eligible for compensation.

Subsistence agriculture in conjunction with an informal economy is the dominant livelihoodstrategy for local households and communities living along the M1 road. Subsistence agriculture is primarily aimed atproducing basic foods for households with any surplus food being sold at local markets. At aregional level the dominant crops include cassava, maize sweet potatoes, bananas, vegetables such as beans and tomatoes and other cash crops.

The M1 road carries significant local traffic serving the Lilongwe, Dowa, Kasungu and Mzimba District administrative centres and the trading centres along its route. The road provides for access to local

²Vulnerable groups are generally defined as those below the poverty line, the landless, the elderly, women and children, ethnic minorities, orphans and other disadvantaged persons.

economic growth points and enables the transportation of essential food, consumer goods and fuel. The road also serves productive farming areas along its length. The local population depend on the road to transport their crops to local markets, as well as to markets in the Lilongwe and the regional towns and villages in the project area.

The dead are buried in small graveyards, thirteen of which were noted along the M1 road. Where these graves are located within the 60 m road reserve, the Contractor will be instructed not to disturb them and they will be designated as 'no-go' areas.

Public Consultation

The stakeholder consultation process undertaken for the ESIA phase has initiated stakeholder consultation for this RAP. The RAP team aimed to achieve effective authority and community consultation through undertaking the activities relating to information exchange (promoting awareness-building of the Project and resettlement in the local communities); capacity building and education (informing affected people of their optionsand 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 a number of 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 Dowa, Kasungu and Mzimba Districts and community-level meetings were held in a number trading centres. Minutes were taken of the proceedings at each meeting.

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 and are summarised in the table below.

Issue	Forum Raised	Response
The community wanted to know if it was possible to access the legislations that talk about land issues since most of them were not aware about these laws.	MponelaTC meeting	The Acts are enacted by the National Assembly and printed by the Government Printers' Offices. They can be accessed from the DCs office. However the Ministry of Transport, through RA as custodian of the Public Roads Act has the responsibility to raise awareness about the contents of the Public Roads Act. RA has done that through awareness campaigns such as radio programmes.
PAPs should be compensated. Will theGoM be able to compensate the people appropriately as it is known that Government does not have money?	MadisiTC meeting Dowa District Council meeting	Government will compensate every affected person. PAPs will be appropriately compensated. The details of the PAPs will be listed in the project's RAP.
Will people whose property is affected by the project be compensated or not since they encroached into the road reserve?	Kasungu District Council meeting	People whose property will be affected by the Project will be compensated. The details of the affected people and their property will be included in the RAP prepared for this Project.

Issue	Forum Raised	Response
People whose land has been affected by gully formation due to the Contractor sourcing gravel must be compensated.	Mzimba District Council meeting	This recommendation will be incorporated in the RAP.
Until of late when the Road Reserve Boundaries marker posts were erected, local people were not aware of the exact boundary for the road reserve. Some people have established these settlements out of ignorance. What measures has the GoM put in place to ensure that no disputes arise when resettling people and relocating property outside the road reserve?	ChimwazaTC meeting	Government has already started considering them, as evidence by the conducting of this meeting to engage them in this process. A detailed RAP of how this will be done will be prepared and shared with them through the 'Public Disclosure'. This will be communicated to them via appropriate channels like their local leaders through the DC's office. The RAP will have a Grievance Resolution Procedure in place where grievances can be raised without any fear of recrimination.
The 60 m road reserve as stipulated by the law is large and as such it will affect a lot of properties especially along the trading centres. Is there any consideration for minimizing the number of properties to be affected in these areas?	ChimwazaTC meeting	The law provides for 36 m and 18 m in certain designated roads other than the M1. These may sometime be applied under critical circumstances, such as when the road passes through areas with high population densities such as cities and towns. This may be considered in trading centres with regard to circumstances at hand. Wherever road re-alignment is considered viable, it may also be applied.
We are of the view that Government tolerated people to settle on the road reserve so evicting them at this point when we have established our livelihoods will cause a lot of suffering.	ChimwazaTC meeting	Government is currently rectifying the problem by erecting beacons for the road reserve boundary. Government has also undertaken awareness campaigns to stop people from encroaching on the road reserve. The RAP that will be prepared will spell out mechanisms for livelihood restoration.
How will those that built their structures knowingly and unknowingly in front of a beacon be differentiated?	JendaTC meeting	With respect to the laws they are all wrong doers. However both will be compensated. Shortly Government will enforce regulations that prohibit settlement within road reserves.

Issue	Forum Raised	Response
Will those affected during construction due to operations of machinery be compensated?	JendaTC meeting	These will be considered, even if they are just cracks on houses. Contractors will be required to undertake dilapidation surveys prior to starting construction. If it is seen that construction activities damage structures, the Contractor will be required to compensate the affected party.
How will those that have farms near the road be considered?	JendaTC meeting	Those that have crops will be asked to reap/harvest their produce before construction starts. They will be warned not to plant within the road reserve. They will also be compensated by estimating the amount of crops in the field if the crop is lost.
How does Government intend to reduce arguments that arise due to compensation?	Jenda Trading Centre meeting	Government will follow a procedure that will involve taking full details and pictures of the owners as well as their structures. This will reduce disruptions in the overall Project implementation.
How will the estimates of items per house be calculated?	JendaTC meeting	A property evaluator will estimate and calculate all the costs per house depending on the current prices of the items.
Late compensation results in arguments about compensation. This issue needs to be taken into account and compensation must be implemented at an early stage.	JendaTC meeting	Recommendation noted and will be addressed in the RAP through the inclusion of a Grievance Redress Mechanism.
Is it possible to start construction before compensation is made?	JendaTC meeting	No. Funding for the road Project will only be released to the Government once all affected people have been compensated.
Lilongwe City Council should arrange for a place where the displaced people will be plying their businesses. In addition the place to be identified should be along the main road not behind the trading centre because they will lose their customers.	LumbadziTC meeting	This request made by the vendors has been noted. It will be communicated to relevant authorities and included in the RAP as one of the mitigation measures for loss of business by the vendors.

Issue	Forum Raised	Response
There is a tendency by District Council officials who tend to either pocket money for compensation or pay the PAPs less money than they are due. There is need to alert the District Commissioner for Mchinji about this malpractice.	LumbadziTC meeting	This observation will be communicated to the office of the District Commissioner during sensitization meeting that will be held on 11 July 2019. In addition the RAP will also make some recommendations regarding this issue. The Consultants further informed the meeting that it is the office of the DC only that is mandated to administer compensations. However, mechanisms can be put in place to ensure that this malpractice is stopped including the Grievance Redress Mechanism that is part of the RAP.
Will people be given notice before the demolition of their structures?	LumbadziTC meeting	Indeed people will be given notice before demolition of their structures. Firstly census of project affected people and their property will be made and people to be affected will be informed. A notice of about 6 months will be given to those people whose structure will be affected.
How will those that have properties in the road reserve be differentiated in-terms of establishment of structures before and after placing of beacons?	MadisiTC meeting	They will all be compensated. However, a time will come when a letter through the DCs office will entail the closing period when anyone who constructs in the road reserve will not be considered anymore. It is important to note that the law does not differentiate people on the basis of ignorance.
What is a period laps between receiving compensation and commencement of road construction	MadisiTC meeting	In most cases 6 months before construction is the time period given to compensate the people. However, it depends on the availability of funding and the time required to appoint a Contractor.
It was suggested that the same consultants conducting the meetings be present during relocation of properties to reduce misunderstandings.	MadisiTC meeting	The feedback will be submitted to the right authorities who will avoid misunderstandings. A grievance redress mechanism will be in place as part of the RAP.

Issue	Forum Raised	Response
Who is responsible for determining the value of the properties to be compensated? The owner or property evaluators?	MadisiTC meeting	Government registered property evaluators will be engaged for that purpose.
What will start between compensation and road construction?	MadisiTC meeting.	The people will first be compensated then the construction can take place. Donors require proof that the people were compensated before they provide funding for any given project.
Traditional leaders around the area to be consulted before construction begins so that they can sensitize their subjects especially those that will be affected by the drainage construction.	Dowa District Council meeting	Community leaders will be notified prior to construction commencing.
Traditional leaders in the area be consulted and engaged to reduce cases of vandalism of property.	Kasungu District Council meeting	The recommendation will be included in the RAP.
How will the offices of the Council be involved with the implementation of the project?	Mzimba District Council meeting	The office of the District Commissioner will be actively involved in the monitoring of the implementation of the project. This will be clear in the RAP. Council will be included as part of the RAP oversight structures.
The Council must be consulted on where the camp site of the contractor can be located and on the type of materials that will be used to build structures, as these can be later used as schools when the project is done.	Mzimba District Council meeting	The Council will be consulted regarding the location of the Contractor construction camp.
The Councillor for the area indicated that apart from holding such a meeting at Lumbadzi Trading Centre, it will be more effective if the is a public Notice in Radios and Television as such more people	LumbadziTC meeting	This recommendation has been taken and will be communicated to the RA.

Issue	Forum Raised	Response
will be informed about the development.		
Is there any joint coordination among the countries implementing the project when it comes to choosing the COMESA options? (Do nothing, period of 10 years or period of 20 years).	Mzimba District Council meeting	COMESA is the coordinator and Malawi is a member of COMESA. COMESA develops the terms of reference for all Consultants. The option selected will depend on the funds available. Different countries get funding from different donors.

Further consultation will be undertaken with PAPs, traditional leaders and the relevant District Commissioner(s) following the development and acceptance of this RAP by the RA.

Impacts, Land Acquisition and Extent of Resettlement

The extent of compensation is relatively limited owing to the principles of minimising resettlement activities applied by the Project Engineers. For example, the width of the road corridor has been reduced in urban areas such as trading centres. However, the Project will require acquisition of land, some of which is agricultural land (borrow pits, quarries and haul roads), homesteadsfora number of households that are located within the road reserve and small shops also located within the road reserve.

A census was undertaken of the PAPs whereby households, individuals, businesses and communities deemed to be entitled to or eligible for compensation were identified. During the census, an asset inventory was undertaken of all structures located within the 60m RoW that will need to be removed and or relocated as a result of the road upgrade and rehabilitation Project. The estimated extent of compensation required for assets that will be lost was subjected to an asset evaluation process that recognizes three main parameters, *i.e.*:

- Land to be acquired under the proposed Project (no land is to be acquired by the Developer);
- Structures falling within the road reserve (key parameter of relevance to this RAP); and
- Trees and crops falling within the road reserve. Trees have been identified and evaluated.

The value of crops in the road reserve that may be destroyed is not known as this is particular to the point at which impact is manifest. However it is unlikely that this aspect will be significant. Field owners will be notified not to plant crops in road reserve in advance of road construction activities and no compensation is envisaged for this parameter.

The information is summarised in a Valuation Database (Appendix B), which lists the affected people, the types of losses, assigned values, and the forms and amounts of compensatory actions that will be taken for each type.

The asset inventory indicated that while the Design Engineers have aimed to avoid displacement, the Project will impact on a number of households, business operators (both formal and informal), institutions; signboards and advertisements. Broad categories of losses, affected entities and the potential social and economic impacts resulting from these losses have been formulated and include loss of residences and associated structures, loss of trees (both commercial and indigenous); loss of business and community structures (mosques, walls, informal business structures and formal business structures) and archaeology and heritage losses (while no archaeological remains and structures of historical importance were identified within the road corridor during the ESIA, places of cultural heritage located within the road reserve were identified).

The key mitigation measure for land take includes the implementation of this RAP whereby PAPs are compensated for any losses experienced as a consequence of the road upgrade and rehabilitation Project. Further, no construction should commence until all land and property expropriation procedures have been completed, replacement land allocated, and cash compensation paid.

Eligibility and Compensation Entitlement

The PAPs 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. An entitlement matrix (Table 19) has been compiled that outlines the compensation criteria used to determine the extent of compensation that PAPs are entitled to.

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 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. The cut-off date has not yet been set. 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.

Valuation of Property for Compensation

Validation of the affected properties has been conducted based on the provisions in the legislation for consistency and accountability. The valuation of properties was done by the Ministry of Lands under the supervision of the RA. The valuation identified the cost of resettlement for each of the three road sections (see Table 1):

- In the section KIA to Kasungu (Section 1), it was seen that 1,049 PAPs are affected with a compensation value of Malawian Kwatcha (MK) 1,500,876,621.40.
- The section from Kasungu to Jenda(Section 2) affects 749 PAPs and will require compensation to the value of MK 597,850,546.00.
- The section from Jenda to Mzimba turn-off (Section 3) affects 126 PAPs and will require compensation to the value of MK 109,561,252.42.

The total compensation cost is MK 2,208,288,419.82 and this value includes an 18% disturbance allowance for assets/properties. The asset inventory information is included in Appendix B. The matrix lists the PAPs and identifies the land/structures and resources such as trees that will need to be acquired and compensated.

Payment of compensation is administered by the Roads Fund Administration (RFA) as soon as the RAP is approved for purposes of payment of compensation.

All the factors explained in the Public Roads Act will be considered in the validation / verification process. The assets to be verified included fruit trees,indigenous trees,houses,land and businesses (formal and informal). The valuation of physical structures was based on the following general criteria:

- Survey of physical structures (size, build, materials) and all its related structures and support services;
- Determine average replacement costs of different types of structures based on information on the cost, quantity, and type of materials used for construction, e.g. bricks, rafters, bundles of straw, doors;
- Costs for transportation and delivery of these items to acquired/ replacement land or building site; and
- Estimates of construction of new buildings including labour required.

The compensation package has been determined by a government valuator as derived from summation of the costs of affected land, buildings, trees and crops to which will be added a 18% mark-up to cater for involuntary acquisition. The addition of the mark-up to the calculated value will bring the value equal to a pre-payment value.

Grievance Redress Principles

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 principles:

- <u>Procedure-</u> The procedures to be followed in raising grievances will be discussed and agreed between the RA and the affected persons. All the institutions involved will provide their contact details to the people;
- <u>Full Disclosure</u>- Full disclosure of the implications and provisions of the displacement will made to the affected people;
- <u>Willingness</u> All parties will enter into the agreements willingly without any force from anyone and if no agreement is made further deliberations will be made;
- <u>Back and Forth Discussions</u>- Adequate time shall be given to the affected communities to discuss
 the matter amongst themselves with their traditional leaders. They will be allowed to do so for as
 long as they feel necessary without causing unwarranted delays in project implementation;
- <u>Recording for Proceedings</u>- 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
- <u>Court of Law</u>- 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.

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.

The grievance redress mechanism is designed to solve disputes as soon as possible, which will be in the interest of all parties concerned. 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.

Resettlement Planning, Schedules and Budget

Information in terms of resettlement planning, schedules, budget and responsibilities is provided. The overall strategy in terms of resettlement, likely phasingand means of compensation must be defined as outlined in this RAP. Further consideration will be needed in terms of construction of any resettlement structures, labour and other issues.

The timing for resettlement in terms of the physical resettlement, payment of any cash compensation and ensure it aligns with any civil engineering required by the Project must be defined. Typically the preparation of a RAP will run over more than six months.

The implementation schedule for the RAP has not yet been determined as the construction schedule depends on the availability of the required Project funds.

Institutional and Organizational Framework

Organisational structures and responsibilities must beclarified prior to resettlement. This includes all actions that must be adopted by relevantstakeholders including, amongst others, the proponent (RA), the relevant government departments (referred to as the GoM in this section) and the representative for a such as the RWG and Grievance Redress Committees (GRCs).

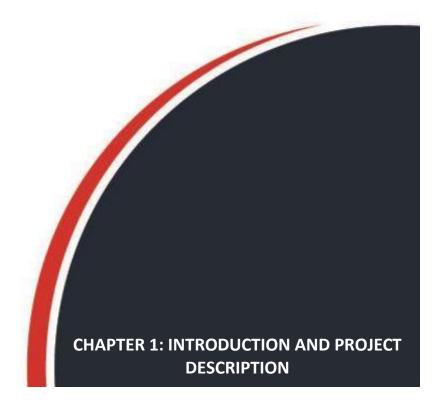
Monitoring and Evaluation

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 RAP have been achieved and the effectiveness of mitigation measures. 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 are usually grouped into the categories as spelt out in the RAP including: input indicators, output indicators, outcome indicators, impact indicator and performance indicators. This RAP sets out the performance monitoring, impact monitoring and qualitative monitoring requirements.

Conclusion and Recommendations

The Project's major disadvantage is the displacement and relocation of both people and businesses. However if this RAP is followed then the people displaced will suffer minimum inconvenience. This will be undertaken as part of the RAP:

- The institutions recommended for negotiations and RAP implementation should be set up as soon as approval of the project is given;
- The RAP should be modified in line with situations experienced when the actual resettlement begins. In particular the monitored indicators should be discussed at least quarterly so that appropriate measures and readjustments can be made; and
- Conduct awareness campaigns to restrain people from encroaching the road reserve.



CHAPTER 1. INTRODUCTION AND PROJECT DESCRIPTION

1.1 INTRODUCTION

1.1.1 Background and Rationale for Project

The Government of Malawi (GoM), through the Roads Authority (RA) with funds from the European Investment Bank (EIB), intends to rehabilitate and upgradea section of the M1 national road (Figure 1)starting from the Kamuzu International Airport (KIA) turn-off to the Mzimba turn-off over a distance of 234 km.

The M1 is the backbone of Malawi's road network and it facilitates regional trade and tourism with Mozambique and with other neighbouring countries such as Zambia and Tanzania. The M1 through Malawi offers the shortest import/export route to Dar es Salaam for Zambia's agriculturally important Eastern Province. The road thus forms an important link for the importation and exportation of strategic goods. Figure 1 shows the importance of this link with respect to the Main Corridors of the COMESA North South Corridor Network. Lilongwe is a strategic junction city as it joins the North South Corridor to the Nacala Road Corridor. The upgrade will provide national benefits as it is a major route from Lilongwe northwards and carries significant local traffic serving district administrative centres and trading centres along its route.

The Roads Authority (RA) with funding from COMESA awarded Roughton International Ltd (United Kingdom) in association with Wataya Consulting Engineers Ltd (Malawi) and African Economic Group (Malawi) the contract to conduct Feasibility Study and Detailed Engineering Design of the 234 km road from the KIA turn-off to Mzimba turn-off.

Infrastructure development, such as the rehabilitation and upgrade of the M1 road shall invariably require the involuntary acquisition of land. Such acquisition can adversely affect the wellbeing of the people whose assets are acquired, as well as the communities in which they live, often giving rise to severe social and economic risks. As the proposed road upgrade will result in the economic and involuntarily displacement of stakeholders, a Resettlement Action Plan (RAP), this report, has been developed. The RAP is part of the Feasibility Study and Detailed Engineering Design and is designed to meet the legal requirements of the GoM and follows International Best Practice in terms of resettlement, i.e. the World Bank OP 4.12 on Involuntary Resettlement.

The road upgrade and rehabilitation activities will be implemented in four phases, i.e. planning, construction, demobilization, and operation and maintenance phases. Activities undertaken during the planning phase (currentphase) include surveying the road, identification of borrow pits and quarries, geometric design of the road, earthworks design, bridge and culvert designs, road pavement design, feasibility studies, economic analysis, Environmental and Social Impact Assessment (ESIA) and RAP preparation and budget calculations.

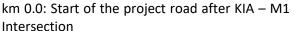
Activities under construction phase shall include mobilization of workforce; construction of camps; clearing of vegetation; excavation of borrow pits; removal and disposal of old bitumen and concrete; creation of impervious surfaces; transportation of equipment, materials and workforce; construction of diversions; construction of drainage structures; construction of bridges and culverts; construction of pavement layers (gravel and crushed stone materials); asphalt surfacing; construction of ancillary works such as bus bays, kilometre posts, guardrails, road marking and landscaping.

Activities under demobilization will include laying off a number of workers and restoring and rehabilitating areas occupied by the project. Activities during operation phase will include commissioning of the road for use.

1.1.2 Project Location

The project road runs north from the turn-off to KIA north of Lilongwe to the turn-off to the district centre of Mzimba(Plate 1 and Figure 1).



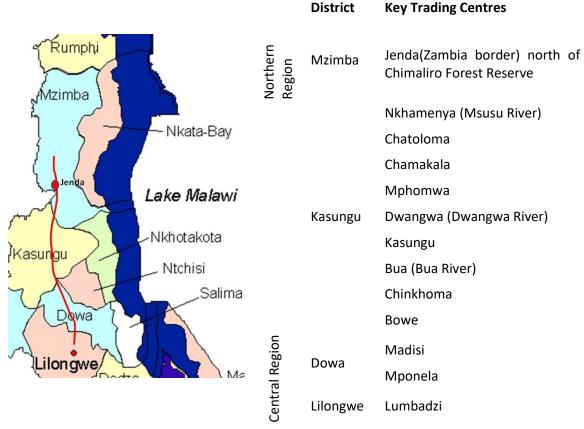




km 234: End of the project road- turnoff to Mzimba looking north.

Plate 1: Start and end of 234 km section of M1 National Road to be upgraded

The project road traverses four districts and benefits the populations in he following trading centres:



The project road is used by both motorised and non-motorised vehicles (NMV), particularly between Lilongwe and Kasungu where there are many trading centres and towns along the route. Between Lilongwe and the Kachinda turn-off to the S113, the road traverses mainly rolling to flat terrain with several river crossings including three high level bridges.

North of the Kachinda turn-off the terrain becomes hilly and the road passes through the Kahingina Forest Reserve before reaching Jenda(Figure 1). North of Jenda there are fewer trading centres and settlements and far fewer people were noted on the road relative to the area south of the Kachinda turn-off. The road passes through the Perekezi Forest Reserve before reaching the turn-off to Mzimba.

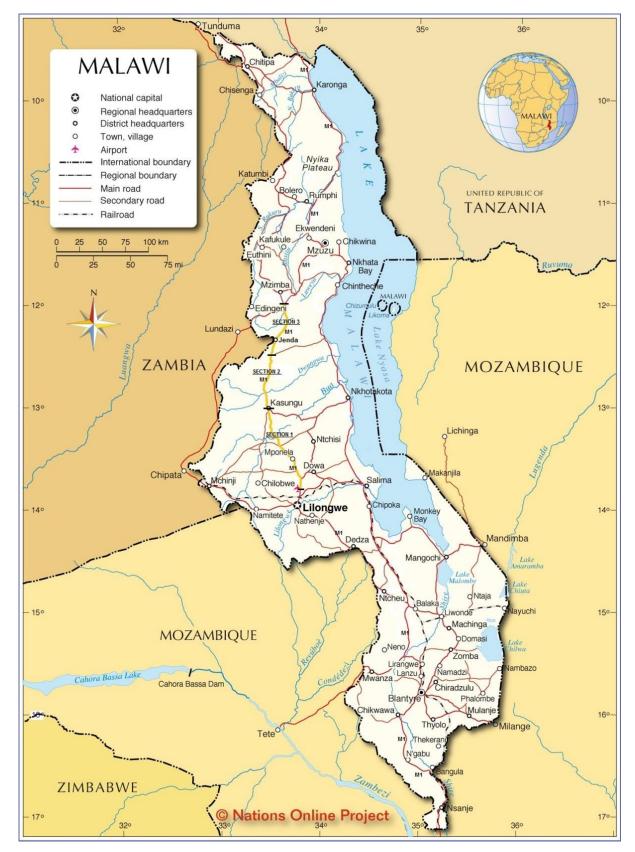


Figure 1: Location of the Project Road indicating three proposed sections (yellow line)

1.2 PROJECT PROPONENT AND CONSULTANT

Details of the project proponent are as follows:

Roughton International Ltd (United Kingdom) in association with Wataya Consulting Engineers Ltd (Malawi) and African Economic Group (Malawi) was awarded the Feasibility Study and Detailed Engineering Design project, which included undertaking the RAP component. Details of the Consultant are as follows:

1.3 SCOPE ANDOBJECTIVES OF RAP

This Project has the potential to displace or resettle people due to the need to physically resettle Project-affected persons (PAPs) so as to be able to upgrade and rehabilitate the M1 Road from the KIA turn-off to Mzimba turn-off. This will arguably lead to a loss of some resources and may disrupt livelihood patterns. This triggers international best practice safeguards for projects of this nature.

1.3.1 Scope of RAP

The scope of the RAP is as outlined in the request for proposal (RFP) included as Appendix A.This RAP clarifies the principles for social impact mitigation with regards to compensation for loss of property, livelihood and relocation or resettlement (of directly affected people). The operational objective of this RAP is to provide guidelines to stakeholders (including Developers or Investors) participating in the mitigation of adverse social impacts of the Project, to ensure that PAPs will not be impoverished by resettlement.

1.3.2 Aims and Objectives

The key resettlement aims and objectives of this RAP are to:

- Resettle as few people as possible consistent with the requirements of the Project;
- Ensure that all PAPs³ will not be worse off or impoverished following resettlement;
- Raise awareness of the Project and its consequences amongst the general public and particularly among those people who will be directly affected by the Project;

³ All persons affected by resettlement are collectively referred to as 'Project affected persons' in this RAP. This term is synonymous with 'displaced persons'. All PAPs, including those who have no recognisable legal right or claim to the land they are occupying, are eligible for compensation or other assistance commensurate with the nature and extent of the impact involved.

- Set out strategies to mitigate against adverse effects suffered by the PAPs, including provision of channels and platforms for negotiations;
- Assess the potential extent of involuntary resettlement relating to the Project and identify the potential impacts of such resettlement;
- Identify and quantify different categories of PAPs who will require some form of assistance, compensation, rehabilitation or relocation;
- Provide guidelines to stakeholders participating in the mitigation of adverse social impacts of the project; and
- Estimate the costs necessary for resettlement and compensation.

1.4 PRINCIPLES GOVERNING THE RAP

The core principle of resettlement is that no one defined as project-affected, should be worseoff after resettlement. International best practice goes further than this and stipulatesthat resettled people should be project beneficiaries. To ensure, however, that the core principle is borne in mind, the following are sub-principles that the RA will adopt with respect to the resettlement process:

Principle 1: Resettlement Must Be Avoided or Minimised

Action: To comply with the principle the RA will demonstrate that the proposedresettlement is both necessary and viable, and that its scope and extent cannot be lessened. Land acquisition including resettlement of people shall be avoided or at least minimised wherever feasible by exploring alternative project designs. In particular, acquisition of sites of spiritual or cultural/historical significance such as graves and graveyards shall be avoided. When unavoidable, the Project shall take all measures to minimize the impacts of physical and economic displacement of people arising from implementation of the Project. The final design has taken the location of trading centre infrastructure into account, in order to avoid all structures and exclude these from resettlement impact whereever possible.

Principle 2: Genuine Consultation and Participation Must Take Place

<u>Action:</u> Given its focus on resettlement, the primary concern of the resettlement planning willbe to take seriously the rights and interests of the displaced and 'to-be-resettled' people. Structures and procedures need to be put in place for this to occur, which will be through the formation of a local level consultative forum. This consultative body will be given official recognition within the RA implementing agencies institutional framework. Project boundaries should be made known to all interested and affected parties and shouldnot be changed without sufficient consultation and notice.

Principle 3: A pre-Resettlement Data Baseline Will Be Established

<u>Action:</u> To support the successful re-establishment of affected homesteads, the followingactivities will be undertaken prior to displacement or property acquisition:

- An inventory of landholdings and immovable/non-retrievable improvements (buildings and structures) to determine fair and reasonable levels of compensation or mitigation.
- A census detailing household composition and demography, and other relevant socioeconomiccharacteristics as appropriate. The asset inventories will be used to determine and negotiate entitlements, while the censusinformation is required to monitor homestead re-establishment. The information obtained from the inventories and census will be entered into a computerised database to facilitate resettlement planning, implementation and monitoring.

Principle 4: Assistance with Relocation to be made available

<u>Action:</u>The RA and or its agents will provide transport for affected households' assets from theimpacted homesteads to new locations, as required.

Principle 5: A Fair and Equitable Set of Compensation Options must be negotiated

Action: The RA and its agents will guarantee the provision of any necessary compensation forpeople who will be disturbed to make way for the road upgrade, or any other disturbances of residence and/or productive land associated with the Project in accordance with the Law and not below the rates as set out by law. Compensation will be according to set rates that are deemed fair and equitable to all parties. The possession of land for Project activities may take place only after compensation has been paid, or alternatively, if adequate guarantees of compensation have been made to the PAPs satisfaction. If the latter is chosen, compensation payments must not be delayed once resettlement has taken place. Compensation shall be limited to valuations made after the cut-off date.

Principle 6: Resettlement must take place in accordance with Legal Requirements and International Best Practice

<u>Action:</u> Resettlement and compensation of PAPs will be carried out in compliance withMalawian legislation and the requirements of the World Bank OP 4.12. All PAPs, including those who have no recognisable legal right or claim to the land they are occupying, are eligible for compensation or other assistance commensurate with the nature and extent of the impact involved.

Principle 7: Vulnerable⁴ Social Groups must be specifically provided for

<u>Action:</u> Special account of vulnerable groups will be taken in the consultation and planningprocesses, as well as in establishing grievance procedures, as appropriate. This will entail that RA specifically identifies vulnerable socialgroups in the pre-resettlement database and makes provision for them to be included inconsultative fora. Data derived from the pre-resettlement baseline survey will assist in a realdefinition of vulnerable households.

Principle 8: Resettlement must be seen as an 'Upfront' Project Cost

<u>Action:</u>RA will ensure that compensation costs, as well as those resettlement costs thatfall within their scope of commitment, are built into the overall project budget and are clearly defined as such. Experience across the world shows that unless resettlement is built in as an 'upfront' project cost, it tends to be under-budgeted, that money gets whittled away from the resettlement budget to 'more pressing' project needs, and that it tends to be seen asperipheral to the overall project.

Principle 9: An Independent Monitoring Procedure must be in place

<u>Action:</u> An independent team will monitor the implementation of the resettlementcomponents of the project. Monitoring will specifically take place via measurement against the pre-resettlement database.

Principle 10: A Grievance Procedure must be in place

<u>Action:</u> Grievance procedures will be organised in such a way that they are accessible to allaffected parties, with particular concern for the situation of vulnerable groupings. Theresettlement planning documents will spell out a grievance process. Any land conflicts shall be resolved in a transparent way and in a manner that is not coercive. Attempts shall be made to resolve conflicts at Village, Traditional Authority or District level. If the conflict persists, courts of law shall be consulted.

1.5 STRUCTURE OF RAP

The RAP has been developed in line with the Terms of Reference (ToR) for the preparation of the preliminary RAP as indicated in the Scope of Works (Section 1.3.1).

⁴Vulnerable groups are generally defined as those below the poverty line, the landless, the elderly, women and children, ethnic minorities, orphans and other disadvantaged persons.

Chapter 1 introduces the project and provides the background (Section 1.1); outlines the Project Proponent (RA) and the Consultant (Section 1.2); defines the scope, objectives and principles governing resettlement preparation and implementation (Section 1.3 and Section 1.4); outlines the structure of the RAP (Section 1.5); and provides a description of the project and the associate components (Section 1.6 to Section 1.11). Road construction activities will involve widening the road, using quarries and borrow pits and abstraction of water from local water resources, all of which may require some form of resettlement. Reference was made to the final design and other relevant reports prepared by the Project Design Engineers to obtain relevant information.

Chapter 2 describes the approach and methods used to compile this RAP (<u>Section 2.1</u>) and outlines the legislation and regulatory framework that guide the development of the RAP (<u>Section 2.2</u>). Reference was made to relevant national legislation and to the World Bank OP 4.12 on Involuntary Resettlement that set out the requirements of the process for acquiring land. Discrepanciesamong the various legal instruments are outlined.

Chapter 3 describes the baseline environment within which affected people are located.

Chapter 4 describes the methods for consultation with, and Participation of, Affected People. The feedback provided by stakeholders regarding resettlement issues during the ESIA is tabulated and has informed this RAP.

Chapter 5describes the resettlement impacts and mitigation. It identifies the land acquisition and resettlement requirements. The number of people or entities (cases) affected has been estimated as far as is practical. The different categories of those displaced are described. This section outlines the eligibility criteria for various categories of affected people. The validation of assets and the compensation process is indicated.

Chapter 6describes the grievance procedure available to affected people to complain about aspects of their treatment under the RAP.

Chapter 7 describes the Resettlement Planning, Scheduling, Budget and Responsibilities.

Chapter 8 provides an appropriate mechanism for monitoring the effective implementation of resettlement to affirm the achievement of resettlement goals of ensuring that all affected people are addressed.

Chapter 9 provides Recommendations and Conclusions.

1.6 PROJECT DESCRIPTION

This section provides a description of the proposed road upgrade and rehabilitation activities and of the geometric road design. The proposed design standards have taken into account the road environment, road conditions, traffic characteristics and driver behaviour with the aim of providing a road with an alignment and cross-section that are not only the best compromise between operational efficiency, safety and economy but also minimises any adverse environmental, social (including resettlement) and cultural impacts. This section also describes the sources of road materials (gravel quarries, hard rockborrow pits and water supply); indicates how traffic will be accommodated during construction; and indicates the duration of construction. These are all aspects that may require land acquisition and require resettlement.

1.6.1 ExistingRoad Conditions and Land Use

The existing road conditions were assessed to determine the necessary upgrade and rehabilitation measures and inform the preliminary design. Similarly, the existing land use was assessed to estimate the land requirements for the Project. The road conditions and typical land use from the start to the end of the route are illustrated in the photographs below (Plate 2). Land uses adjacent to the Project corridor include urban settlements (trading centres), agricultural fields, forested areas and rangeland / grazing areas. Infrastructure bordering the Project corridor includes utility services (see Section 1.4) such as powerlines, telephone lines and boreholes/water pipes; as well as social infrastructure such as

schools, clinics, businesses and local markets. The extent of encroachment of signage and businesses into the 60 m road reserve in the urban areas is seen inPlate 2(photos 4, 8, 11 and 13).





Photo 1 (km 0.0) Start of the project road after airport junction

Photo 2 (km 2.9) Bridge B1 at Lumbadzi with narrow sidewalk on one side





Photo 3 (km 5.3) The road surface is in fair condition but significant edge break has occurred

Photo 4 (km 34.0) Entrance to the Engen petrol station at Mponela





Photo 5 (km 31.4) Reconstructed gravel shoulders on a curve

Photo 6 (km 79.3) Old road surface has failed causing potholes that have been patched



Photo 7 (km 85.2) Failing old road surface showing severe crocodile cracking and patches. Infrastructure includes telephone lines.

Photo 8 (km 101.8) Kasungu by-pass and junction to the town. Kasungu represents the end of Section 1 and start of Section 2





(km 132) Rumble strips lead down to a small bridge (B6). Inadequate provision for NMT on the approaches to bridge

Photo 10 (km 154.4) Trading Centre adjacent to road and slow moving non-motorised vehicle in the carriageway





Photo 11 (km 160.4) Nkhamenya **Trading** Centre (TC)

Photo 12 (km 158.7) Straight rural section of road in good condition

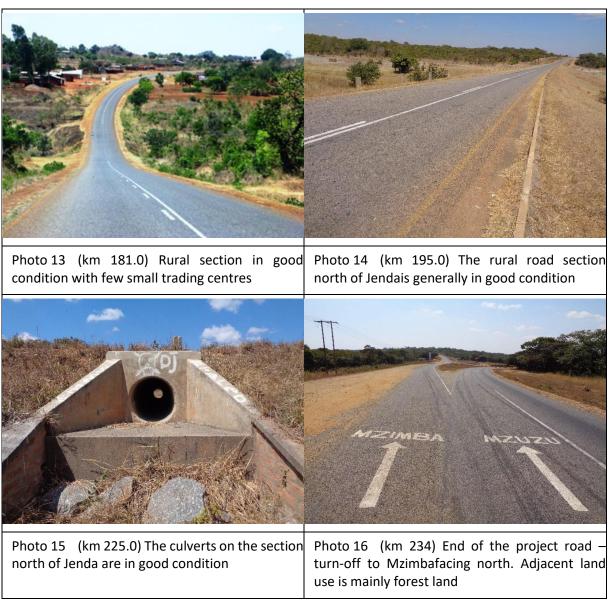


Plate 2: Current Road Conditions and Land Uses (Source: Roughton Preliminary Design Report, 2016)

The M1 road has been divided into three sections based on current traffic levels (Plate 2 and Figure 1) and will be rehabilitated under three separate construction contracts:

Section 1: KIA turn-off toKasungu (km 0+00 to km 102+00) AADT = 1200

The road surface in Section 1 is currently in fair or poor condition. The existing carriageway width of 6.7m with unsealed shoulders is too narrow for the traffic using the road. Edge break is common and the shoulder is eroded on some sections leaving a dangerous drop-off. There are numerous trading centres along the road and flows of NMT are high. This also leads to dangerous conditions.

The analysis of the existing pavement shows that it can carry the expected 20- year traffic for most of its length. However, the visual inspection and roughness survey show that sections of the existing road are in poor condition. Therefore it is recommended that Section 1 is widened to provide 3.4m lanes and 2m sealed shoulders. A crushed stone overlay to the existing laterite base is recommended for the full length of the section, with 50mm asphalt concrete (AC) surfacing.

There are 5 bridges and two large box culverts that need to be widened to provide minimum 11m clear width in urban areas and 13.2m in trading centres. Bus bays and truck parking areas are required in the trading centres.

Section 2: Kasungu to Jenda(km 102+00 to km 187+500) AADT = 600

The road condition of Section 2 varies from poor close to Kasungu, to good towards Jenda. The existing carriageway width of 6.7m with 1.5m unsealed shoulders is too narrow for the traffic using the road. However, edge break and shoulder erosion are less significant than on Section 1 due to lower traffic levels. There are some trading centres along the road, but NMT is generally lower than on Section 1.

It is recommended that the existing road carriageway of 6.7m should be maintained with sealing of the existing shoulders. Some sections of the existing pavement (amounting to 27km) require a crushed stone overlay. On these sections, it is recommended that the road is widened to 10.8m.

On the sections that do not require a granular overlay, it is recommended that the existing laterite base should be widened using cement stabilised gravel. Due to the low traffic levels a double surface dressing is recommended on new construction and a single reseal on existing pavement.

There are five existing bridges on the road. It is recommended that all five bridges should be widened to provide an 11m clear width in rural areas and 13.2m in trading centres. Bus bays and truck parking areas are required in the trading centres.

Section 3: JendatoMzimbaturn-off (km 187+500 to 234+24) AADT = 300

The road condition of Section 3 is generally good. The existing carriageway width is 6.7m with 1.0m unsealed shoulders. Edge break and shoulder erosion are far less significant than on Section 1 or Section 2 due to the low traffic levels. There are some small trading centres along the road, but NMT is much lower than on Section 1 or Section 2.

It is recommended to maintain the existing carriageway of 6.7m and seal the 1.0m shoulders. The option of widening the road was examined but the cost is high due to the road passing through hilly terrain with high fills (Plate 3).

The existing pavement on Section 3 includes a crushed stone base. It is recommended that crushed stone should be used on the shoulders with a double surface dressing. The existing road should be resealed with a single seal except from km 203 to km 223 where a 50mm AC overlay is required for pavement strength purposes.

The proposed road rehabilitation and upgrade activities will require extra land due to:

- Creation of the mandatory road reserve of 30 m from the centre line where some buildings and/or structures and trees may need to be removed;
- Establishment of road diversions and access roads to facilitate construction activities;
- Use of natural resources (see Section 1.7) including water from drainage systems and material from quarries and borrow pits; and
- Establishment of construction camps that may be located on land belonging to different individuals and/or communities.



Plate 3: Steep side slope north of Jenda

1.6.2 Detailed Road Design

The detailed design of the road in the main trading centres is dictated by existing buildings and structures in the road reserve. The buildings and structures are predominantly shops (commercial) and areimportant to the livelihoods of many local residents. If they were demolished this would result in considerable disruption to the local economy.

At the Road Engineer's Project Management meeting with the RA at the RA offices on 29 June 2019 it was agreed that demolition of existing buildings and structures should be avoided as far as possible, *i.e.* principle of minimising compensation and resettlement. The road has been designed to fit within the existing buildings as much as is practicable. The structures, many of which are temporary, can be moved and reinstated after road construction is completed.

The RoW is 60 m,i.e. 30 m either side of existing centre line. However, this is not always available in settlements due to existing encroachment (see Plate 2). The regional SATCC trunk road standards have been adopted for the design of this road upgrade. These include a roadway of 11 m (rural areas) made up of 2 x 3.5 m lanes and 2 x 2.0 m shoulders. The horizontal road alignment will remain mainly unchanged.

The design speed of 100km/h was applied throughout the horizontal alignment except in the trading centres where the road design speedis 60km/h.Traffic calming measures are recommended in the trading centres using rumble strips, speed humps and centre islands.

Provision has been made in the cost estimates for following works in the main trading centres:

- Widening of the road to 11m surfaced width;
- Raised pedestrian walkways;
- Concrete-lined side drains;
- Centre islands;
- Bus stops and truck lay-by's; and
- Rumble strips and speed humps.

The three preliminary design options proposed by the Road Design Engineers are summarised in Table 1:

- Option A is a do nothing option;
- Option B is based on a 15-year design life; and
- Option C is based on a 20-year design life.

Table 1: Summary of Road Rehabilitation Options for Section 1, Section 2 and Section 3

Section	Option A	Option B (15-year design life)	Option C (20-year design life)
Section 1 Km 0 – km 102	Do nothing (continue to maintain the road)	 Widen existing base to 11m 50mm AC surfacing/overlay Widening designed to SATCC 15-year design life Granular overlay from Km 61 to Km 83 and Km 95 to Km 102 	 Widen existing base as subbase and overlay with crushed stone to 11m wide whole length of road 50mm AC surfacing Widening designed to SATCC 20-year design life
Section 2 Km 102 – km 187	Do nothing (continue to maintain the road)	 Pave existing shoulders 1.5m Retain existing carriageway 3.35 m Widening to 11m in Mphomwe, Chatoloma, Nkhamenya and Jenda TCs Widening from Km 102 to Km110 and Km 116 to Km 121 with granular overlay Widening designed to SATCC 15-year design life Double surface dressing 	 Widen existing base to 11m entire length of section Widening designed to SATCC 20-year design life Granular overlay Km 102 to Km 110 and Km 116 to Km121 Double surface dressing
Section 3 Km 187 – km 234	Do nothing (continue to maintain the road)	 Seal existing shoulders 1.0 m Retain existing carriageway 3.35 m Allow for 2 km widening in trading centres to 11 m Double surface dressing 50 mm AC overlay Km 203 to Km 222.3 	 Widen existing base to 11 m entire length of section Widening designed to ORN31 20-year design life Double surface dressing 50 mm AC overlay Km 203 to Km222.3

1.6.3 Employment Opportunities

It is estimated that the following number of workers will be employed by the road Contractor(s) during the construction phase:

- Section 1: 600 people (Option 2 and Option 3)
- Section 2: 400 (Option 2) or 600 (Option 3); and
- Section 3: 200 (Option 2) or 500 (Option 3).

In addition to the workers formally employed by the Contractor, there will be employment opportunities created through spin-off activities such as informal caterers and informal transport services.

1.6.4 Drainage Structure Improvements

The existing road is built along a watershed and is generally well drained. Most of the road is on embankment. The soils along the road are generally stable and there is no significant erosion of existing side drains. Provision has been made for scour checks on side drains with slopes greater than 2% and concrete lining in the main trading centres.

There are five existing bridges on Section 1 and five on Section 2. The existing bridge openings are adequate to pass the 50-year design flood, but it is recommended that two bridges, *i.e.* Lumbadzi and Kasakadzi bridges, be raised by 1.0m and 0.5m respectively. This will increase their resilience to climate effects.

Pedestrian access and safety will be improved by providing handrails and establishing pedestrian walkways. Further improvements associated with the upgrade of bridges include implementing erosion control measures, particularly along embankments leading to rivers; repairing drainage chutes; and formalising foot paths. Road signs will be replaced as most of the existing road signs are in fair or poor condition; safety barriers will be upgraded; and culverts and side drains will be cleaned.

1.7 SOURCES OF ROAD CONSTRUCTION MATERIALS

The materials investigation identified the location of all material deposits, quarry sources and water sources along the M1 road from KIA to the Mzimba.

1.7.1 Potential Borrow Pit (Gravel) Deposits

Forty fivepotential borrow pits were identified and inspected. Subsequently, selected borrow pits were selected for testing by the Design Engineers (Table 2). These borrow areas were selected as they give a good geographical spread along the project route and they contain the best volumes of the required materials. This will ensure that haulage distances and costs are kept to a minimum.

Table 2: Borrow pitsselected for testing along the M1 road

No.	Eastings	Northings	Deposit	Material	Designation	Distance from road	Estimated Quantity of available material (m³)
3	570687	8662104	Borrow Pit - Large Deposit	Laterite Gravel	Base	70m	20,000
6	562360	8632767	Borrow Pit	Laterite Gravel	Base	3.5km	38,000
11	555849	8602489	Borrow Pit	Laterite Gravel	Base	6.8km	33,000
15	548372	8556066	Borrow Pit	Laterite	Base	4.5km	250,000
20	555417	8536728	Borrow Pit - Large Deposit	Laterite	Base	500m	4,500
26	562214	8516914	Borrow Pit - Large Deposit	Laterite	Base	3km	21,000
29	569124	8511208	Borrow Pit / Quartz Gravel Deposit	Quartz / Laterite Gravel	Base	300m	4,500
32	576638	8504382	Borrow Pit - Large Deposit	Laterite	Base	2.4km	15,000
40	585534	8489646	Borrow Pit - Large Deposit	Laterite with clay deposits. Excavation is required for higher quality deposit	Used as base after selected excavation	1.6km	21,000

No.	Eastings	Northings	Deposit	Material	Designation	Distance from road	Estimated Quantity of available material (m³)
44	587686	8481476	Borrow Pit - Large Deposit	Laterite Gravel	Base	600m Good access road	47,000
45	590158	8473554	Large deposit	Laterite Gravel	Base	2.9km	50,000

Two borrow pits (#20 and #29) did not meet the required quantity of materialnecessary and the presence of established plantations around these borrow pits makes these two options undesirable. Toavoid the need to pay compensation and also the negative environmental impacts due to the the disturbance of these plantations, the transport of material from the adjacent borrow pits withmaterial in excess should be considered. The borrow areas selected for additional testing are shown in Plate 4.



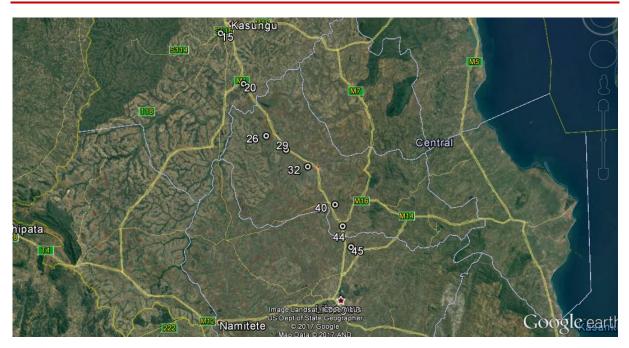


Plate 4: Borrow pits selected for further testing along project road

1.7.2 Hard Rock Quarry Material

Three potentialhard rock quarries were identified by the Road Engineers (Table 3). Sufficient volumes of hard rock material for Section 1 and 2 are available in the two quarry sites near Kasungu.

Table 3: Location of Hard Rock Quarry Sources

No.	Eastings	Northings	Deposit and Chainage	Distance from road	Estimated Volume (m³)
2	550709	8565170	Kasungu Chipala Quarry Site(km 110+040)	Roadside 30m on RHS	68,000
3	549907	8548438	Quarry Site at Kalmel near Kasungu (km 91+800)	3.4km on LHS	1,750,000
7	7 583504	1288701	Quarry Site – Lunjika – Mzimba Turn Off + 60Km	2.3km	>5,000,000

Plate 5 shows the location of Quarry 2 and Quarry 3.



Plate 5: Location of Quarry 2 and Quarry 3 near Kasungu

1.7.3 Water Sources

Nineteen potential sources of water for construction purposes have been identified and are listed in Table 4.

Table 4: Potential sources of water for abstraction during Construction Phase

No.	Eastings	Northings	Source type	Distance from road
W1	570571	8661184	South Rukuru River	Intersects mainM1 road
W2	571053	8652369	Ruvuri River	Intersects main M1 road
W3	561507	8636131	Kamalabwa Dam	1.9 km
W4	559205	8620106	Kakwale River	3.8 km
W5	553818	8599479	Milenje River	120 m
W6	549268	8575790	Dwangwa River	Intersects mainM1 road
W7	547102	8555566	Dam	6.5 km
W8	552351	8555896	Dam	side
W9	556990	8532696	Dam	500 m
W10	559337	8528684	Bua River	Intersects mainM1 road
W11	566476	8517664	Stream active only during wet season	1.6 km
W12	567195	8513826	Dam	500 m
W13	569769	8510662	Stream	Intersects main M1 road
W14	573769	8509028	Perennial River	800 m
W15	580173	8505062	Perennial River	1.1 km
W16	581171	8494816	Perennial River	Intersects mainM1 road
W17	585427	8484018	Perennial River	Intersects main M1 road
W18	588676	8482810	Perennial River	2.4 km tarred road
W19	587927	8477146	Small River	Intersects main M1 road

1.8 UTILITIES

An inventory of the utilities that may be affected by road construction activities was carried out by Roughton International to minimise damage to such structures during the construction phase. The extent and nature of the proposed road upgrade activities and potential impact on existing utilities was discussed with the relevant agencies and the feedback received is described below.

1.8.1 Malawi Telecommunication Limited (MTL)

The MTL provided drawings of the ADSL and optic fibre cables crossing or parallel to the road and advised that they be contacted before any construction work commenced. The optic fibre runs parallel with the road for its full length but it is located 25m from the road centre line and therefore unlikely to interfere with road widening works.

1.8.2 Electricity Supply Company of Malawi (ESCOM)

Correspondence from the Electricity Supply Company of Malawi (ESCOM) stated that no underground utilities occur along the project road. During the site visit it was noted that it may be necessary to relocate some electricity poles in trading centres. This is not expected to present a significant problem.

1.8.3 Water Board

The Water Board operations are divided by District:

- The Lilongwe Water Board provided drawings of the existing pipes crossing or parallel to the project road from the KIA turnoff to Lumbadzi;
- The Central RegionaWater Board provided drawings of its water system around Mponela;
 and
- The Central Region Water Board indicated location of water pipes parallel or crossing the M1 road in areas around Kasungu.

1.8.4 Municipal Councils

No sewers were seen in any of the trading centres along the road. Verbal confirmation was received from the Kasungu Municipal Council that there are no sewers located along the M1 road.

1.9 TECHNOLOGY, METHODS AND PROCESSES TO BE USED DURING IMPLEMENTATION

1.9.1 Construction Equipment and Machinery and Construction Camps

The road construction and upgrade project requires the use of different types of equipment and machinery during the construction phase such as earth moving equipment, compactors, other lighter equipment and heavy excavators. The Contractor is likely to use the following equipment:

Graders, compaction machines, dozers, loaders, dumpers, lift trucks, mixers, paver finishers, diesel and water bowsers, primary and secondary crushers, water pumps and tanks, concrete plant and light and heavy vehicles.

The location of construction camp(s), workshops and laydown areas is not known at this time but it is likely that the Contractor will use camp sites from previous road construction activities. The Contractor is responsible for compensating the land owner of the camp site. This will require a formal agreement to be signed between the Contractor and land-ownersthat is overseen by the Local Authorities, Traditional Leaders and the Engineer (on behalf of the RA).

1.9.2 Accommodation of Traffic

The road infrastructure within the trading centres located along the M1 road will be improved during the road upgrade project. There will be temporary disruptions to traffic and to the local population in these settlements during the upgrade and establishment of side roads, drains, pavements, bus shelters, etc. The assumptions made for purposes of the bill of quantities (BOQs) regarding the accommodation of traffic are summarised in Table 5.Temporary diversions are required at the Lumbadzi, Kasakadzi and Msusu Bridges.

Table 5: Accommodation of Traffic

Section	Option B (15-year design life)	
Section 1 Km 0 – km 102	Diversion road on full length except at Mtiti, Kawerawera and Bua Bridges.	
Section 2 Km 102 – km 187	Diversion road on sections receiving granular overlay and widening (13km). Half width construction elsewhere.	
Section 3	Half width construction.	

Section	Option B (15-year design life)
Km 187 – km 234	

The diversion roads will be approximately 7m wide and mostly, if not all, within the 60m road reserve. The diversion road could be located on either side of the road, depending on which is easier for the Contractor and to avoid compensation requirements to affected land-owners. In some cases, there could be two narrower roads, one on each side of the Project road. In instances where the diversion roads are located outside of the 60 m road reserve, compensation of PAPs is required. The requirement for these temporary diversions are not known yet as it will be determined by the Contractor(s).

1.10 CONSTRUCTION PERIOD

The proposed period for completion of the works varies with each rehabilitation option. The estimated Project completion periods are summarised below. The construction period assumes a sixmonthmobilisation period and varying production rates depending on the specified works. The workscontract period assumed for each of the three roadsection(to be undertaken by different contractors) is as follows:

Section 1: 30 months
Section 2: 18 months
Section 3: 15 months

Finalisation of the RAP to ensure that PAPs are appropriately compensated should commence at least 6 months prior to construction commencing.

1.11 PRELIMINARY CONSTRUCTION COST ESTIMATES

Preliminary construction cost estimates were carried out based on preliminary quantities of the works activities scheduled in accordance with SATCC Standard Specifications and Method of Measurement. The preliminary estimate for the three recommended options is shown in Table 6.

Table 6: Preliminary Construction Cost Estimates (US dollars) for recommended option

Section	Total Cost	Cost/km
Section 1	\$76 million	\$755,000
Section 2	\$27 million	\$325,000
Section 3	\$13 million	\$264,000



CHAPTER 2. RESETTLEMENT PLANNING AND DESIGN

This section provides information on the approach and methods used to develop and prepare this RAP.

2.1 APPROACH AND METHODS

The approach and methods adopted during the development of this RAP and the key tasks undertaken are outlined in this section.

2.1.1 Site Visits

Observations from site visits undertaken along the route by the RAP team, both prior to and after finalisation of the detailed engineering design phase have informed this RAP. The aim of the site visits was to familiarise the team with the condition of the Project road; the land use practices typical of the Project impact areas; and to obtain verifiable information about the area and the potentially PAPs.

During the site visits, the RAP team collected information for the entire route that will potentially be affected by road upgrade and rehabilitation activities. The visits further provided an opportunity for the team to interact with community members and staff from relevant Ministries and Departments of four District Councils, *i.e.* Lilongwe, Dowa, Kasungu and Mzimba.

2.1.2 Literature Review

Information for this RAP was collected through a desktop study/literature review of primary and secondary data sources. The data sources consulted included national legislation, *i.e.* Constitution of the Republic of Malawi, National Land Policy, National Environmental Policy, Environmental Guidelines for Roads Sector, Forestry Conservation Act and Policy, Environment Management Act, Water Resources Act, Land Act, Land Acquisition Act, Town and Country Planning Act, Public Roads Act, Forestry Act and other legislation relevant to the activities of the proposed road upgrade Project.

The Involuntary Resettlement Policy of the World Bank Resettlement Operational Policy (OP) 4.12were also referred to. In addition, documents containing the socio economic profiles and health survey data for the four affected Districts were reviewed, together with RAPs completed for other road upgrade and rehabilitation projects.

The information obtained from the literature review has been used to prepare a socio-economic baseline for the Project area (Chapter 3). This information will be used to inform the RAP.

2.1.3 Consultation with Stakeholders

Successful resettlement requires stakeholder⁵ participation during all stages of the resettlement process. Consultation with affected people and stakeholders is seen to be mandatory and is regarded as the single most criticalcomponent in the resettlement process. The RAP team aimed to achieve effective authority and community consultation through undertaking the following activities⁶:

- <u>Information exchange:</u>Promoting awareness-building of the Project and resettlement in the local communities;
- <u>Capacity Building and Education:</u>Informing affected people of their options and rights pertaining to resettlement and compensation;

⁵Stakeholders may be defined as any individual or group that may be affected or have some vested interest in the resettlement, or play a critical role in developing the resettlement process.

⁶It should be noted that to date stakeholder consultation has been limited to consultation as part of the ESIA. The approach outlined in this section was adopted during the ESIA where resettlement issues were discussed. A similar approach will be adopted during consultation with identified PAPs as part of the RAP.

- <u>Participation Promotion:</u> Allowing all stakeholders to openly voice their concerns, any issues and possible disputes without fear of recrimination; and
- <u>Discussion and Negotiation:</u>Consulting with affected people and offering themchoices among technically and economically feasible resettlement and compensationalternatives.

The stakeholder consultation process undertaken for the ESIA phase hasinitiated stakeholder consultation for this RAP (refer to Chapter 4 for details on stakeholder consultation undertaken to date). Further consultation will be undertaken with PAPs, traditional leaders and the relevant District Commissioner(s) following the development and acceptance of this RAP by the RA. It is anticipated that these consultations will be conducted by the RA, the Ministry of Lands, a Valuation Officer and the office of the relevant District Commissioner.

2.1.4 Household and Community Surveys

An important aspect in undertaking a resettlement programme is to determine the existing socioeconomiccontext of potentially affected households and communities. This is accomplished by undertaking a number of socio-economic studies, including those listed below⁷:

- 1. Mapping: Depending on data availability, the resettlement process may be supported by a Geographic Information Systems (GIS) interface and field mapping. Maps mayinclude both socioeconomic spatial patterns and natural features (such asvegetation, soils) of the resettlement site and host site.
- <u>2. Census:</u> A census of directly affected PAPs, *i.e.* those eitherphysically or economically displaced, was undertaken during the asset inventory process to provide socio-economic and demographic baseline information. This census is important as it provides a register of affected PAPs and allows for the determination of PAPs that are eligible forcompensation and for protection under the auspices of this RAP.
- 3. Asset Inventory: The asset inventory records all permanent and temporary losseslikely to be incurred by households, enterprises and communities as a result of theroad upgrade and rehabilitationProject. An asset inventory was undertaken by representatives from the Ministry of Lands in the second quarter of 2018 and the process was supervised by the RA. The survey data are summarised in Appendix B and include all structures located within the 60 m RoW that need to be removed and or relocated.

This inventory focussed on individual, households and communitylosses of physical structures and loss of access to natural resources (mainly trees). The inventory included information relating tolosses of the following aspects, as appropriate and relevant:

- · Homesteads and homestead structures;
- Trees and natural resources;
- Graves associated with each household;
- Community resources including schools, churches and health facilities;
- · Community land and natural resources;
- Sites of cultural or historical importance; and
- Assets owned by PAPs.

No moratorium on development is currently in place and as such stakeholders in the Project areaare not prohibited from developing their homesteads or other assets.

⁷It should be noted that while such a survey has not been undertaken as part of this RAP, it must be undertaken approximately 6 months before the road upgrade and <u>rehabilitation Project commences</u>.

2.1.5 Determination and Negotiation of Entitlements and Compensation

The RAP identifies households, individuals and communities that are deemed to be entitled to or eligible for compensation. The eligibility criteria have been defined early in the resettlement process and need to be agreed to by all stakeholders as affected households, individuals and communities are entitled to compensation based on agreed values. Multiple compensation options will be discussed with affected parties via the consultative fora in order to obtain agreement on the adequacy and acceptability of the compensation package. Compensation valuations should focus on the following:

- Compensation options in terms of replacement of homesteads, structures andreplacement land for physical resettlement; and
- Relocation and replacement of any community structures.

2.1.6 Asset Evaluation

The estimated extent of compensation required for assets that will be lost was subjected to an asset evaluation process that recognizes three main parameters, *i.e.*:

- Land to be acquired under the proposed Project (no land is to be acquired by the Developer);
- Structures falling within the road reserve (key parameter of relevance to this RAP); and
- Trees and crops falling within the road reserve. Appendix B indicates that compensation rates have been included for trees. As stated earlier in this report, field owners will be notified not to plant crops in road reserve in advance of road construction activities and no compensation is envisaged for this parameter.

2.1.7 Resettlement Planning, Scheduling, Budget and Responsibilities

Information in terms of resettlement planning, schedules, budget and responsibilities is provided. These various components have been developed based on theoutcomes of the previous tasks and will need to be negotiated and discussed with the consultative fora andrelevant authorities. Key factors that will need to be defined include:

- <u>Resettlement Planning:</u> Define overall strategy in terms of resettlement, likely phasingand means of compensation. Further consideration will be needed in terms of construction of any resettlement structures, labour and other issues.
- <u>Scheduling:</u> Define timing for resettlement in terms of the physical resettlement, payment of any cash compensation and ensure it aligns with any civil engineering required by the Project.
- <u>Budget:</u> Resettlement costs are often underestimated and thus detailedbudgeting/costs for the implementation of the resettlement should be provided.
- Role and Responsibilities: Organisational structures and responsibilities must beclarified prior to resettlement. This includes all actions that must be adopted by relevantstakeholders including, amongst others, the proponent (RA) and the relevant government departments.

Typically the preparation of a RAP runs over a period of roughly six months. Timeframes are often dictated by the consultative process that is followed and the need toreach agreement with PAPs.

2.1.8 Initiation of Resettlement and Compensation

The physical resettlement and compensation should be initiated in line with the RAP (this document). Overall responsibility for the implementation of the RAP lies with the proponent (RA) but it is typically managed by a resettlement Consultant (appointed by the RA), with close co-operation from local authorities.

2.1.9 Monitoring and Evaluation

Monitoring and evaluation are an important part of a resettlement project and the requirements for this task are setout in Chapter 8. The purpose of performance monitoring is to ensure that the RAP is implemented as described in the plan and incompliance with World Bank's OP 4.12 requirements.

2.2 POLICY, LEGAL AND ADMINISTRATIVE FRAMEWORK

This section describes the national policies and legislation relevant to this RAP and which the Proponent (Roads Authority) is required to comply with.

2.2.1 Legal Framework and Policies

Malawi has developed a number of policies and legislation to guide resettlement. The aim of adopting these policies and legislative framework is to promote and consolidate sustainable socio-economic development in the country through the mainstreaming of environmental and social(including resettlement) considerations in project planning and implementation. Table 7 lists the requirements of resettlement-related key policies and legislation that have been taken into consideration during the compilation of this RAP.

Table 7: National legislation and Policies relevant to M1 road upgrade project

Legal document / Policy	Legislation	
	The Constitution is the supreme law of the land and guarantees land as a basic resource for social and economic asset for all Malawians. It affirms equitable access of land and ownership of property. The Constitution also sets a benchmark on the issue of land acquisition:	
Constitution of the	Section 28(2) states that No person shall be arbitrarily deprived of property.	
Republic of Malawi of 1995	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 a court of law.	
	The Constitution 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 PAPs.	
	The Land Act of 2016 makes provision for land in Malawi and for all matters incidental or connected thereto:	
	Section 7 states that land shall be categorized as either public land or private classes of land.	
	Section 17 deals with the acquisition of customary land for public utility.	
National Land Act of 2016 (Act 16 of 2016)	Section 17(1) shall not apply to any customary land required for use as a public road or for the widening or diversion thereof. Such land shall be acquired for that purpose in accordance with the Public Roads Act.	
	Section 18 states that individuals who suffer any disturbance of, or loss or damage to any interest which he may have in terms of Section 17(2) and 17(3), shall be paid such compensation for such disturbance, loss or damage as is reasonable.	
National Land Policy of 2002	The National Land Policy outlines policies for government acquisition of land and the necessary compensation. It states that compensation valuation for customary land should be based on the open-market value of the land and improvements on the land and warns of the under-	

Legal document / Policy	Legislation
	compensation pitfalls of excluding certain items or valuation during valuation and delays in payment.
	In terms of the relocation of displaced people, the Policy advocates adequate consultation with PAPs so that their interests are taken care of.
	This Act covers procedures relating to the acquisition of land by either the GoM or individuals or developers from any form of the land tenure systems in Malawi. The Act makes provision for preliminary investigation, preliminary survey of the area and the procedure to be followed where land should be acquired.
	Section 6 indicates that the procedure for land acquisition starts with issuing of a formal notice to persons who have existing interests in the land.
Land Acquisition Act, CAP 58:04 of 1970	Sections 9 and 10 of the Act covers the steps for assessment of land, crops, fruits and other landed properties and subsequent procedures for payments of the compensations to the displaced people.
	Section 11 to 14 outlines the necessary steps for land surveying and land transfer following notices in government gazette.
	The responsibility of identifying alternative land for those affected people rests with their village headman, their Traditional Authority (TA) and District Commissioner of the district.
	The District Commissioner assists in transportation and provisions of necessary services on new sites of resettlement.
	The Public Roads Act addresses the management of road reserves and streets. Land acquisition and resettlement issues are outlined in Part II of the Act.
Public Roads Act of 1962	Section 44 provides for an assessment of compensation to which an owner or occupier of land or both of them shall be entitled to as is provided for under this Act. The compensation cover surface and land rights of the owner or occupier of land.
	Section 45 provides for compensation for conversion of land into public use. This section states specifically that in case of customary land, compensation is in respect to disturbance to people.
	Section 49 and Section 50 provide opportunities for land owners or occupiers to appeal to the High Court on grievances related to resettlement and compensation provided for in this Act.
Town and Country Planning Act of 1988	This Act regulates land use planning and physical developments in Malawi with the aim of enhancing orderly spatial physical growth of human settlements activities. It promotes orderly physical planning in order to enhance optimum use of land and service infrastructure, and protect and conserve fragile environmental systems. These objectives

Legal document / Policy	Legislation
	are achieved by guiding physical developments, and controlling building uses in designated zones with regulated planning permissions:
	Section 40 prescribes environmental and socio-economic screening for medium to large scale development projects before they can be granted planning permissions under this Act.
	Sections 63 to 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 the GoM, recent amendment to the sections have provided room for appeal to the high court by land owners in the event that they are aggrieved by the amount of compensation paid for their assets.
	The Forestry Act affirms the role of Department of Forestry on control, protection and management of forest reserves and protected forest areas.
Forestry Act No. 11 of 1997	Section 86 of Forestry Act has provided guidelines on values/rates for sale of both indigenous trees and exotic trees. These rates are gazetted, and are reviewed from time to time by senior government officials. The values are used so that those who are involved in forestry are paid reasonable compensations on their timber trees and fruit trees.
	In case the Department has not reviewed the rates at the material time, the Department of Forestry normally assigns an officer to value the trees for purpose of immediate sale or compensation.
	The valuation of people's trees are done based on species of trees, measured diameter of breast height and market price in kwacha/m³.
Monuments and Relics Act of 1991	The Act stipulates the proper management and conservation of monuments that are of importance both nationally and locally. It also provides for proper preservation of monuments in the event that there is a change in the use or development of land. This gives room for the authorities for monuments and relics to protect monuments under the provisions of the Land Act or the Lands Acquisition Act.
	The dead are buried in small graveyards, thirteen of which were noted along the M1 road. Graveyards link the present generation to their past and are regarded with high respect in many cultures in Malawi. While some of these graves may be located within the 30 m road reserve, the Contractor will be instructed not to disturb them in any way.
World Bank Operational Policy (OP) 4.12 as revised in 2013	The overall objective of this safeguard is to avoid or minimize involuntary resettlement where feasible, exploring all viable alternative project designs. Further the Policy advocates and encourages community participation in planning and implementing resettlement. More specifically, where resettlement is unavoidable, the Policy stipulates criteria for eligibility to compensation, resettlement assistance and assistance measures to displaced persons on the following conditions:

Legal document / Policy	Legislation
	a. Those who have formal legal rights to land, including customary and traditional rights recognized under the laws of Malawi. This class of people includes those holding leasehold land, freehold land and land held within the family or passed through generations.
	b. Those who have no formal legal rights to land at the time the census but have a claim to such land or assets provided that such claims are recognized under the Malawi's laws. These include foreigners and those that come from outside and given land by the local chief to settle.
	c. Those who have no legal right or claim to the land they are occupying. This category includes squatters and those that settle at a place on semi-permanent basis, or those settling at a place without any formal grant or authority.
	The Policy stipulates that those displaced persons who encroach on the project area after the cut-off date shall not be entitled to compensation, or any resettlement assistance or any other form of rehabilitation assistance.

2.2.2 Gap Analysis between national legislationand EIB Environmental and Social Standards

The World Bank OP 4.12 and national legislation and policies of the GoM have a number of common aspects in the management of resettlement. A comparative analysis of the similarities and gaps are outlined in Table 8.

Table 8: Comparative analysis of the similarities and gaps between EIB Environmental and Social Standards and National legislation and Policy

	Standards and National legislation and Policy						
No.	Aspect	EIB Environmental and Social Standards	National legislation & Policy				
Simil	Similarities between Policies						
1	Minimise extent of resettlement.	٧	٧				
2	Fair and adequate compensation to be paid to PAPs.	V	V				
Diffe	rences and gaps between	EIB ESS and National Policies					
3	Entitlement to Compensation Displaced persons are classified into three groups: a) Those with formal legal rights to land, including customary and traditional rights;	Displaced persons under (a) and (b) are entitled to compensation, resettlement assistance and rehabilitation assistance for the land, building or fixed assets on the land and buildings taken by the project if	Group (a) and (b) are entitled to compensation. However, those under (c) are not entitled to compensation. They will however be compensated for the investment they made on the land. Further, it is noted that land within the road reserve is not				

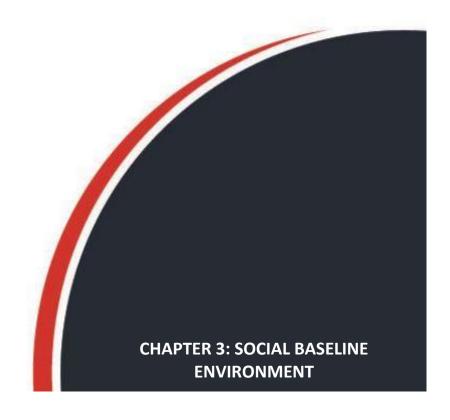
No.	Aspect	EIB Environmental and Social Standards	National legislation & Policy
	b) Those who have no formal legal rights to land but have a claim to such land; and c) Those who have no legal right or claim to the land they are occupying.	they occupy the project area prior to the ⁸ cut-off date. Displaced persons under (c) shall be eligible for compensation for improvements on land or structures but not for land.	compensated for. Rather resettlement assistance is provided.
4	Compensations of Land	The EIB Environmental and Social Standards do not distinguish such differential aspects of land classes and corresponding different market rates and require replacement cost of the land, regardless of its type.	The policies of GoM 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.
5	Loss of Land	The EIB Environmental and Social Standards prefersland for land compensation when compensation for land is required. In Malawi, an option of land compensation is preferred in customal transactions while op land for money comp is the preferred optio urban areas.	
6	Timing of Compensation	EIB resettlement as an upfront project cost. Therefore, all payment and compensation related to land acquisition and relocation of PAPs has to be done prior to commencement of the road upgrade Project.	The land laws require prompt compensation for any such land-taking at the replacement value. However, legislation does not spell out resettlement as an upfront project cost. Rather, it is treated as a separate exercise outside project planning and implementation.
7	Resettlement Assistance	EIB requires that the PAPs be identified in a Census especially those that are not able to provide for themselves during	Malawi legislation does not clearly define the extent of

⁸Cut-off date is the date of commencement of the census.

No.	Aspect	EIB Environmental and Social Standards	National legislation & Policy
		and after resettlement and be given essential food, portable water, clothing and shelter and be given access to common property rights such as education and health	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 PAPs (see Table 7 - the Public Roads Act of 1962).
8	Consultation with PAPs	(i) consultations must be made with NGOs, and must be extended to a full spectrum of people while paying particular attention to women, vulnerable and marginalised groups	In terms of the relocation of displaced people, the National Land Policy of 2002 (see Table 7) advocates adequate consultation with PAPs so that their interests are taken care of.
9	Livelihood Restoration	The World Bank OP 4.12 requires that livelihoods are improved or at least restored.	Malawi's laws contain no requirements for livelihood restoration.
10	Grievance Mechanisms	Maintain a Grievance redress mechanism that is independent, free and that allows for prompt addressing of concerns from PAPS and any other stakeholders. The GRM should be easily accessible, culturally accepted, widely publicised and integrated in the promoter's project management system.	Section 49 and Section 50 of Public Roads Act of 1962provide opportunities for land owners or occupiers to appeal to the High Court on grievances related to resettlement and compensation provided for in this Act.
11	Forced Evictions	Forced Evicitions are only done under authorised laws; carried out in line with international law and undertaken for purposes of promoting general welfare and ensure that full and fair compensation is paid including right to adequate standard of living.	Forced eviction only takes place when the PAP have been compensated and is refusing to relocate after fair and adequate compensation has been provided

The current practice has been that wherever the existing Malawian legislation does not provide direction on how compensation is to be administered, the Policy of the project financiers (EIB will prevail. In the same way, wherever the national laws are seen to seriously disadvantage the PAPs, the Policy of the financiers will be adopted. For compensations within the road reserve bounds, the affected persons will not be compensated for loss of land but rather for the improvements made on

that land. However the affected people will be given compensation assistance to facilitate their relocation.



CHAPTER 3: SOCIAL BASELINE ENVIRONMENT

This section of the RAP describes the baseline social setting of the project area in enough detail to allow for an understanding of the analysis and assessment of resettlement impacts. While the information provided is based mainly on secondary sources, primary sources of information were sourced from the public consultation process and observations made during site visits and the visual survey conducted in June 2017. The sectionprovides a description of the currentsocial and land use condition of the Of the Project area.

3.1 INTRODUCTION

Malawi is bordered by Mozambique to the south and west, Zambia to the east, and Tanzania to the north. Malawi has had stable governments and a democratic multi-party system since the end of one-party rule in 1993. Poverty and inequality remain high in Malawi. Rural poverty persists with one in two people still poor, driven by poor performance of the agriculture sector, volatile economic growth, population growth and limited opportunities in non-farming activities. Households' welfare in Malawi remains vulnerable to natural shocks such as drought and flooding and food price inflation. The country ranks among the least developed and poorest nations of the world.

3.2 LOCAL ADMINISTRATIVE AND AUTHORITY STRUCTURE

The Local Government structure within Malawi has a single tier of Local Government comprising four City Councils, 28 District Councils, two Municipal Councils and one Town Council. They are all on the same level with no subsidiary or supervisory structure. Responsibility for Local Government rests with the Ministry of Local Government and Community Development (MLGCD).

The Local Government system has 35 single-tier Local Authorities called Councils. The 28 District Councils, which are predominantly rural, are co-terminous with the former Administrative Districts. District Councils are required to appoint committees for finance, development, education, works, health and environment, and human resources.

The Councils elect from the Councillors a full-time chairperson as head of the Council for a term of one year, with possible re-election for only one additional term. Decision-making is conducted through committees. The legislation does not specify any executive committees or cabinets nor does it specify sub-district governmental structures. In practice, the District Executive Committee, led by a District Commissioner, exercises executive responsibilities, supported by District Consultative Committees (DCCs), Area Development Committees (ADCs) and Village Committees (VCs).

Within the Traditional Leadership structure, each village has a Group Village Headman, selected by the Village Headsmen and responsible for five or more villages. The Traditional Authority positions are hereditary and the chieftaincy clan nominates the Traditional Leader. At the most senior level, a subchief has responsibility for a number of Traditional Authority's, with the senior chief having authority over all sub-chiefs in the District. Traditional Authority's and sub-Traditional Authority's within each local government area serve, *ex- officio*, as non-voting members of the Councils.

3.3 DEMOGRAPHICS

Malawi has an estimated population of 18 million (2016)with a growth rate of 2.8 %. The project road is located in the Central and Northern Regions and the population density in these regions is 192 people/km² and 78 people/km² respectively.

The section of the M1 road to be rehabilitated is located in four of the 28 administrative districts, *i.e.* Lilongwe, Dowa, Kasungu and Mzimba. The average household size in 2014 was 4.6 people. Table 9 summarises the population projections for each district using values from the 2008 census.

Region	District	2008 Census	2009	2010	2011	2012	2013	2014	2015
Northern	Mzimba	729,933	751,124	773,009	795,708	819,297	843,788	869,202	895,550
	Kasungu	629,123	654,730	680,791	707,862	735,836	764,859	794,991	826,285
Central	Dowa	559,950	586,430	613,692	641,895	671,075	701,225	732,343	764,414
S	Lilongwe	1,234,10 6	1,264,44 2	1,294,49 6	1,325,01 0	1,356,2 89	1.388,4 07	1,421,4 54	1,455,5 01

Table 9: Population Projections for Districts (Population Projections Report, National Statistical Office)

3.4 LAND USE AND LAND TENURE SYSTEM

The Land Act of 1965 (Cap. 57:01) governs customary, private, and public use of land in terms of three main tenure systems:

- Customary Land Before the colonial period in Malawi, land was held communally, i.e. it was held in trust for all the people forming the community. The duty to allocate land fell upon the leader of the community, who allocated the land to the head of a family who, in turn, allocated it to individual family members. Today, the same pattern still remains where customary land law is practiced. The head of the community would be identified as the Traditional Authority. Each administrative district in the country is divided into areas which are controlled by traditional authorities. Each Traditional Authority has a number of villages that are controlled by village headmen. Approximately 85 % of the land in Malawi is held under customary tenure.
- **Private Land** Private Land is defined by the Land Act as all land which is owned, held, or occupied under a freehold title, a leasehold title, or a certificate of claim, or which is registered as private land under the Registered Land Act.
- **Public Land** Public land is defined by the Land Act as all land which is occupied, used, or acquired by the Government and any other land that is not customary land or private land.

It is noted that the entire length of the M1 road that forms part of this upgrade project is located within the gazetted road reserve space (in eachof the four districts that are traversed by the M1 road). Therefore, compensation matters and impacts that are typically related to customary land are not applicable.

About 90% of the Malawian population lives in rural areas. Trading centres have developed in a linear fashion along the M1 road and play an important role in terms of economic development. Rural households outside of the trading centres are typically scattered and are constructed of both clay bricks and thatch (Plate 6) or of a plastered house and a zinc roof. The household tends to be centred on the homestead that is generally made up of a primary household with a number of secondary structures including kitchens, toilets and secondary residential units (Plate 6).

The resettlement impacts identified in this RAP are located predominantly within the 60 m road reserve in the urban trading centres. In the rural areas (areas between trading centres), the key issue relates to compensation of crops located within the road reserve. This matter will be addressed through timely notification to PAPs not to plant their crops in the road reserve once the commencement date for the project is known. PAPs who have been notified will not be eligible for compensation.





Plate 6: Typical rural homestead with secondary structures

3.5 HEALTH

The health sector provides a range of clinical and educational service managed by the District Health Office. In addition to the services provided, the health sector holds and manages some of the key statistics related to the growth and development of the people in the District. Health services in the Districts are provided through Health Posts, Dispensaries, Health Centres and Hospitals, which are distributed throughout the District.

The Malawi Demographic and Health Survey (MDHS) compiled by the National Statistical Office (NSO) provides a comprehensive overview of population and maternal and child health issues. Life expectancy is up to 63.9 years in 2017 from 62.8 in 2016. Table 10shows that approximately 60 % of survey respondents are under the age of 30, reflecting the young age structure of the population.

Table 10: Demographic data between ages 15 and 49 (MDHS, 2016)

Age	Woman (%)	Men (%)
15-19	21.4	25.5
20-24	21	19.8
25-29	16.1	14.3
30-34	14.9	13
35-39	11.9	12.4
40-44	8.3	8.7
45-49	6.4	6.3

Fertility

Fertility is notably higher among rural women than among urban women. On average, rural women will give birth to nearly two more children during their reproductive years than urban women, 4.8 and 3.0, respectively (MDHS, 2016).

Family Planning

Overall, 59 % of currently married women are using a method of family planning and among sexually active unmarried women, 44 % are currently using a contraceptive method (MDHS, 2016). Women with no education are less likely than women who have attained a primary or higher education level to use contraceptives. Contraceptive use tends to increase with increasing wealth and with increasing number of living children.

Early Childhood Mortality

Infant and child mortality rates are basic indicators of a country's socio-economic situation and quality of life (UNDP, 2007). The 2015-16 MDHS indicates that under-5 mortality rates have declined from 112 deaths / 1,000 live births in 2001 - 2005 to 64 deaths / 1,000 live births in the 5 years prior to the 2015 - 16 MDHS.

Common Diseases

Malaria is the most prevalent disease in the project districts. Other commonly occurring diseases in the district are waterborne diseases, eye infections, tuberculosis and acute respiratory infections.

HIV/AIDS Awareness, Knowledge, and Behaviour

The MDHS (2016) result show that 75 % of men and women aged between 15 and 49 know that consistent use of condoms is a means of preventing the spread of HIV. Eighty-six percent of women and 89 % of men know that limiting sexual intercourse to one faithful and uninfected partner can reduce the chances of contracting HIV. Seven in 10 men and women know that both using condoms and limiting sexual intercourse to one uninfected partner are means of preventing HIV.

Knowledge of how HIV is transmitted is important to enable people to avoid HIV infection. This is especially true for young people, who are often at greater risk because they may have shorter relationships with more partners or engage in other risky behaviours. Forty one percent of young women and 44 % of young men have knowledge of HIV prevention. Among both sexes, the proportion with comprehensive knowledge generally increases with age, educational attainment, and wealth. Urban young people are more likely than rural young people to have knowledge of HIV prevention.

3.6 ACCESS TO INFRASTRUCTURE

Sanitation

About half of households in Malawi (52 %) usually use an improved and not shared toilet / latrine facility, whereas a third of households (31 %) use facilities that would be considered improved if they were not shared by two or more households. The most common type of toilet facility in rural areas is a pit latrine with a slab that is not shared with other households (52 % of rural households). While pit latrines with a slab are also the toilet facilities most commonly used by urban households, they are usually shared with other households (50 % of urban households). Overall, 6 % of households have no toilet facility at all; they are almost exclusively rural, accounting for 7 % of rural households.

Sources of Drinking Water

Table 11indicates that the majority of households in Malawi (87 %) obtain drinking waterfrom an improved source. This is an improvement since the 2010 MDHS when 80 % of householdsobtained drinking water from an improved source. Use of improved drinking water sources is more commonamong households in urban areas (98 %) than among those in rural areas (85 %).

The mostcommon source of drinking water in urban areas is water piped into the dwelling/yard/plot, to a neighbouror to a public tap, with more than 8 in 10 urban households (86 %) using this source. In rural areas, themost common source of drinking water is a tube well or borehole (72 %).

For the purposes of this RAP, it may be assumed that the people who may potentially be affected by road upgrade activities are located in urban areas (trading centres and villages) where the majority of the PAPs will have access to an improved source of drinking water.

Table 11: Sources of household drinking water for urban and rural households (MDHS, 2016)

Source of drinking water	Urban Households (%)	Rural Households (%)
Improved source	98.0	85.2
Piped into dwelling	13.5	0.4
Piped to yard/plot	27.9	1.8
Piped to neighbour	11.7	1
Public tap/standpipe	32.7	5.9
Tube well or borehole	9.6	71.6
Protected well	2.3	4.1
Protected spring	0.1	0.2
Non-improved source	2.0	14.6
Unprotected well	1.6	9.2
Unprotected spring	0.1	1.1
Surface water	0.4	4.3
Other source	0	0.2
Total	100	100

Telecommunications and Transport Systems

The project impact area (road corridor) has mobile phone reception in most parts. Some of the trading centres and larger towns have post offices and banks. Transport systems operating along the M1 section of road include minibus, buses and trucks. Bicycle taxis and motor cycles also operate in the town centres ferrying people from one place to another

Power Supply

The Electricity Supply Company of Malawi (ESCOM) provides hydro electrical energy but only a few people (less than 20%) have access to it. Table 12 lists the percentage of households in each district that have access to the national electricity grid. It is seen that an average of 35.6% of Malawian households have access to the national power grid. The major source of energy for the area is firewood and charcoal. The continual reliance on firewood has resulted in deforestation of especially natural trees.

Table 12: Percentage distribution of households living in communities with access to national electrical power by districts (WMS, 2014)

District Community connected to national electricity grid (%)	
Lilongwe (Rural)	15.8
Mzimba	18.0
Kasungu	19.7
Dowa	22.3
Malawi	35.6

3.7 EDUCATION

The primary school net enrolment rate in 2014 was 86.7 % and the secondary school net enrolment rate is 10.8% (WMS, 2014). Twelve percent of women have no education compared with 5 % of their male counterparts (Table 13). Thirty-six percent of the men reported attending at least some secondary school, compared with 26 % of the women. The proportion of literate persons aged 15 years and above was 91.2 % in urban areas and 68.2 % in rural areas (WMS, 2014).

Table 13: Education levels of men and women ages 15-49 (MDHS, 2016)

Education	Woman (%)	Men (%)
No education	12.1	5.3
Primary	62.1	58.3
Secondary	22.8	31.5
More than secondary	3.0	4.9

3.8 LIVELIHOOD STRATEGIES

Malawi is one of the poorestcountries the world, ranking 164th out of 177 in the Human Development Index. This landlocked, chronically food insecure nation is characterized by high population density, high rates of HIV/AIDS, decreasing soil fertility, increasing exposure to climate change in the form of droughts and floods, and poor transport links to international markets.

Subsistence agriculture in conjunction with an informal economy is the dominant livelihoodstrategy for local households and communities living along the M1 road. Subsistence agriculture is primarily aimed atproducing basic foods for households with any surplus food being sold at local markets. At aregional level the dominant crops include cassava, maize sweet potatoes, bananas, vegetables such as beans and tomatoes and other cash crops (Plate 7).

Roughly 90% of the population of 18 million live in rural areas, and most of these are in small farm households owning land in the range of 0.2 to 3 ha. Around 40 % of land holdings are under 0.5 ha in size. There is a single growing season lasting at best 4 to 5 months between November and March, and a dry season that spans 7 to 8 months between April and October.

The principal food crop grown, and the staple diet of the rural population, is maize. Most households seek to secure sufficient maize as their primary objective, even if relative prices and opportunities might suggest the advisability of other strategies. This is widely attributed to lack of confidence in the ability to secure maize from the market in the lean season. It may also be related to the overwhelming lack of room to manoeuvre for rural households and barely any cash generation in rural areas.



Plate 7: Surplus produce is sold along the side of the M1 road

From the KIA turn-off to roughly the Kachinda turn-off, the landscape consists of rolling to flat terrain and the predominant land use outside of the trading centres was seen to be subsistence agricultural with the main crops being maize and vegetables. Other activities livelihood generation activities noted included brick-making (Plate 8).





Plate 8: Livelihood strategies along the M1 Road include brick-making

North of the Kachinda turn-off the terrain becomes hilly and the road passes through the Kahingina Forest Reserve before reaching Jenda. North of Jenda there are fewer trading centres and settlements and the area is less densely populated. The road <u>passes</u> through the Perekezi Forest Reserve before

reaching the turn-off to Mzimba. The livelihood strategies of villagers along this section typically includes the collection and sale of forestry-related products such as medicinal plants, leaves, bark, roots, fruits, firewood, honey, etc. Both men and women collect wild plants. Wild fruits are collected opportunistically by children and women for subsistence purposes but are occasionally sold. Wild leaves are used as vegetables.

The M1 road carries significant local traffic serving the Lilongwe, Dowa, Kasungu and Mzimba District administrative centres and the trading centres along its route. The road provides for access to local economic growth points and enables the transportation of essential food, consumer goods and fuel. The road also serves productive farming areas along its length. The local population depend on the road to transport their crops to local markets, as well as to markets in the Lilongwe and the regional towns and villages in the project area.

3.9 RELIGION

The vast majority of Malawians are Christian (87%) and the remaining 13 % are Muslims (MDHS, 2016).

3.10 SETTLEMENT PATTERNS

The settlement pattern is generally linear and follows the M1 Road. A significant proportion of the population has settled in areas very close to the road reserve, particularly in the trading centres. In all the trading centres, it was seen that there are buildings, structures and informal traders operating within the existing road reserve (Plate 9). Limited resettlement is required in places.



Plate 9: Buildings and structures located within the road reserve in Lumbadzi Trading Centre (TC)

The high-density settlements that occur along the road pose a safety concern, particularly along Section 1 and Section 2. The poor safety record of the road is captured in the RAs draft Road Safety Assessment report (July 2014), which identified 29 locations between the KIA turn-off and the Mzimba turn-off where accidents have been recorded. In some of these locations more than 20 accidents occurred in the period 2008 to 2012 and 11 locations are considered as 'potential black spots'. It is noted that:

- Most crashes involve pedestrians and cyclists;
- Most of the accident black spots are between the KIA turnoff and Kasungu (Section 1); and
- Several bridges are identified as black spots.

3.11 KEY MODES OF TRANSPORTATION

Access to transportation is generally considered to be a fundamental determinant of economic growth and a significant factor in an individual's health, schooling, and economic status. Bicycles are the primary means of local transportation for a large majority of people living along the project route (Plate 10). Bicycle taxis were seen operating in some of the trading centres. Bicycle taxis offer people who can't afford taxis or minibus a cheapermeansoftransportation. One can travel several kilometres on the cushioned bicycles for about 150MalawiKwacha (about US\$ 0.2).



Plate 10: Bicycle taxis are used in urban centres such as Lilongwe and in most trading centres

Minibuses that account for roughly 47% of the market share, operate along the M1 road and are the most common public means of getting around cities and between trading centres along the country's major routes and highways. Buses are also used to travel between trading centres. Bus services used to be state-owned but currently the sector is dominated by private bus operators.

Pick-up trucks are also used as a means of public transport. While they are usually overloaded and unsafe, they connect up the main urban centres of the country. As they are quite affordable (two to three times cheaper than a minibus) they meet a significant demand of the population, ensuring a 24% share of the national passenger transport system.

3.12 CULTURAL ENVIRONMENT

The courts in Malawi continue to apply customary law, which gives great deference to decisions made by Traditional Leaders. According to Section 27 of the Monuments and Relics Act (29:01), any entity that finds a relic or archaeological element during excavation must halt work and report it to the national government within fourteen (14) days.

The dead are buried in small graveyards, thirteen (13) of which were noted along the M1 road (Table 14 and Plate 11). While these graves may be located within the 60 m road reserve, the Contractor will be instructed not to disturb them in any way. Measures to avoid disturbing the graves are provided in the ESIA's EMP and include clearly demarcating each grave and graveyard and declaring them as nogo areas.

Table 14: Location of graveyards along the project road

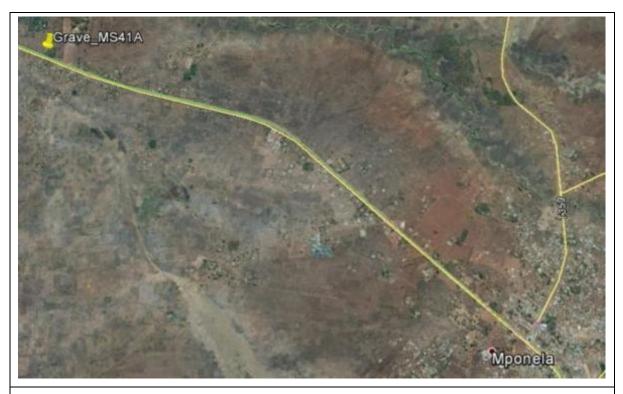
Grave	Latitude	Longitude	Height	Location
GRAVE_MS41A	-13 30 36.27028	33 42 09.63962	1178.107	4.54 km north of MponelaTC on eastern side of M1 (near trees).
GRAVE_MS19	-13 39 22.84601	33 46 27.37242	1349.295	500m south of the M1 and S115 road intersection on

Grave	Latitude	Longitude	Height	Location
				western side of the M1 road. Approximately 15km north of LumbadziTC.
GRAVE_MS19B	-13 39 14.20163	33 46 15.93367	1347.519	Located 113 m south of S115 and M1 Roads intersection on eastern side of the M1 road. Located in close proximity to Grave _MS19.
GRAVE_MS7B	-13 44 07.02005	-33 48 22.08380	1240.783	Located 4.5km north of LumbadziTC on eastern side of M1 road. It is located 1.7km south of the intersection of M7 with the M1 road.
GRAVE_MS54C	-13 26 03.61969	33 37 14.22188	1125.657	Located approximately 3 km south of river flowing through the MadisiTC on western side of M1 road.
GRAVE_MS64C	-13 21 40.29712	33 34 48.10734	1121.087	Grave is located approximately 6.726 km north of MadisiTC on eastern side of the road.
GRAVE_MS75A	-13 18 42.66936	33 33 18.37931	1050.202	Located 15 km north of MadisiTC on eastern side of the M1 road.
GRAVE_MS103	-13 06 15.15756	33 29 19.39738	1105.079	Grave is located 1.8 km north of intersection of T338 road with M1 road on eastern side of the M1 road. This grave is ~ 6 km south of Kasungu.
GRAVE_MS151A	-12 44 08.51646	33 28 27.78978	1121.313	This grave located roughly 10km north of Mphomwa and 20 km south of Nkhamenya on western side of the M1 road near a school.
GRAVE_MS31	-13 34 36.23548	33 44 50.68660	1301.680	This grave is located roughly 5 km south of MponelaTC on eastern side of M1 road close to three other graves.
GRAVE_MS31A	-13 34 26.24751	33 44 49.86829	1298.589	Grave is located near 3 other graves and roughly 4.75 km south of MponelaTC on western side of M1 road.

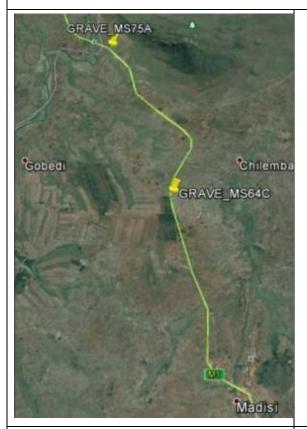
Grave	Latitude	Longitude	Height	Location
GRAVE_MS31B	-13 34 17.52480	33 44 48.21871	1298.127	Grave is located near 3 other graves and roughly 4.5 km south of MponelaTC on western side of M1 road.
GRAVE_MS31C	-13 34 09.26658	33 44 45.298480	1294.64	Grave is located near 3 other graves and roughly 4 km south of MponelaTC on the eastern side of M1 road.



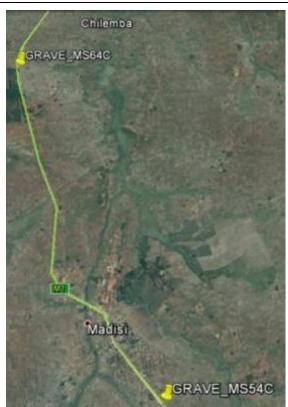
GRAVE_MS19 and GRAVE_MS19B located approximately 15 km north of LumbadziTC



GRAVE_MS41A located ~ 4.54 km north of MponelaTC on eastern side of M1 road



GRAVE_MS75A located $^{\sim}$ 15km north of Madisi on eastern side of M1 road



GRAVE_MS54C located ~3 km south of river in Madisi on western side of M1 road and GRAVE_MS64C located ~ 6.73 km north of Madisi



GRAVE MS103 is located ~ 6 km south of Kasungu on eastern side of M1 road



GRAVE MS151A located $^{\sim}10$ km north of Mphomwa and $^{\sim}20$ km south of Nkhamenya on west side of M1



Grave_MS31, MS31A, MS31B and MS31C are located between 4 km and 5 km south of Mponela TC

Plate 11: Graves located in close proximity to the M1 Road



Chapter4: Stakeholder Consultation

CHAPTER 4: STAKEHOLDER CONSULTATION

4.1 OVERVIEW

Consultation has two aspects. The first is the timely dissemination of information regardingthe Project and its resettlement component. In this regard consultation is a one way processof information provision from the Project, its sponsors and staff to the public. The secondaspect is the two-way free flow exchange of information that gives stakeholders a chance toair their concerns and have a voice in the actual planning of the resettlement. It is the secondaspect which is the most important in resettlement planning and implementation.

Participation of and consultation with the affected community and authorities is vital to the success of the resettlement and compensation programme. The WB OP 4.12 specifically states, as a policy objective, that 'displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programmes'.

Consultation and participation of the public allows the project management design resettlement such that it is able to benefit affected peoples. Effective consultation also assist in reducing the costs of implementing the RAPs by avoiding implementation that is contrary to the needs of PAPs and which does not breed antagonism towards the Project by withholding information. Consultation is an ongoing aspect of the resettlement process that takes place through every stage of resettlement planning and implementation and thereafter, once the road upgrade Project has started.

Broadly defined, stakeholders include any individual or group that feels that it is going to beaffected by the project, the affected community and any individuals or groups that may haveany significant role to play in shaping or affecting the Project, be it in a positive or negativemanner. In a narrower vein, PAPs are those individuals and groupswho are directly affected by the Project through the loss of assets and or land, or for whomthe Project disrupts or affects their livelihoods. Stakeholders relevant to this RAP have been identified from the onset and include the following:

- PAPs;
- The Developer (RA);
- Local Authorities (District Commissioner, Councils, Government Departments);
- Local Businesses;
- Traditional Leaders; and
- Individuals who feel they are impacted upon (positively or negatively) by the creation of the Project or the resettlement process.

4.2 AIMS AND OBJECTIVES OF STAKEHOLDER CONSULTATION

Every effort has been made to inform stakeholders of the Project and its resettlementcomponents. In this regard the ESIA had a consultative process that has been followed. The aim of the stakeholder consultation process undertaken during the ESIA was to:

- Achieve continued, optimum stakeholder input and support for the current project (upgrade and rehabilitation of the existing M1 Road over a distance of 234 km);
- Understand stakeholder's viewpoints;
- Build trust by, e.g. providing feedback to stakeholders;
- Implement experiences and lessons learnt from stakeholders and community experience;
- Inform decision making and facilitate sustainable development;
- Empower and build capacity amongst stakeholders;
- Disseminate concepts of the proposed Project activities with a view to generatingProject interest amongst the communities;
- Promote a sense of ownership for the Project and resettlement activities; and
- Determine communities' willingness to contribute in kind towards the implementation of the Project.

It is anticipated that further consultation will be undertaken with PAPs, traditional leaders and the relevant District Commissioners following the development and acceptance of this RAP by the RA. These consultations will be conducted by the RA (or appointed representative), the Ministry of Lands, Valuation Officer and the office of the relevant District Commissioners. The objectives of these consultation meetings will be as follows:

- Re- orient the District Councils and Traditional Leaders about the need to have RWGs;
- Sensitize the Council and Traditional leaders about the need to have GRCs;
- Orient the PAPs about the RWG and GRCs;
- Facilitate election of RWGs and GRCS;
- Identify vulnerable groups of people at each market centre/trading centre;
- Orient the PAPs and Traditional Leaders about the impending Project, Migrant Workers and the influx of migrant workers and the dangers of HIV/AIDS and other Sexually Transmitted Infections (STIs); and
- Discuss any other social impacts of the Project.

4.3 SUMMARY OF CONSULTATION ACTIVITIES

Table 15 contains a summary of the consultation activities undertaken for the road upgrade Project during the ESIA phase.

Table 15: Summary of consultation activities undertaken for M1 road upgrade project

Date	Consultation Activity					
14 June 2019	Introductory meeting with Environment Affairs Department, Roads Authority and the Environmental Consultants.					
14 June 2019	Site visit of project road with Roads Authority Environmental Manager					
1 – 4 July 2019	Meeting with representatives from various government departments including the Environment Affairs Department, Mines and Geology, Forestry, Water Affairs, Lands, Road Traffic and Road Safety, Department of Antiquities and Agriculture.					
2 - 4 July 2019	Meetings with Dowa DC and Kasungu DC (3 July 2019) and Lilongwe DC (2 July 2019) and Mzimba DC (4 July 2019).					
7 July 2019	Kasungu District Council meeting held at Kasungu District Council Offices					
9 July 2019	LumbadziTC					
11 July 2019	Dowa District Council meeting held at Dowa District Council Offices					
12 July2019	Mzimba District Council meeting held at Mzimba District Council Offices					
26 July 2019	ChimwazaTC					
26 July 2019	MadisiTC					
26 July 2019	MponelaTC					
27 July2019	NkhamenyaTC					
27 July 2019	JendaTC					
4 July 2019	MponelaTC					

Plate 12 provides photos taken during some of the meetings held in trading centres along the Project road.

MponelaTC meeting	ChimwazaTC meeting
MadisiTC meeting	NkhamenyaTC meeting
JendaTC meeting	Meeting with MponelaTC Executive Committee Members

Plate 12: Public meetings held with stakeholders in Trading Centres located along the M1 road

Responses from the consultations provided relevant background information and helped in the identification of the key resettlement-related concerns of the communities along the Project impact area. The discussions mainly centred on:

- The upgrade and rehabilitation of the M1 Road and its surroundings (land-use, natural resources, water, etc.);
- Important features that may be affected including market places, schools, clinics, quarries, borrow pits, access and feeder roads, etc.;
- Sensitive areas such as graveyards;
- Socio-economic and environmental issues to arise from implementation of the proposed rehabilitation and upgrade activities;
- Gender and HIV issues;
- Resettlement and compensation of the PAPs;
- Employment opportunities;

- Road accidents and existence of black spots along the road;
- Benefits (increased trade and transport) and inconveniences due to increased construction traffic; and
- Positive or negative experiences with Contractors.

4.4 COMPENSATION AND RESETTLEMENT ISSUES RAISED AND RESPONSES

Table 16 summarises the compensation-related issues raised by stakeholdersduring the public consultation process. The table indicates the forum where the issue was raised and provides a response as to how the issue will be addressed.

Table 16: Summary of Compensation-related Issues Raised and Responses provided during ESIA

Issue	Forum Raised	Response
The community wanted to know if it was possible to access the legislations that talk about land issues since most of them were not aware about these laws.	MponelaTC meeting	The Acts are enacted by the National Assembly and printed by the Government Printers' Offices. They can be accessed from the DCs office. However the Ministry of Transport, through RA as custodian of the Public Roads Act has the responsibility to raise awareness about the contents of the Public Roads Act. RA has done that through awareness campaigns such as radio programmes.
PAPs should be compensated. Will theGoM be able to compensate the people appropriately as it is known that Government does not have money?	MadisiTC meeting Dowa District Council meeting	Government will compensate every affected person. PAPs will be appropriately compensated. The details of the PAPs will be listed in the project's RAP.
Will people whose property is affected by the project be compensated or not since they encroached into the road reserve?	Kasungu District Council meeting	People whose property will be affected by the Project will be compensated. The details of the affected people and their property will be included in the RAP prepared for this Project.
People whose land has been affected by gully formation due to the Contractor sourcing gravel must be compensated.	Mzimba District Council meeting	This recommendation will be incorporated in the RAP.
Until of late when the Road Reserve Boundaries marker posts were erected, local people were not aware of the exact boundary for the road reserve. Some people have established these settlements out of ignorance.	ChimwazaTC meeting	Government has already started considering them, as evidence by the conducting of this meeting to engage them in this process. A detailed RAP of how this will be done will be prepared and shared with them through the 'Public Disclosure'. This will be communicated to them via appropriate channels like their local leaders through the DC's office.

Issue	Forum Raised	Response
What measures has the GoM put in place to ensure that no disputes arise when resettling people and relocating property outside the road reserve?		The RAP will have a Grievance Resolution Procedure in place where grievances can be raised without any fear of recrimination.
The 60 m road reserve as stipulated by the law is large and as such it will affect a lot of properties especially along the trading centres. Is there any consideration for minimizing the number of properties to be affected in these areas?	ChimwazaTC meeting	The law provides for 36 m and 18 m in certain designated roads other than the M1. These may sometime be applied under critical circumstances, such as when the road passes through areas with high population densities such as cities and towns. This may be considered in trading centres with regard to circumstances at hand. Wherever road re-alignment is considered viable, it may also be applied.
We are of the view that Government tolerated people to settle on the road reserve so evicting them at this point when we have established our livelihoods will cause a lot of suffering.	ChimwazaTC meeting	Government is currently rectifying the problem by erecting beacons for the road reserve boundary. Government has also undertaken awareness campaigns to stop people from encroaching on the road reserve. The RAP that will be prepared will spell out mechanisms for livelihood restoration.
How will those that built their structures knowingly and unknowingly in front of a beacon be differentiated?	JendaTC meeting	With respect to the laws they are all wrong doers. However both will be compensated. Shortly Government will enforce regulations that prohibit settlement within road reserves.
Will those affected during construction due to operations of machinery be compensated?	JendaTC meeting	These will be considered, even if they are just cracks on houses. Contractors will be required to undertake dilapidation surveys prior to starting construction. If it is seen that construction activities damage structures, the Contractor will be required to compensate the affected party.
How will those that have farms near the road be considered?	JendaTC meeting	Those that have crops will be asked to reap/harvest their produce before construction starts. They will be warned not to plant within the road reserve.

Issue	Forum Raised	Response
		They will also be compensated by estimating the amount of crops in the field if the crop is lost.
How does Government intend to reduce arguments that arise due to compensation?	Jenda Trading Centre meeting	Government will follow a procedure that will involve taking full details and pictures of the owners as well as their structures. This will reduce disruptions in the overall Project implementation.
How will the estimates of items per house be calculated?	JendaTC meeting	A property evaluator will estimate and calculate all the costs per house depending on the current prices of the items.
Late compensation results in arguments about compensation. This issue needs to be taken into account and compensation must be implemented at an early stage.	JendaTC meeting	Recommendation noted and will be addressed in the RAP through the inclusion of a Grievance Redress Mechanism.
Is it possible to start construction before compensation is made?	JendaTC meeting	No. Funding for the road Project will only be released to the Government once all affected people have been compensated.
Lilongwe City Council should arrange for a place where the displaced people will be plying their businesses. In addition the place to be identified should be along the main road not behind the trading centre because they will lose their customers.	LumbadziTC meeting	This request made by the vendors has been noted. It will be communicated to relevant authorities and included in the RAP as one of the mitigation measures for loss of business by the vendors.
There is a tendency by District Council officials who tend to either pocket money for compensation or pay the PAPs less money than they are due. There is need to alert the District Commissioner for Mchinji about this malpractice.	LumbadziTC meeting	This observation will be communicated to the office of the District Commissioner during sensitization meeting that will be held on Monday 11th April 201. In addition the RAP will also make some recommendations regarding this issue. The consultants further informed the meeting that it is the office of the DC only that is mandated to administer compensations. However, mechanisms can be put in place to ensure that this

Issue	Forum Raised	Response
		malpractice is stopped including the Grievance Redress Mechanism that is part of the RAP.
Will people be given notice before the demolition of their structures?	LumbadziTC meeting	Indeed people will be given notice before demolition of their structures. Firstly census of project affected people and their property will be made and people to be affected will be informed. A notice of about 6 months will be given
		to those people whose structure will be affected.
		They will all be compensated.
How will those that have properties in the road reserve be differentiated in-terms of establishment of structures before and after placing of	MadisiTC meeting	However, a time will come when a letter through the DC's office will entail the closing period when anyone who constructs in the road reserve will not be considered anymore.
beacons?		It is important to note that the law does not differentiate people on the basis of ignorance.
What is a period laps between receiving compensation and	MadisiTC meeting	In most cases 6 months before construction is the time period given to compensate the people.
commencement of road construction	Madistre meeting	However, it depends on the availability of funding and the time required to appoint a Contractor.
It was suggested that the same consultants conducting the meetings be present during	MadisiTC meeting	This may be considered but it is very unlikely to be possible. The feedback will be submitted to the right authorities who will avoid misunderstandings.
relocation of properties to reduce misunderstandings.		A grievance redress mechanism will be in place as part of the RAP.
Who is responsible for determining the value of the properties to be compensated? The owner or property evaluators?	MadisiTC meeting	Government registered property evaluators will be engaged for that purpose.
What will start between compensation and road construction	MadisiTC meeting.	The people will first be compensated then the construction can take place.

Issue	Forum Raised	Response
		Donors require proof that the people were compensated before they provide funding for any given project.
Traditional leaders around the area to be consulted before construction begins so that they can sensitize their subjects especially those that will be affected by the drainage construction.	Dowa District Council meeting	Community leaders will be notified prior to construction commencing.
Traditional leaders in the area be consulted and engaged to reduce cases of vandalism of property.	Kasungu District Council meeting	The recommendation will be included in the RAP.
How will the offices of the Council be involved with the implementation of the project?	Mzimba District Council meeting	The office of the District Commissioner will be actively involved in the monitoring of the implementation of the project. This will be clear in the RAP. Council will be included as part of the RAP oversight structures.
The Council must be consulted on where the camp site of the contractor can be located and on the type of materials that will be used to build structures, as these can be later used as schools when the project is done.	Mzimba District Council meeting	The Council will be consulted regarding the location of the Contractor construction camp.
The Councillor for the area indicated that apart from holding such a meeting at Lumbadzi Trading Centre, it will be more effective if the is a public Notice in Radios and Television as such more people will be informed about the development.	LumbadziTC meeting	This recommendation has been taken and will be communicated to the RA.
Is there any joint coordination among the countries implementing the project when it comes to choosing the COMESA options? (Do nothing,	Mzimba District Council meeting	COMESA is the coordinator and Malawi is a member of COMESA. COMESA develops the terms of reference for all consultants. The option selected will depend on the funds available.

Issue	Forum Raised	Response
period of 10 years or period of 20 years).		Different countries get funding from different donors.



CHAPTER 5: IMPACTS, LAND ACQUISITION AND RESETTLEMENT

5.1 RESETTLEMENT IMPACTS AND MITIGATION

The road passes through a number of settlement, agricultural land, forest areas, places of cultural interest such as graveyards and government and organization institutions. Some of these areas are within the road reserve and will be affected by the project activities. The road project will require acquisition of land some of which is agricultural land, homestead land affecting several households, houses and small shops, many of which will need to be relocated.

An initial inventory of structures affected by the road upgrade and rehabilitation was undertaken along the route in June 2017. This initial survey of affected assets and PAPs obtained preliminary information on the issues listed below (as relevant and appropriate):

- Exact land acquisition requirements;
- Affected households / businesses;
- Loss of private buildings and other structures;
- Livelihood impacts;
- Income sources of affected households / businesses;
- Loss of produce;
- Impacts on vulnerable groups; and
- Loss of heritage items.

This information was superseded by an asset inventory undertaken by the Ministry of Lands in the second quarter of 2018. The information is summarised in a databaseincluded as AppendixB and enabled the identification of the land/structures that will need to be acquired and provides the associated costs.

5.1.1 Potential Resettlement Impacts

The design of the KIA turn-off to Mzimba Road is intended to upgrade and rehabilitate the 234 km section of the M1 road. The interventions will include a mix of reconstruction and overlay with surface dressing and widening with drainage improvements to complete rehabilitation to 11 m roadway (rural areas) made up of 2 x 3.5 m lanes and 2 m shoulders on each side to accommodate safe movement of the NMT.In the urban trading centres, the lane width will be 2 x 3.5m with a 1 m sealed shoulder and a raised kerb walkway of 2 m.

In line with the resettlement objectives, displacement under the Project has been minimized through the following design procedures:

- Wherever inhabited dwellings may potentially be affected by the proposed Project, the latter will be re-routed as far as practicable to avoid any impact on such dwellings to avoid displacement/relocation;
- The same applies to structures used for commercial activities and other businesses; and
- To the extent possible, Project facilities such as temporary by-pass and access roads, culverts, etc. will be routed inside the existing right-of-wayswherever possible.

The asset inventory undertaken by the Ministry of Lands under the supervision of the RA providesinformation on the issues listed below (as relevant and appropriate):

- Approximate land acquisition requirements;
- Affected households / businesses;
- Loss of private buildings and other structures;
- Livelihood impacts;
- Income sources of affected households / businesses;
- Loss of produce;
- Impacts on vulnerable groups; and
- Loss of heritage items.

The inventory indicates that while the Design Engineers have aimed to avoid displacement, the Project will impact on a number of households, business operators (both formal and informal), institutions; signboards and advertisements (Table 17).

The asset inventory was undertaken by three teams that covered the three sections of the road, *i.e.* Section 1 from the KIA turn off to Kasungu; Section 2 from Kasungu to Jenda; and Section 3 from Jenda to the Mzimba turn off. Asset inventory information provided included the name of the PAP, the village within which the PAP or resource is located; description of the asset; size of the asset (in m²); rate applied and asset value; name (type) and number of trees and size (small, medium or large tree); disturbance value; and total compensation value.

Table 17: Summary of Asset Inventory Findings

No.	Area (District)	No. of PAPs affected	Typical aspects requiring compensation	Total Value of Compensation (MK) including Improvement Value, Tree Value and Disturbance Allowance (18%)
1	KIA to Kasungu	1,049	Houses and associated	1,500,876,621,40
2	Kasungu to Jenda	749	infrastructure, walls, shops (formal and	597,850,546.00
3	Jenda to Mzimba turn off	126	informal), sign posts and trees	109,561,252,42
	Total Compensation Cost			2,208,288,419.82

Table 17 indicates that the total cost for compensation for the entire road is MK 2,208,288,419.82 and that a total number of 1,898 PAPs are affected.

Broad categories of losses, affected entities and the potential social and economic impacts resulting from these losses are listed in Table 18. Such losses qualify for compensation and resettlement assistance.

Table 18: Category of loss and Social and Economic Impacts

Category of Losses	Affected Entities	Potential Social and Economic Impacts
Loss of residence and or associated residential structures	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 and or who will lose associated residential infrastructure such as stand-along kitchen, bathroom, pit, walls, etc.	 Landlessness, homelessness Disturbance of house production systems Loss of or weakening of community system and social networks
Loss of business structures (income)	People who will be displaced by having to move their places of business to allow for the construction of the road-related infrastructure.	 Impoverishment Loss of self – employment opportunities

5.1.2 Resettlement Mitigation

chainage km 18+640.

The key mitigation measure for land take includes the implementation of this RAP whereby PAPs are compensated for any losses experienced as a consequence of the road upgrade and rehabilitation

Project. Further, no construction should commence until all land and property expropriation procedures have been completed, replacement land allocated, and cash compensation paid.

Rehabilitation/construction works for the proposed road will involve land clearing along the M1 route. Land will be cleared in all places where diversions, access roads, sites for extraction of construction materials and campsites will be established. Mitigation measures for clearing land include:

- The construction contracts should have a clause prescribing quarry sites, borrow pits and access roads as part of the site, so that the powers and authority of the Engineer extend to them in the same way as to other areas where works are being undertaken;
- Written agreements should be developed and signed between the land owners and community leaders and the Contractor;
- A detailed material plan should be prepared as part of the initial design review. Subsequent to
 this, quarries areas and borrow pits should be identified, marked on engineering drawings, and
 specified in the tender/contract document. Only approved quarry areas and borrow pits
 should be used and the requirement to rehabilitate quarry areas, borrow pits, as well as access
 roads, should be included in the contract;
- Debris from the proposed project area shall be dumped at appropriate places designated by the concerned Councils;
- The Contractor shall observe the requirement of confining earthworks within the road reserve of 60 meters (30 m either side of the road from the centre line) of works. The purpose is to minimise the potential impact of loss of vegetation; and
- The Contractor shall seek approval prior to felling trees and where trees are felled, these will be compensated by replanting at appropriate locations or compensation of the owners.

The Contractor will establish camps that will be used to provide residence for workers, as well as act as project administration offices, storage facilities for different building materials and equipment, workshop for servicing the vehicles and road construction machinery. The establishment of construction camps and residential houses for the construction work force and the Engineer's camp may compete with the limited local resources. The existence of camps for the constructions workers close to settlement areas could influence negatively on local life style and sometimes may lead to cultural and social conflicts. To avoid such type of conflicts and problems the establishment of the construction camps should be in a planned way without negatively affecting the local resources and society. Consultation with the local administration shall be done to assist in identification of the appropriate camp site that can serve dual purposes. The Contractor is responsible for compensating the land owner for the use of the construction camp area.

It is expected that Contractors will be responsible for removing and subsequently reinstating signboards that are located within the road reserve. Similarly, Contractors will be responsible for restoring access to property.

Social impacts that may affect stakeholders during the construction phase and that will be managed by the Contractor responsible for the upgrade and rehabilitation of the Project road included the following:

- The level of dust and noise that was going to be generated during construction phase;
- The need for provision of road signs and speed control devices during construction and especially upon road completion;
- Safety concerns for pedestrians in the settlements along the Road corridor during the construction phase (large construction vehicles such as haul trucks);
- Disruption of school activities in different places by noise and other construction activities;
- The need to manage overburden properly rather than dumping the overburden in peoples' gardens;

- The need for proper location of borrow pits and quarries and that these should be effectively rehabilitated after the Project is over; and
- Conduct public awareness and education on the merits and demerits of the Project for the beneficiary communities to appreciate the Project.

These aspects are not directly related to compensation and have been addressed in the Environmental Management Plan (EMP) that Contractors are required to comply with.

5.2 ELIGIBILITY

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.

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. The cut-off date has not yet been set. 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 (Table 19):

- 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, farmland, 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;

households.

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

The impact relating to the loss of land through permanent land acquisition is not listed or addressed in this matrix as road upgrade 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 1.4 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.
- <u>Genuine stakeholder consultation</u> has taken place as outlined in Section 4.3 and summarised in Table 16.
- A <u>pre-Resettlement socio-economic survey and database</u>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.
- The RA will provide 18% <u>Resettlement Assistance</u> and provide compensation for improvementsmade within the road reserve as indicated in the Entitlement Matrix (Table 19).
- A fair and equitable set of compensation options must be negotiated as outlined in Table 19.
- Resettlement must take place in accordance with <u>Legal Requirements and International Best</u> Practice.
- <u>Vulnerable</u> Social Groups must be specifically provided for.
- Resettlement must be seen as an '<u>Upfront' Project cost'</u> by the RA.
- An <u>Independent Monitoring and Evaluation Process</u> must be in place following compensation of PAPs.
- A <u>Grievance Procedure</u> must be in place. The proposed procedure is outlined in Section 6.3.

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 must still be set. All affected persons, village heads and other Traditional Authorities will be 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.

Table 19: KIA to MzimbaEntitlement Matrix

Project Impact	Affected Population / Entity	Asset Compensation	Transport allowance	Other Compensation Measures	Additional Provisions for Vulnerable Groups
	PAPs with title or traditional rights to land subject to temporary acquisition	No compensation under this RAP; rental of land by contractor based on market prices (negotiated agreement).	-	Consultant(Resident Engineer) to review rental agreements to ensure legal and equitable	Targeted consultation/ monitoring to ensure livelihoods sustained/ restored and vulnerability not increased.
Loss of land through temporary land acquisition, e.g. haul roads or temporary bypass roads	Tenants of land subject to temporary acquisition	No compensation.	-	-	Targeted consultation/ monitoring to ensure livelihoods sustained/ restored and vulnerability not increased.
	Free users of land subject to temporary acquisition	No compensation for loss of land.	-	-	Targeted consultation/ monitoring to ensure livelihoods sustained/restored and vulnerability not increased.
	Owners of houses located in the Road Reserve	Resettlement Assistance	Lump sum allowance to cover removal/relocation costs based on formula: weight x Kilometre x Cost/kilometre.	Building materials may be salvaged from old structures. Cash payment of 18% of replacement cost as disturbance allowance Encourage contractors to employ PAPs	Prioritised in provision of resettlement /moving assistance and other measures. Targeted consultation/ monitoring to ensure livelihoods sustained/ restored and vulnerability not increased.
Loss of houses	Tenants of houses (and any associated ancillary facilities) located in the COI	Resettlement Assistance	Lump sum allowance to cover removal/relocation costs based on formula: weight x Kilometre x Cost/kilometre.	Building materials may be salvaged from old structures. Cash payment of 18% of replacement cost as disturbance allowance Encourage contractors to employ PAPs	-Targeted consultation/ monitoring to ensure livelihoods sustained/ restored and vulnerability not increased.

Project Impact	Affected Population / Entity	Asset Compensation	Transport allowance	Other Compensation Measures	Additional Provisions for Vulnerable Groups
Loss of other domestic structures	Owners of ancillary domestic structures (kitchens, ablution facilities, walls/fences, porches, granaries, etc) located in the road reserve	Resettlement Assistance	Lump sum allowance to cover removal/relocation costs based on formula: weight x Kilometre x Cost/kilometre.	Building materials may be salvaged from old structures. Cash payment of 18% of replacement cost allowance	Targeted consultation/ monitoring to ensure livelihoods sustained/ restored and vulnerability not increased.
	Owners of stalls, buildings, walls, advertisements, etc. located in the road reserve	Resettlement Assistance	Lump sum allowance to cover removal/relocation costs based on formula: weight x Kilometre x Cost/kilometre	Cash payment of 18% of replacement cost as disturbance allowance Building materials may be salvaged from old structures. Encourage contractor to employ PAPs	Targeted resettlement/ moving assistance and other measures. Targeted consultation/ monitoring to ensure livelihoods sustained/ restored and vulnerability not increased.
Loss of commercial enterprises	Tenants of stalls, etc. located in the road reserve.	Resettlement Assistance	Lump sum allowance to cover removal/relocation costs based on formula: weight x Kilometre x Cost/kilometre	Cash payment of 18% of replacement cost as disturbance allowance Building materials may be salvaged from old structures. Encourage contractor to employ PAPs	Targeted resettlement/ moving assistance and other measures. Targeted consultation/ monitoring to ensure livelihoods sustained/restored and vulnerability not increased.
	Proprietors of mobile enterprises, e.g. tables or on the ground.	Resettlement Assistance	Lump sum allowance to cover removal/relocation costs based on formula: weight x Kilometre x Cost/kilometre.	Cash payment of 18% of replacement cost as disturbance allowance Building materials may be salvaged from old structures.	Targeted consultation/ monitoring to ensure livelihoods sustained/restored and vulnerability not increased.

Project Impact	Affected Population / Entity	Asset Compensation	Transport allowance	Other Compensation Measures	Additional Provisions for Vulnerable Groups
				Encourage contractor to employ PAPs	
Loss of crops	Owners of crops located in Road Reserve	Cash compensation for 1 season of crops based on average value of principal crops grown on affected land (area lost x yield) and average prices over last three years' production, with no discounts for input costs (seeds, chemicals, labour, etc.) or salvaging from current crop. Note this is only due in instances where farmers have not received a timely warning no to plant crops in the road reserve.	Lump sum allowance to cover removal/relocation costs based on formula: weight x Kilometre x Cost/kilometre.	Encourage contractor to employ PAPs	Offer of in-kind assistance for land-preparation (including payment of wages at market rates for people employed). Targeted resettlement/ moving assistance and other measures. Targeted consultation/ monitoring to ensure livelihoods sustained/restored and vulnerability not increased.
Loss of economic trees	Owners of economic trees located in road reserve (e.g. cashew, mango, banana, guava, sisal, jatropha, etc.)	Cash compensation for replacement seedlings/saplings plus cash compensation for value of lost production (based on average yield, age and remaining productive years of tree).	Not applicable	None	Targeted consultation/ monitoring to ensure livelihoods sustained/restored and vulnerability not increased.
Loss of non-economic trees	Owners of non- economic/non-edible trees located in road reserve (e.g. acacia, eucalyptus)	Cash compensation to cover cost of replacement	Not applicable	None	-
Loss of cultural property	Cemeteries located in the road reserve.	Not applicable (road reserve adjusted/ narrowed where necessary to avoid impacts on cemeteries)	Not applicable	None	-

Project Impact	Affected Population / Entity	Asset Compensation	Transport allowance	Other Compensation Measures	Additional Provisions for Vulnerable Groups
Loss/relocation of public infrastructure	Power lines, telegraph poles fibre-optic telecommunications cable, water valve boxes and road signage.	RA will coordinate with relevant Government institutions, who will be responsible for replacement of public infrastructures.	Not applicable	Consultant to facilitate communication and coordination between parties as required.	-

5.3 VALUATION OF AFFECTED ASSETS AND COMPENSATION PROCESS

The valuation of assets that may be lost during resettlement is a sensitive issue and it was undertaken by the Ministry of Lands with due care and rigor. The general approach adopted for the valuation procedures is summarised below:

- <u>Identify Eligibility under National Guidelines:</u> All relevant legislation, policy and valuations guidelines defined by the Government of Malawi was taken into cognisance. This formed the basis for the identification of eligibility to compensation and valuation methodology.
- <u>Asset Survey:</u> The asset survey determined the assets owned by affected individuals, households or communities (see Appendix B).
- <u>Valuation Methodology:</u> The valuation process involved the assessment of national guidelines, international best practice and local market research. The outcomes of this process is a set of practical and measurable values/rates for each asset category (see Appendix B).
- <u>Entitlement Contracts:</u> Contracts will be produced for affected individuals that will contain a summary of all their assets, adopted compensation rates or options and final valuations.

Validation of the affected properties was based on the provisions in the Malawian legislation for consistency and accountability. The valuation of properties was undertaken by the Ministry of Lands under the supervision of the RA. Payment of compensation is undertaken by the Roads Fund Administration (RFA) as soon as the RAP is approved for purposes of payment of compensations.

All the factors explained in the Public Roads Act will be considered in the validation/verification process. The assets to be verified shall include crops, fruit trees,indigenous trees,houses,land and businesses (formal and informal).

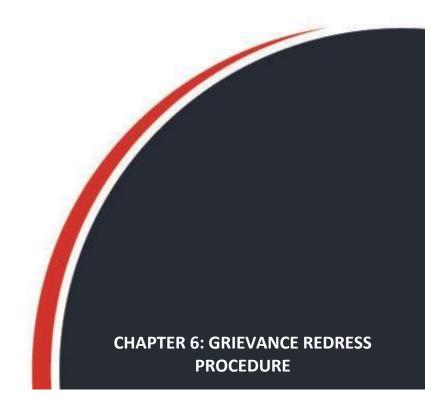
The valuation of physical structures will be based on the following general criteria:

- Survey of physical structures (size, build, materials) and all its related structures and support services;
- Determine average replacement costs of different types of structures based on information on the cost, quantity, and type of materials used for construction, e.g. bricks, rafters, bundles of straw. doors:
- Costs for transportation and delivery of these items to acquired/ replacement land or building site; and
- Estimates of construction of new buildings including labour required.

For the purposes of this document, the values of the structures to be replaced was determined to obtain an estimate of the compensation costs. The compensation package was determined by a government valuator as derived from summation of the costs of affected land, buildings, trees and crops to which was added an 18% mark-up to cater for involuntary acquisition. The addition of the mark-up to the calculated value brings the value equal to a pre-payment value. The valuation identified the cost of resettlement for each of the three road sections:

- In the section KIA to Kasungu (Section 1), it was seen that 1,049 PAPs are affected with a compensation value of Malawian Kwatcha (MK) 1,500,876,621.40.
- The section from Kasungu to Jenda (Section 2) affects 749 PAPs and will require compensation to the value of MK 597,850,546.00.
- The section from Jenda to Mzimba turn-off (Section 3) affects 126 PAPs and will require compensation to the value of MK 109,561,252.42.

The total compensation cost is MK 2,208,288,419.82 (see Appendix B). The matrix lists the PAPs and identifies the land/structures and resources such as trees that will need to be acquired and compensated.



CHAPTER 6: GRIEVANCE REDRESS

6.1 INTRODUCTION

Even when the Project can ultimately claim successful resettlement, there may still beindividuals 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 toaddress 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.

6.2 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.

6.3 PROCEDURE 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. 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 approach 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.

6.4 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 2presents a systematic diagram for addressing grievances.

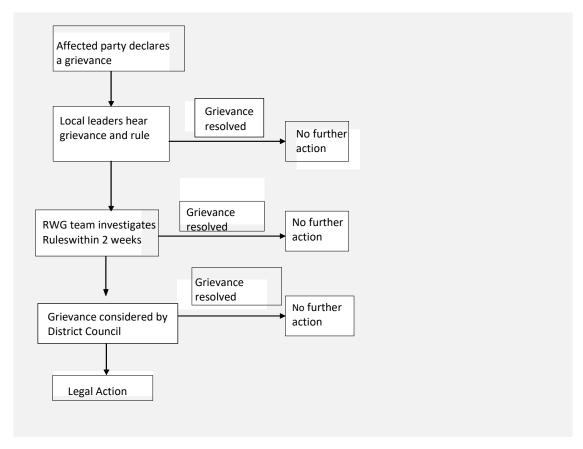


Figure 2: Grievance Redress Pathway

As can be seen from Figure 2, 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 7: RESETTLEMENT PLANNING, SCHEDULING, BUDGET & RESPONSIBILITIES

Information in terms of resettlement planning, schedules, budget and responsibilities is provided. These various components have been developed based on theoutcomes of the previous tasks and will need to be negotiated and discussed with the consultative fora and relevant authorities.

7.1 RESETTLEMENT PLANNING

The overall strategy in terms of resettlement, likely phasingand means of compensation must be defined as outlined in this RAP. Further consideration will be needed in terms of construction of any resettlement structures, labour and other issues.

7.2 SCHEDULING

The timing for resettlement in terms of the physical resettlement, payment of any cash compensation and ensure it aligns with any civil engineering required by the Project must be defined. Typically the preparation of a RAP will run over more than six months. Timeframes are often dictated by the consultative process that has to be followed and the need to reach agreement with affected people.

The implementation schedule for the RAP has not yet been determined as the construction schedule depends on the availability of the required Project funds. To facilitate the resettlement process, the following key activities will be initiated immediately upon commencement of the Project:

- 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;
- Appointing staff within RA and the affected district councils to commence with preparatory activities, including ongoing consultation with affected communities;
- Updating the socio-economic baseline, including completing socio-economic questionnaires for all affected households not surveyed during the preparation of the RAP;
- Establishing a Compensation Determination Committee to finalize compensation principles, norms and rates; and
- Contracting suitable NGOs to assist with the preparation of the social environment, including preparation of capacity building and skills enhancement programmes.

7.3 BUDGET

Resettlement costs are often underestimated and thus detailed budgeting/costs for the implementation of the resettlement should be provided. By far the greatest cost will be the replacement of the structures affected. Two models may be considered. The first involves rebuilding all structures using 'modern' materialsand to a standard that incorporates a guarantee. The second model is based on paying replacement value of the current structures. These are typically for traditional materials such as mud bricks, poles and zinc or thatch roofs, etc.

7.4 ROLES AND RESPONSIBILITIES

Organisational structures and responsibilities must beclarified prior to resettlement. This includes all actions that must be adopted by relevantstakeholders including, amongst others, the proponent (RA), the relevant government departments (referred to as the GoM in this section) and the representative for PAPs such as the Resettlement Working Group (RWG) and Grievance Redress Committees (GRCs).

7.4.1 Roads Authority (Proponent)

The RA will provide the financial resources necessary for the resettlement and compensationprocess and will provide significant additional managerial and technical expertise. The role of the RA may be broken down into two distinct phases: pre-implementation and implementation. This is conceptual and will be further refined during the resettlement planning phase.

Pre-Implementation Role

During pre-implementation, the RA must ensure it has:

- Collected all data required to effect resettlement.
- Drawn up Terms of Reference and contract all major planning services needed toeffect resettlement.
- Attend consultative meetings, and provide administrative support and ad hocmanagerial and technical support as required.

Implementation Role

In the implementation phase, the RA must continue to finance implementation of the RAP. This will be done via the establishment of a dedicated team. The team will have as its primary responsibilities the following:

- Drawing up offer documents for each individual household / entity affected.
- Managing compensation and resettlement payments.
- Ensuring that the principles of the RAP is respected.
- Providing technical and managerial input to the implementation of the RAP.
- Establishing a socio-economic monitoring programme for the affected households.
- Identifying entities that are 'failing' as a result of the resettlement impacts of the Project and, together with the relevant local authorities, defining and implementingappropriate corrective action.
- Attending consultative for a meetings and providing support and input as and whenrequired.
- Addressing compensation and resettlement grievances.
- Defining and implementing the monitoring programmes to ensure that affected households are not worse off in the post-implementation phase.

Ensuring compliance with the resettlement and social commitments contained in thisdocument will be the responsibility of the manager of the resettlement team who will have operational, daily responsibility for the execution of the RAP, including the following specific programme components:

- Survey and value assets taken during project construction;
- Conduct census updates of affected households; and
- Plan and supervise compensation activities, including for lost crops, land buildings andlivestock, and to restore lost livelihoods.

7.4.2 Institutional Responsibilities for Implementation of the RAP

Institutional responsibilities for co-ordination, planning, administration, management and control of development and environmental issues (including resettlement) are shared among a number of agencies, ministries and organizations. The GoMis the primary proponent of the project and will have the overall responsibility of coordinating the implementation of the RAP through the RA. The keygovernment institutions that are typically involved during a RAP include:

- District Councils of each of the four districts (local government);
- Ministry of Transport and Public Works including the RA;
- Ministry of Lands;
- National Land Commission;
- Ministry of Finance;
- Ministry of Local Government and Rural Development;
- Ministry of Agriculture and Food Security; and
- Department of Physical Planning.

The RA will set up a Project Management team to manageand implement the resettlement process. The RAP will be executed through the local government structures (District Commissioner) and the relevant government Ministries and Departments. The contact persons and teams in each Ministry will

be oriented by the RA representative to ensure that the exercise is undertaken with respect and due care to all PAPs. The District Commissioner will monitor implementation of the RAP.

7.4.3 Resettlement Working Groups

A RWG will be established by the RA. The RWG will interface with the Project Management team and with the PAPs. The RWG will be constituted in such a manner as to be regarded as the primary representative voice of the PAPs. The RWG will be established during the final design stage and may typically consist of the following role players:

- One representative from the District. This is typically the District Lands Officer;
- Representatives of the affected communities/villages. This consists 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;
- Representatives of the Traditional Authorities in each of the areas affected;
- Representative of RA;
- · Interested NGOs; and
- RAP Implementation Consultant appointed by the Developer (Optional).

The RWG will elect a chairperson at each Traditional authority level who is the official link between the RA, Contractor, Local Authority and the community. The chairperson is responsible for reporting back to the local development committees to keep them abreast of developments relating to the road upgrade project. The RWG will meet as necessary and, for the duration of the resettlementprogramme, will continue to meet. In addition to acting as a conduit of information, thisforum has the following key responsibilities and functions:

- Acting as the primary channel of communication between the various interest groups/organizations involved in the resettlement process. In particular, it serves to facilitate communication between RA and the affected population;
- Help identify the owners of property during verification and payment of compensation;
- 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;
- Assume primary responsibility of assisting RA in overseeing the resettlement processes in all its phases;
- Ensure that the terms of the RAPs are followed;
- Monitoring the implementation of the RAP and suggesting modifications if and when necessary;
- Identify issues/areas of concern that may have been overlooked/under emphasised in the ESIA or RAPs and suggesting ameliorative and or mitigation measures; and
- Monitor the Project area so as to prevent illegal encroachment.

A RWG will be formed in each one of the major trading centres with membership from minor or smaller trading centres.

7.4.4 Grievance Redress Committees

GRCs will be established and will typically consist of the following members:

- Two members of the RWC from each Traditional Authority;
- Two representatives of the Traditional Authority; and
- One member of the vulnerable groups from each Traditional Authority.

Initially only one GRCwill be established and this group will be provided with training or orientation on its role and tasks just before compensation is made.



CHAPTER 8: MONITORING AND EVALUATION

Monitoring and evaluationforms an integral part of a resettlement 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.

A monitoring plan is required in order to assess whether the goals of the resettlement and compensation plan are being met. Such a plan would include monitoring criteria (indicators), milestones and the resources needed to carry out the monitoring.

8.1 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 may be grouped into the following categories:

<u>Input indicators</u> – will measure the resources (financial, physical and human) allocated for the attainment of the resettlement objectives.

<u>Output indicators</u> – will measure the services/goods and activities produced by the inputs. Examples will include compensation disbursements for acquired assets.

<u>Outcome indicators</u> – 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.

<u>Impact indicators</u> – will measure the key dimensions of impacts to establish whether the goals of the Resettlement Plan will be achieved.

<u>Process indicators</u> – 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.

8.2 MONITORING PLAN

The monitoring plan should be designed to be undertaken at two levels as follows.

<u>Internal monitoring:</u>sometimes called performance monitoring, is an internal management function allowing the project management (or agency elected to implement the RAP) to measure physical progress against milestones set out in the RAP. Internal monitoring will:

- Ensure that due process has been followed in the notification of stakeholders with adequate public meetings being held;
- Verify that there are no outstanding or unresolved land acquisition issues regarding the project
 or any of its subprojects, that the census of all PAPs has been carried out, that the RAPs and
 socio-economic survey has been prepared, and that property valuation and resettlement has
 been carried out;
- Maintain records of any grievances that require resolution;
- Oversee that all resettlement measures are implemented as approved by the project management and relevant local authorities;
- Verify that funds for implementing resettlement activities are provided in a timely manner, are sufficient for their purposes, and are spent in accordance with the provisions of the RAP;
- Document timely completion of project resettlement obligations (i.e. payment of the agreedupon sums, construction of new structures, etc.) for all permanent and temporary losses, as

well as unanticipated, additional construction damage, while updating the database with respect to any such changes; and

• Ensure that monitoring and evaluation reports are submitted.

<u>External Independent Monitoring:</u> which takes the form of effects and impact monitoring, should be conducted half annually for at least the two years following resettlement by an independent consultancy (preferably with resettlement experience), academic or research institution or an NGO. An external monitoring protocol will be designed in detail during the RAP construction.

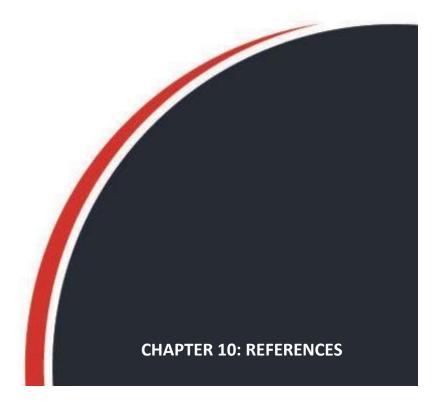
8.3 REPORTING

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 to provide information on the progress and results of mitigation. Both internal and external monitoring reports should be used to assess whether any changesshould be made to a RAP in its implementation. The Project Managers should meet after each monitoring exercise to consult over findings of the monitoring evaluation and whether steps should be taken to rectify issues that have been highlighted by the monitoring reports.



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) Contracting suitable NGOs to assist with the preparation of the social environment, including preparation of capacity building and skills enhancement programs.
- e) Set up the Resettlement RWG and Resettlement Committees



CHAPTER 10: REFERENCES

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