



**Republic of Malawi**



**Blantyre Water Board**



**Blantyre City Council**

**MALAWI WATER AND SANITATION PROJECT-1 (MWSP-1)**

**RESETTLEMENT ACTION PLAN (RAP)**

**FOR**

**CONSTRUCTION OF PUBLIC SANITATION FACILITIES FOR MAKHETHA  
CLINIC, LIMBE PRODUCE MARKET, LIMBE FLEA MARKET AND BANGWE  
MARKET**

**DECEMBER 2024**

## **ACKNOWLEDGMENT**

This Resettlement Action Plan (RAP) is for the project affected persons in four sites where proposed Public Sanitation Facilities (PSF) will be constructed. These four sites are Makhetha Clinic, Limbe Produce Market, Limbe Flea Market and Bangwe Market located in cholera hotspots in Blantyre metropolitan area. The report has been prepared with the support and consultation of MWSP-1 PST members, Blantyre City Council management, and in consultation with Project Affected Persons (PAPs) in all affected areas.

## TABLE OF CONTENTS

TABLE OF CONTENTS .....	ii
LIST OF TABLES .....	v
LIST OF FIGURES .....	vi
LIST OF ABBREVIATIONS AND ACRONYMS .....	vi
EXECUTIVE SUMMARY .....	7
CHAPTER 1: INTRODUCTION .....	5
1.1 Programme background and description .....	5
1.2 Objectives and scope of the Resettlement Action Plan .....	6
1.3 Methodology for preparation of the Resettlement Action Plan .....	8
CHAPTER 2: POLICY AND LEGAL FRAMEWORK FOR THE RESETTLEMENT ACTION PLAN .....	12
2.1 Policy Framework .....	12
2.1.1 The Malawi National Land Policy (2002) .....	12
2.2 Legal Framework .....	12
2.2.1 Constitution of Malawi (1995) .....	12
2.2.2 The Land Act (2016) .....	14
2.2.3 The Lands Acquisition and Compensation (Amendment) Act (2022) .....	18
2.2.4 The Registered Land (Amendment) Act (2022) .....	19
2.2.5 The Customary Land (Amendment) Act (2022) .....	20
2.2.6 Land Survey (Amendment) Act (2022) .....	21
2.2.7 The Physical Planning (Amendment) Act (2022) .....	21
2.2.8 The Local Government (Amendment) Act (2017) .....	22
2.2.9 Public Roads (Amendment) Act (2017) .....	22
2.2.10 Environment Management Act (1996) .....	23
2.2.12 Gender Equality Act (2012) .....	23
2.4 Overview of the World Bank Environmental and Social Framework .....	24
2.5. Comparison and Gaps between the World Bank’s Environmental and Social Framework and Malawi’s Legislation on Resettlement .....	25
CHAPTER 3: RESETTLEMENT ACTION PLAN PRINCIPLES AND OBJECTIVES .....	33
3.1 Objectives of Resettlement Action Plan .....	33
3.2 Principles of Resettlement Action Plan .....	33

h.	Compliance with relevant policies and laws.....	35
i.	RAP Approval process.....	35
<b>CHAPTER 4: DEMOGRAPHIC INFORMATION FOR MAKHETHA, LIMBE AND BANGWE</b>		<b>36</b>
4.1	Demographic Information.....	36
4.1.1	Population.....	36
4.2	Land use and tenure.....	36
4.3	Gender.....	37
4.4	Household Size.....	37
4.5	Household Vulnerability.....	37
<b>CHAPTER 5: ELIGIBILITY CRITERIA FOR PROJECT AFFECTED PERSONS</b>		<b>40</b>
5.1	Eligibility criteria.....	40
5.2	Types of PAPs and impacts.....	40
5.3	Entitlement framework.....	41
5.4	Livelihood restoration.....	48
<b>CHAPTER 6: VALUATION OF AND COMPENSATION FOR LOSSES</b>		<b>48</b>
6.1	Basis of valuation methods.....	48
6.2.	Valuation methods used.....	50
b)	Valuation for loss of business:.....	50
	Additional support for PAPs.....	51
7.1	Objectives of stakeholder engagements.....	51
7.2	Stakeholder analysis.....	53
7.3	Consultations meetings.....	55
7.3.1	Participation during implementation phase.....	55
7.5	Site selection for resettlement.....	55
7.6	Delivery of monetary compensation.....	55
7.7	Communication and information.....	56
<b>CHAPTER 8 GRIEVANCE MECHANISM</b>		<b>57</b>
<b>CHAPTER 9: BUDGET AND BUDGET ASSUMPTIONS</b>		<b>59</b>
9.1	Details of the PAPs by type of loss.....	59
9.2	Budget assumptions and Limitations.....	60
<b>CHAPTER 10: MONITORING, EVALUATION AND REPORTING</b>		<b>60</b>
10.1	Monitoring requirements.....	60
<b>CHAPTER 11: RAP IMPLEMENTATION SCHEDULE</b>		<b>62</b>

<b>11.1 Institutional Arrangements for RAP Implementation .....</b>	<b>62</b>
<b>11.2 Implementation Schedule .....</b>	<b>62</b>
<b>CHAPTER 12: CONCLUSIONS.....</b>	<b>64</b>
<b>REFERENCES .....</b>	<b>65</b>

## LIST OF TABLES

Table 1: An analysis of gaps between Malawi’s land related legislation and World Bank’s ESF .....	27
Table 2: An analysis of gaps between Malawi’s land related legislation and World Bank’s ESF.....	32
Table 3: Population distribution in 2018 .....	36
Table 4: Summary information of PAPs .....	38
Table 5: Entitlements Matrix as provided under the project RPF .....	41
Table 6: Stakeholder type and their roles.....	53
Table 7: Details of the PAPs by type of loss .....	59
Table 8: Summary Budget for PAPs compensation .....	60
Table 9: RAP Implementation Budget.....	62
<i>Table 10 RAP activities implementation schedule.....</i>	<i>63</i>

## **LIST OF FIGURES**

Figure 1: Shows (A) impacted site and (B) relocated site at Limbe Produce Market.....	9
Figure 2: Shows (A) impacted site and (B) relocation site at Limbe Flea Market.....	9
Figure 3: Shows (A) impacted site and (B1,B2) relocation site at Bangwe Market.....	10
Figure 4: Shows (A) the PSF proposed site and the current ESCOM pole location and (B) proposed new pole location .....	11

## **LIST OF ABBREVIATIONS AND ACRONYMS**

RAP	Resettlement Action Plan
BCC	Blantyre City Council

BWB	Blantyre Water Board
ESMP	Environmental and Social Management Plan
GoM	Government of Malawi
GRC	Grievances Redress Committee
GRM	Grievances Redress Mechanism
IDA	International Development Association
MOWS	Ministry of Water and Sanitation
MWSP-1	Malawi Water and Sanitation Project
PAP	Projected Affected Persons
PDO	Project Development Objective
PIU	Project Implementation Unit
PST	Project Support Team
PSF	Public Sanitation Facility
UN	United Nations
USD	United States Dollar
WB	World Bank
WDC	Ward Development Committee
WGRC	Ward Grievances Redress Committee

## **EXECUTIVE SUMMARY**

### **1. Introduction**

Malawi Water and Sanitation Project-1 (MWSP-1) is a Government of Malawi (GoM) Project funded by World Bank (WB)'s International Development Association (IDA) through Blantyre



Water Board (BWB) and Blantyre City Council (BCC). Its main objective is to increase access to improved water supply and safely managed sanitation services in Blantyre metropolitan area and to enhance the operational and financial efficiency of the Blantyre Water Board. Blantyre Water Board together with Blantyre City Council have planned to construct Ten (10) climate resilient, gender and disability friendly public sanitation facilities (toilets) – PSF at various sites (5 Markets and 5 Clinics) within the City with each site having one toilet to respond to the increased demand for sanitation facilities in public places to improve access sanitation services and hygiene in the City.

However, the construction activities for the proposed public sanitation facilities under MWSP-1 are anticipated to cause economic loss, business site physical displacement and restrict land use in Bangwe Market, Limbe Flea Market, Limbe Produce Market and Makhetha clinic. In preparing this RAP, ownership of the land, different land use was considered. This RAP details steps to minimize impacts of physical and economic displacement of the Project Affected Persons (PAPs). It presents a strategic and methodical process to ensure that there is appropriate compensation upon resettlement, and impact on livelihood in the Project areas.

## **2. Policy and legal framework for the RAP**

Policy and legal framework on resettlement in Malawi is drawn from The Constitution of the Republic of Malawi, Malawi National Land Policy; Land Act, (Amendment) 2022; Customary Land Act, (Amendment) 2022; Land Survey Act, (Amendment) 2022; the Lands Acquisition and Compensation Act, 2022 ; Physical Planning Act, 2022; Land Survey Act, (Amendment) 2022; the Forestry (Amendment) Act, 2016; Malawi Housing Corporation (Amendment) (No.2) Act, 2016; Registered Land (Amendment) Act, 2022; Public Roads (Amendment) Act, 2016; and Local Government (Amendment) Act, 2016.

The legal documents mentioned highlights issues of land ownership, access to land resources, protection of customary land, legislation dealings on land tenure and land use, land acquisition appropriate assessments and compensation procedures and environmental management and protection during project implementation. On social aspect, the law outlines gender equality to opportunities and access to resources. Further to this, World Bank ESS 5 advocates on avoiding/minimising involuntary resettlement and avoid forced eviction and ensure that resettlement issues do not contribute to vulnerability of marginalised groups. This means resettlement should be planned and implemented accordingly as outlined in RFP.

### **3. Resettlement Principles and Objectives**

The overall policy guidance on execution of the Malawi Water and Sanitation project is to avoid resettlement at the earliest opportunity. It is the considered view of the government that by and large, resettlement disrupts the existing social and economic fabric of the poor communities. In this regard, the implementation of project activities will be coordinated on a set of principles to avoid or minimize resettlement related risks. The principles revolve around the basic tenets of the World Bank Environmental and Social Standard 5 (ESS5) as well as the existing policies and pieces of legislation of the Government of Republic of Malawi. Key principles are as follows:

Principle 1: Subprojects eligible for funding from MWSP shall be those proposed at suitable sites. Suitable sites for funding of a subproject are those sites where the implementation of a project would not bring about involuntary resettlement, involuntary physical dislocation, eviction of squatters, loss of land (whether ownership is recognized by customary land tenure or land titles, impact on cultivations and property, loss of access to property, loss of access to natural resources and other economic resources.

Principle 2: In cases where compensation for improvements is still found to be inevitable for subproject implementation, The Government of Malawi through BWB and BCC, Ministry of Lands, Housing and Urban Development (MLHUD), Ministry of Finance, Economic Planning and Development Ministry of Local Government and Rural Development in consultation with local leaders will make sure that appropriate compensation and resettlement assistance to the project affected person either in Cash or kind is done in accordance with the process outlined by this RPF.

### **4. Baseline Inventory**

Demographic data from all PAPs was collected using individual questionnaire. Secondary data used in this RAP is population data from National Statistics Office which outlines total population of residents in wards of Bangwe, Limbe Central and Nkolokoti the PAPs reside. The assessments for the PAP's commenced on 21<sup>st</sup> February 2024 for Makhetha clinic and 28<sup>th</sup> March 2024 for Limbe Produce, 13<sup>th</sup> May 2024 for Limbe Flea Market, and 21<sup>st</sup> August 2024 for Bangwe Market. The cut-off date for this RAP is 21<sup>st</sup> August 2024.

### **5. Eligibility/Vulnerability Criteria**

Eligibility criteria for the affected people were categorised in two i.e. Affected individual, an individual/business that suffers loss of land/profit/livelihood and Affected household which is defined as one or more of its members is affected by MWSP-1 sub projects, either by loss of property, land, and access, or otherwise his or her livelihood could be affected in any way by project activities. PAPs identified under this RAP are for resettlement, including those that will be temporary relocated are eligible for compensation or other assistance, matching with the nature and extent of the impact involved.

#### **6. Valuation and Compensation**

The valuation of assets was based on local laws and policies and the World Bank Land acquisition, restrictions on land use and involuntary resettlement (ESS5 and the World Bank Environmental and Social Framework (ESF)). The valuation methods applied in this RAP are valuation for loss of business, shifting allowance and additional support for PAP's.

#### **7. Implementation Mechanism**

Stakeholder's engagement, consultation meetings, resettlement site selection, delivery of monetary compensation and information and communication procedures are implementation mechanism adopted. The stakeholders under this RAP include Blantyre City Council, Ministry of Lands, Market leaders, Project Affected Persons, CGRC members and local leaders.

#### **8. Grievance Mechanism- for the resettlement process**

In this project, Grievance Redress Mechanism (GRM) for resolving all types of grievances have been established in all wards, and in sites where resettlement is happening. Special CGRCs have been established closer to the PAPs location with one member representing the PAPs to easily present their concerns. These CGRCs will also deal with all project's related issues apart from resettlement issues.

#### **9. RAP implementation responsibilities**

Blantyre City Council will have the overall responsibility to coordinate implementation of the RAP. The PIU will set up a team to monitor compensation process. The actual execution will be done through collaboration with all relevant stakeholders interested in RAP implementation.

#### **10. Budget**

The total number of PAPs is twenty-one, with 20 economically displaced. The distribution of affected properties in the sites is as follows: Limbe produce market has 6 PAPs, Limbe Flea market

has 3 PAPs, Bangwe market has 11 PAPs, and Makhetha Clinic has 1 PAP. PAPs from Limbe Flea market and Limbe Produce will be permanently relocated while those from Bangwe market will be temporarily relocated and there will be permanent loss of land in Makhetha clinic. The total budget for the compensation is USD 4,115.06

### **11. Monitoring, Evaluation and Reporting**

Monitoring and Reporting for RAP implementation will continue for one year after all PAPs have vacated from the project site. BCC will set a maximum vacating timeframe, to be completed once all PAPs have received their compensation. The Council will maintain records of all progress and produce regular monitoring resettlement implementation reports outlining successes and challenges faced.

### **12. Implementation Schedule**

Implementation for this RAP commences from the period of preparation of the RAP to the conclusion of the proposed project and the time that the resettlement site will be available for full use. The Resettlement Action Plan (RAP), prepared in accordance with the Resettlement Policy Framework (RPF), outlines a comprehensive procedure to guide the resettlement process. The plan includes key steps such as compensating Project-Affected Persons (PAPs), issuing notifications to PAPs ahead of their resettlement, and ensuring they are informed prior to the commencement of works. Additionally, notices will be provided to PAPs regarding the timeline for dismantling immovable property and facilitating the transportation of their belongings to designated resettlement sites. The entire process is scheduled for completion by January 30, 2025.

## **CHAPTER 1: INTRODUCTION**

### **1.1 Programme background and description**

Malawi Water and Sanitation Project-1 (MWSP-1) is a Government of Malawi (GoM) Project funded by World Bank (WB)'s International Development Association (IDA) through Blantyre Water Board (BWB) and Blantyre City Council (BCC). Its main objective is to increase access to improved water supply and safely managed sanitation services in Blantyre metropolitan area and to enhance the operational and financial efficiency of the Blantyre Water Board. Blantyre Water Board together with Blantyre City Council have planned to construct Ten (10) climate resilient, gender and disability friendly public sanitation facilities (toilets) – PSF at various sites (5 Markets and 5 Clinics) within the City with each site having 1No. toilet.

It is worth noting that most of Blantyre City's public sanitation facilities in both markets and clinics are either poor or dilapidated and require either rehabilitation and/or complete demolition or construction of new ones. The rapid population growth of Blantyre City is exerting pressure on public sanitation provision thereby limiting the City's potential of acting as a catalyst for economic growth. Markets, which are managed by BCC, are one of the places with high concentration of people especially during the day. This therefore contributes to poor sanitation in economically active public places and results into the spread of faecal-oral related diseases such as cholera, as well as environmental contamination.

Blantyre City Council has developed standard climate resilient and disability friendly designs for these toilets. The developed standards have included the concepts of rainwater harvesting, hand washing, urine diversion, menstrual hygiene and biogas harvesting. The designs have also considered tiling of the toilets, installation of squat pans, and provisions of rainwater harvesting facilities and their associated pipe networks. Where feasible the toilet construction shall also consider installation of flood lighting solar panels/system.

The main construction activities involved are clearing and earthworks, excavation of trenches and column bases, casting concrete for strip foundation and column bases, construction of substructure walls and erection of stub columns, wet works for superstructure including concrete tank, roofing over tank, carpentry and joinery (installation of doors, windows), plumbing and electrical installation, finishes (plastering, painting, glazing, ceilings, tiling), external works, foul water and drainage, and demobilization (good housekeeping).

The dust and noise emissions, excavation and waste generation are some of the potential environmental impacts the execution of the project will generate. Other impacts include impact on livelihoods of 20 business operators from three markets sites and loss of land to one PAP at the Health centre site.

### **1.2 Objectives and scope of the Resettlement Action Plan**

The construction activities for the proposed public sanitation facilities under MWSP-1 are expected to cause economic loss, business site physical displacement and restrict land use in the Project areas. Therefore, to minimize the social impacts, such as loss of property and loss of livelihoods associated with the Project, BCC Project Support Team has prepared a Resettlement Action Plan (RAP). This RAP is for Makheta Health centre, Bangwe Market, Limbe Flea Market and Limbe Produce Market. In preparing this RAP, ownership of the land, different land use was

considered. This RAP details steps to minimize impacts of physical and economic displacement of the Project Affected Persons (PAPs). It presents a strategic and methodical process to ensure that there is appropriate compensation upon resettlement, and impact on livelihood in the Project areas. The RAP has been prepared to be submitted to the World Bank for approval before implementation of any land acquisition, compensation, resettlement, or livelihood restoration. The Resettlement Action Plan (RAP) is consistent with the policies, laws and regulations of the Government of Malawi and the World Bank ESF. RAP identifies Project Affected Persons (PAPs), economic losses and displacement. It provides for mitigation measures and compensation, in accordance with the Government of Malawi regulations and the World Bank (WB) policies and guidelines. Where WB standards establish a wider scope or higher compensation requirement than the relevant national provisions, the Banks' requirements have taken precedence, and the RAP has provided accordingly. The RAP has been prepared primarily based on the information and guidelines presented in the Resettlement Policy Framework (RPF) for MWSP-1.

The scope of work in preparing the RAP included:

- a) Updating and expanding the basic biography information of the PAPs and ensuring that baseline data are generated for the purposes of monitoring and evaluation during Project implementation period.
- b) Updating the register to ensure that all (100%) potential PAPs are identified, captured and appropriate measures to remedy resettlement effects and safeguard livelihoods are recommended.
- c) Listing of all (100%) affected properties and their respective sites
- d) Undertaking a stakeholder analysis and consultation process to ensure participation of PAPs in the RAP preparation process.
- e) Updating the eligibility matrix, identifying the compensation measures applicable to each type of impact and the criteria to determine the respective eligibility of each PAP, based on the matrix included in the RAP applying that matrix to the compensation to be received by each PAP.

- f) Developing sustainable measures to be implemented to restore and enhance the livelihoods of affected people.
- g) Designing a community public consultation, communication and participation strategy that will ensure participation of PAPs in the implementation and monitoring of the resettlement process.
- h) Updating the grievance redress mechanism for the resettlement process and aligning it to the already established Project grievance mechanism.
- i) Updating the RAP implementation strategy, including organizational responsibilities, budget and schedule.
- j) Updating the supervision, monitoring and evaluation program for the RAP.

### **1.3 Methodology for preparation of the Resettlement Action Plan**

A few approaches were employed for the field investigations and public consultations which were carried out to collect both primary and secondary data. These included continuous consultative meetings, review of relevant literature, public consultations with market users and investigation surveys, which involved visits to the proposed PSF sites to establish and determine socio-economic features of the project impact areas. The review of relevant literature helped the PST to understand the proper procedures to follow in consultation, compensation and resettlement of PAPS.

The project support team conducted several consultation meetings with the community and the PAPs for Limbe Flea Market, Limbe Produce Market and Bangwe Market from 28<sup>th</sup> March 2024 to 21<sup>st</sup> August 2024. This was done through focus group discussions with market leaders and the Community Grievance Redress Committee (CGRC) members on all three sites Annex 4 shows field visits and consultations meetings. Annex 1 contains a list of some of the individuals consulted during the process. Market leaders were given authority to intermediate the resettlement process by identifying space within the market for the vendors to relocate and resume their businesses (Figure 1 and 2). PST followed up with the market leaders and CGRCs and scheduled a follow up meeting with the PAPs to hear their views on the new proposed resettlement sites.



**Figure 1: Shows (A) impacted site and (B) relocated site at Limbe Produce Market at a distance of 58.865m**



**Figure 2: Shows (A) impacted site and (B) relocation site at Limbe Flea Market at a distance of 11.97m**





**Figure 3: Shows (A) impacted site and (B1,B2) relocation site at Bangwe Market at a distance of 1.6m**

At Makhetha clinic site, consultation meetings were done in the presence of the PAP, Chiefs, ward Councilor and CDC members Annex 4 shows consultations meetings. The family representative clearly indicated that their expectation was to be compensated for the area of land where the PSF will be constructed and where the ESCOM pole will be relocated and coverage of electricity wires which pass through their land (Figure 3). The Ministry of Lands were engaged to support in the assessment for loss of land and valuation was done by the Ministry of Lands.



**Figure 4: Shows (A) the PSF proposed site and the current ESCOM pole location and (B) proposed new pole location**

## **CHAPTER 2: POLICY AND LEGAL FRAMEWORK FOR THE RESETTLEMENT ACTION PLAN**

Policy and legal framework on resettlement in Malawi is drawn from The Constitution of the Republic of Malawi, Malawi National Land Policy; Land (Amendment) Act, 2022; Customary Land (Amendment) Act, 2022; the Land Acquisition and Compensation (Amendment) Act, 2022; Physical Planning (Amendment) Act, 2022; Land Survey Act, 2016; Registered Land (Amendment) Act, 2022; Public Roads (Amendment) Act, 2016; and Local Government (Amendment) Act, 2016.

### **2.1 Policy Framework**

#### **2.1.1 The Malawi National Land Policy (2002)**

The Malawi National Land Policy focuses on land as a basic resource common to all people of Malawi for enhancement of socio-economic development. Section 4.11 affirms equitable access to land to all citizens of Malawi. The policy recognizes human settlement and agriculture as the major benefactor of land use. As such, the policy advocates for orderly resettlements of villages or households especially in rich agricultural zones. Furthermore, the policy guarantees full legal protection to customary land tenure to the people of Malawi to enable the ordinary Malawians adequately participate in subsistence farming and socio-economic development activities. The Malawi National Land Policy of 2002 also advocates for fair compensation on open market value to local people on all classes of land (whether held under customary land tenure or leasehold) in case such land is acquired for public interest or for development of public infrastructure. In reference to relocation of displaced people, the policy advocates adequate consultations with the affected people so that their interests are taken care of. The project involves land acquisition on private land at Makhetha clinic and public land in Bangwe market, Limbe Flea Market and Limbe Produce to secure enough space for construction of public sanitation facilities hence the Malawi National Land Policy (2022) was adhered to for legal compliance to advocate fair compensation.

### **2.2 Legal Framework**

#### **2.2.1 Constitution of Malawi (1995)**

The Constitution of the Republic of Malawi is the supreme law of the land. All other pieces of legislation or acts of government are valid to the extent of their consistency with the Constitution.

According to section 5 of the Constitution, “Any Act of Government or any law that is inconsistent with the provisions of this Constitution shall, to the extent of such inconsistency, be invalid”. It is, therefore, imperative that the project complies with this and any other relevant laws. Under Section 13 of the Constitution, the State has the responsibility to ensure gender equality, through the full participation of women in all spheres of Malawian society on the basis of equality with men, implementation of the principles of non-discrimination, the implementation of policies to address social issues that include lack of economic exploitation and rights to property. Section 13 (d) provides for the State to manage the environment responsibly in order to prevent the degradation of the environment, provide a healthy living and working environment for the people of Malawi, accord full recognition to the rights of future generations by means of environmental protection and the sustainable development of natural resources; and conserve and enhance the biological diversity of Malawi. Section 30 provides for the State to take all necessary measures for the realization of the right to development. The State shall take measures to introduce reforms aimed at eradicating social injustices and inequalities. In terms of equality Section 20 of the Constitution prohibits discrimination of any form and on account of any status. Women have special protection under section 24 of the Constitution in that “Women have the right to full and equal protection by the law, and have the right not to be discriminated against on the basis of their gender or marital status which includes (a) to be accorded the same rights as men in civil law, including equal capacity to (i) enter into contracts, (ii) acquire and maintain rights in property, independently or in association with others, regardless of their marital status...and any law that discriminates against women on the basis of gender or marital status is invalid...” Special recognition of women’s rights under the project is therefore necessary where applicable. Cultural practices that tend to discriminate against women need to be handled cautiously under the project. Regarding protection of property rights, the Constitution has three key sections on the subject (Section 28, 24 and 44). Section 24 concerns women’s rights as discussed above. On the other hand, Section 28 entrenches the right to property. It provides that “Every person shall be able to acquire property alone or in association with others, and that no person shall be arbitrarily deprived of property. According to Section 44(2) “expropriation of property shall be permissible only when done for public utility and only when there has been adequate notification and appropriate compensation, provided that there shall always be a right to appeal to a court of law”. In Malawi, the courts have held that this constitutional protection of property rights avails to customary and registered land alike. The same

Constitution in section 44(1) says that no restriction or limitation may be placed on any constitutional rights unless such restriction is prescribed by law, is reasonable, is recognized by international human rights standards and is necessary in an open and democratic society. It needs to be noted that this criterion is cumulative. In implementing the project, MWSP must therefore exercise care and caution in all the project stages, given those activities of the project may be the subject of constitutional challenges, even if they passed the statutory steps. However, the project's RPF principles 1 and 2 are aimed at ensuring that cases of relocation of people, resettlement, and compensation are avoided or minimized as early as possible during project site selection and resettlement screening. MWSP-1 undertakings will take into consideration all relevant constitutional provisions including key national legislation that may affect PAPs under the project, which are examined from Section 3.1.2. The project will ensure that human rights is observed in land acquisition, compensation processes, stakeholder engagements and any other activities regardless of their gender, marital status and other factors in accordance with the relevant laws of Malawi.

### **2.2.2 The Land Act (2016)**

The Land Act 2016 is the principal legislation dealing with land tenure and land use. It repealed the Land Act 1965. Sections 6 and 8 of the Land Act reiterate the Constitutional provisions that all land is vested in perpetuity in the Republic. The Act provides that all land is administered by the Commissioner of Lands on behalf of the Republic and the Minister responsible for land matters, who may delegate any of the powers and duties conferred on him to the Commissioner. Section 7 of the Act recognizes two categories of land namely, public land and private land.

Land Tenure Regimes in Malawi embraces capitalistic ideals regarding land ownership. There are six distinct land tenure classes existing in Malawi. The implementation of the MWSP would involve land access to any one of the classes. Furthermore, cases of construction of new subprojects within selected sites would trigger land tenure and access changes. The description and extents of the classes of land in Malawi are as follows:

#### **I. Customary Land**

This is land held in trust for all people of Malawi by the State President, who delegates his authority to traditional chiefs. This constitutes about 75% of the total 9.5 million hectares of land. The land is commonly held and distributed to the people by local chiefs. Although

each person has recognized ownership to a piece of land, he or she cannot trade it as the land can be reassigned to other people in case the chiefs deem it fit. A coherent system in the distribution of land exists in both patrilineal and matrilineal societies. This system has allowed smallholder agriculture to survive without access to bank loans.

## **II. Leasehold Land**

This is part of private land that is leased by individuals or other legal residents. The lease period varies according to type of use that someone has applied for. Currently these falls into three groups of 3 to 21 years old leases for agricultural uses, 33 to 99 years old for property and infrastructure development, and more than 99-year leases for those who would wish to sublease to tenants of 99 years. About 8% of the land in Malawi is in this category.

## **III. Registered Land**

This is grouped into two classes called customary registered and adjudicated land. The first exists in Lilongwe District only. This land is registered in the family leader name with all family names in that area registered including the size of their land holdings. Their implicit freehold status as the families can trade its holding by leasing out or selling bits of it with groups consent. Loans can therefore be obtained on strength of their certificates to the land. The second class is a simplified leasehold system, which allows owners to have certificates for their pieces of land based on survey and registration number. This is common in the urban areas, but has been applied in rural areas for agricultural, commercial and residential uses.

## **IV. Freehold Land**

This is land, which has been granted to persons for perpetuity. The government has no specific control on transactions except on planning permission on uses. This lease is now limited to Malawian citizenship only. It is difficult to enforce conservation measures on this land because of the exclusivity, which the persons enjoy.

## **V. Government Land**

The land which is owned and used by government for public utilities, schools, hospitals, government offices and other properties, markets, government farms and other public goods through-out the country.

## **VI. Public Land**

Land managed by agencies of the government and traditional leaders in trusts for the people of Malawi, openly used or accessible to the public at large. This includes catchment areas, protected forest reserves, national parks, game reserves, dambos (flood plains), community forests, river lines, flood plains, wetlands, military sites and others.

**a. Public Land**

The Act defines public land as land held in trust for the people of Malawi and managed by Government, a local government authority and a Traditional Authority. Public land includes any land held by Government or a local government authority consequent upon a reversion thereof to the Government or local government authority on the termination, surrender or falling in of any freehold or leasehold estate therein pursuant to any covenant or by operation of law; Land acquired and privately owned by Government or a local government authority used for dedicated purposes such as Government buildings, schools, hospitals and public infrastructure; Land gazetted for national parks, recreation areas, forest reserves, conservation areas, historic and cultural sites; Land vested in Government as a result of uncertain ownership, abandonment or land that cannot be used for any purposes; and unallocated and communal land within the boundaries of a Traditional Land Management Area.

**b. Private Land**

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

**Relevant Provisions**

Section 12 of the Act empowers the Minister responsible for lands to make and execute grants, leases or other dispositions of public land classified as Government land for any such estates, interests or terms and for such purposes and on such terms as and conditions as he may think fit.

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

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

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

Part VII deals with trespass or encroachment upon, or unlawful occupation of, land. Section 45 enables a magistrate with relevant jurisdiction, upon complaint by a person claiming to have lawful title to the land, to issue summons against an alleged trespasser, encroacher, or unlawful user or occupier (defendant) requiring him to attend court. If the magistrate is satisfied that the defendant has trespassed, encroached or unlawfully occupied the said land, the magistrate may make an order requiring the defendant to vacate land within 7 days or longer. The number of days to vacate land depends on a number of factors including; how long it would take the defendant to take down or remove structures, buildings, fences or improvements of any kind erected on the land; how long it will take the defendant to harvest, collect, take in or remove crops, plants, trees and shrubs and to how long it will take the defendant to remove any chattels belonging to him. Failure to comply with the Court order could lead to forced removal from the land by an authorized officer, police



officer or officer of the court. The Land Act emphasizes the fact that procedures under Part VII must be in accordance with the Courts Act.

Section 17 enables the Minister to acquire unallocated customary land for public utility purposes. The section provides that where it appears to the Minister that unallocated customary land is needed for public utility, the Minister shall serve notice upon the Traditional Authority within whose traditional land management area the customary land is situated. Section 18 provides that any person who suffers disturbance of, or loss or damage to any interest which he may have or may have had in such land because of the land being acquired for public utility purposes, under Section 17, should be paid such compensation for such disturbance, loss or damage as is reasonable. During the RAP implementation at Makheta clinic, the land is under a private property hence the Ministry of Lands as land administrators according to the Land (Amendment) Act 2022, were involved to coordinate in land valuation, calculation of compensation and disclosure of the compensation amount to the PAPs. This was done in consideration to the size of land, current land use and loss the PAP incurred.

### **2.2.3 The Lands Acquisition and Compensation (Amendment) Act (2022)**

The Lands Acquisition and Compensation Act No. 9 of 2017 has amended some provisions of the Lands Acquisition Act, the main one being that the Amendment Act now provides for the acquisition and compensation of land in the citation.

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

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

Section 9 as amended provides for the payment of compensation. It provides that where any land is acquired by the Minister under this Act the Minister shall pay in respect thereof appropriate compensation agreed or determined in accordance with the provisions of this Act. The Amendment

Act further provides that compensation shall be paid in one lump sum; therefore, the assumption is that compensation shall only be monetary.

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

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

All these provisions shall apply accordingly including where land will be impacted or acquired for the purposes of the proposed development. PAPs will be paid a fair compensation that considers provisions under Section 10A of this Act before commencement of subproject works.

#### **2.2.4 The Registered Land (Amendment) Act (2022)**

The Act makes provision for the registration of title to land and for dealings in land that has been registered. The Act has been amended several times since 1967 with the most current amendments passed in 2016. The Amendment Act amends some provisions in the Registered Land Act including new definitions of customary estate and land to ensure conformity with the Land Act, 2016.

The Registered Land Act serves as the primary legislation governing the registration of land, land rights, and interests in Malawi. Section 45 (2) of the Act provides guidance to the project in cases where land needs to be appropriated after the termination of the lessee's rights, but the owner continues to occupy the land. Section 79 of the Act addresses the transfer of land from the lessee holder to the proprietor. It sets out the procedures and requirements for transferring the rights and

interests in land from the lessee to the proprietor. This section provides the legal framework and guidelines for conducting such transfers in accordance with the provisions of the Act (GoM, 2022).

The project will ensure that all land rights transfers under the project will be undertaken in accordance with the provisions of the Act.

### **2.2.5 The Customary Land (Amendment) Act (2022)**

The Customary Land Act (Amendment) 2022 provides for the management and administration of customary land and for matters connected therewith and incidental thereto. Customary land means all land used for the benefit of the community as a whole and includes unallocated customary land within the boundaries of a traditional land management area, including:

- a) Land within the boundaries of a Traditional Land Management Area other than Government or reserved land.
- b) Land designated as customary land under the Land (Amendment) Act, 2022.
- c) Land and boundaries demarcated as customary land under any written law or administrative procedure in force at any time before this Act came into operation whether that demarcation has been formally approved or published in the gazette.
- d) Land, the boundaries of which have been agreed upon by a land committee claiming jurisdiction over that land.

The main act in customary land administration and management in Malawi. The Act establishes “customary estates”, which is customary land owned, held or occupied as private land within a traditional land management area, and which is registered as private land under the Registered Land Act 2016. As such, customary land will no longer be treated as valueless commodity but will be given equal value as any privately-owned land such as leasehold or freehold (Government of Malawi, 2017). In terms of operation, the Customary Land (Amendment) Act 2022 creates customary land committees (CLCs) at group village headman (GVH) level to manage land within a Traditional Land Management Area (TLMA). The CLC will be chaired by a GVH and will have six elected members from the community, three of which will be women. In discharging its duties, the CLC shall, among others, have regard for the principle of sustainable development and the relationship between land use, natural resources and the environment contiguous to the customary land; seek and consider views of other local government authorities having jurisdiction in the

TLMA; and not allocate land or grant a customary estate without the prior approval of the relevant Traditional Authority. Local government authorities shall provide advice and guidance based on the same being originating from the Commissioner of Lands. Local government authorities will oversee the operations of the CLCs (Government of Malawi, 2017). The Customary Land Act 2016 defines the terms for customary land in a Traditional Land Management Area transfer to Government or reserve land for public interest. It also focuses on the and management of customary estates, on adjudication of interest in customary land and on dispute settlement. The essence of community ownership and control is that all members of a particular community have access to land and all its products without exception and that the role of chiefs is to ensure not only political protection for the community but, essentially, a more equitable distribution of that land among current members of the community and future generations.

#### **2.2.6 Land Survey (Amendment) Act (2022)**

The Land Survey Act provides for land surveys outlining the legal requirements and procedures related to surveying land in Malawi. the establishment of the Land Surveyors Registration Board, the licensing and control of land surveys, survey marks and boundaries and the establishment of the Malawi Geographic Information Council The project will engage the department of survey in accordance with the act in undertaking surveys and preparation with survey map.

#### **2.2.7 The Physical Planning (Amendment) Act (2022)**

The Act repeals the Town and Country Planning Act. It provides for physical planning and the orderly and progressive development of land in both rural and urban areas and for issues relating to the grant of permission to develop land and for other powers of control over the use of land. The Act is administered by the Commissioner for Physical Planning and provides for the establishment of the Physical Planning Council. The Act provides for development permission including application forms, processing and revocation. Section 54 provides that a person shall not commence the development of any subdivision of any land unless he first obtains a grant of development permission. In addition, a person applying for the registration of any land under the Registered Land Act must attach a copy of the grant of development permission for his documents to be considered. Part VII of the Act deals with acquisition of land and compensation. The section provides that the Minister may acquire any land, either compulsorily or by agreement if it is considered desirable or expedient in the interests of the implementation of any plan of the proper control and furtherance of development of any land under the Act. Compensation will be paid in

accordance with the Lands Acquisition Act as amended. Section 68 of the Act provides for occasions when compensation is payable for planning actions, section 69 deals with how compensation can be assessed, and section 70 provides for how a claim for compensation can be made. The Second Schedule of the Act is on the calculation of compensation under section 68.

The Act provides for circumstances when an appeal can be made and the fact that an appeal can be made to the Council. A person aggrieved by a decision of the Council may apply to the High Court for judicial review.

Where customary land will be impacted, the project will follow all the requirements according to the customary land act.

### **2.2.8 The Local Government (Amendment) Act (2017)**

The Local Government Amendment Act, 1998 consolidates the law relating to local Government. Section 34 of the 1998 Act, provides for the acquisition of land by Agreement. It states that for the purpose of (a) any of its functions under this Act or any other written law; or (b) the benefit, improvement or development of its area, the Assembly may acquire whether by way of purchase, lease, exchange or gift, any land, whether situated inside or outside its area. Subsection 2 of Section 34 of the 1998 Act has been deleted and substituted with a new Subsection 2 that provides that subject to the provisions of the Land Acquisition Act, the Council may acquire land to be used for any of the Council's functions.

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

### **2.2.9 Public Roads (Amendment) Act (2017)**

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

The Public Roads Act provides for various instances when compensation may or may not be paid. Sections 44-50 of the Act provide for issues relating to compensation including assessment of compensation generally and for surface rights, compensation for land which becomes public land, matters to be taken into consideration in assessing compensation for alienated land and claims for compensation. The part also provides for procedures to be followed before a Land Tribunal and

the right to apply to the High Court for judicial review if the claimant of highway authority is unhappy with a decision of the Land Tribunal.

#### **2.2.10 Environment Management Act (1996)**

The Environment Management Act No.23 of 1996 (EMA) was enacted to make provision for the protection and management of the environment and the conservation and sustainable utilization of natural resources. The Act provides for Environmental Impact Assessment to be done in certain circumstances. Malawi has developed Guidelines for Environmental Impact Assessment (EIA). The purpose of these Guidelines is to facilitate compliance with Malawi's EIA requirements by Government, project developers, donor partners and the public. The guidelines help to integrate environmental concerns in national development and will be applicable to all types of projects in the public and private sectors for which EIA studies may be or are required.

The project will adhere to the requirements of the Act and take required environmental and social screening. The ESMP has been prepared to address the impacts outlined during the assessment determined mitigation measures.

#### **2.2.12 Gender Equality Act (2012)**

An Act to promote gender equality, equal integration, influence empowerment, dignity and opportunities, for men and women in all functions of society, to prohibit and provide redress for sex discrimination, harmful practices and sexual harassment, to provide for public awareness on promotion of gender equality and to provide for connected matters. Section 6(1) of the Act states that a person who commits an act of harassment if he or she engages in in any form of unwanted verbal, non-verbal or physical conduct of a sexual nature in circumstances, would have anticipated that the other person would be offended, humiliated or intimidated, and (2) a person who sexually harasses another in terms of the foregoing subsection is liable to a fines and imprisonment specified under subsection (2).

Section (7) of the Act makes provision for Government to take active measures to ensure that employees have developed and are implementing appropriate policy and procedures aimed at eliminating sexual harassment in the workplace. The Community Grievance Committee and market leaders working with the Council in implementation of the RAP, were oriented to avert any discrimination and harassment in all activities related to the project. During the orientation and

awareness meeting, issues of GBV, SEA and SH were outlined including the reporting channels to ensure that gender equality and integration are cross cutting in all RAP implementation activities.

## **2.4 Overview of the World Bank Environmental and Social Framework**

There is a total of ten Environmental and Social Standards related to World Bank financed projects. However, only ESS5 on land acquisition, restrictions on land use and involuntary resettlement will be reviewed for the development of the Resettlement Policy Framework.

### ***2.4.1 Land acquisition, restrictions on land use and involuntary resettlement (ESS5)***

ESS 5 recognizes that land acquisition for project activities can have adverse impacts on communities and persons. ESS 5 was therefore developed with the following objectives:

- a. Avoid or minimize involuntary resettlement by exploring project design alternatives.
- b. Avoid forced eviction.
- c. Mitigate unavoidable adverse impacts from land acquisition or restrictions on land use through timely compensation for loss of assets at replacement cost and assist displaced persons in their efforts to improve, or at least restore, livelihoods and living standards in real terms to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.
- d. Improve living conditions of poor or vulnerable persons who are physically displaced, through provision of adequate housing, access to services and facilities, and secure tenure.
- e. Ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and informed participation.

ESS5 contains criteria on voluntary transactions, land donations, forced eviction and eminent domain, as well as a definition of replacement cost, including where inflation exists.

ESS5 provides some flexibility where a party derived substantial income from multiple illegal rental units. It includes provisions to protect and support women, including documentation, training, access to credit and jobs.

Where resettlement is unavoidable, the standard stipulates criteria for eligibility to compensation, resettlement assistance and rehabilitation assistance measures to project affected persons on the following conditions:

- a. Those who have legal rights to land or assets, including customary and traditional rights recognized under the legal laws or traditional practices 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 legal rights to land or assets at the time of the census but have a claim to such land or assets provided that such claims are recognized under the legal or traditional laws of Malawi.
- c. Those who have no legal right or claim to the land or assets they are occupying or using prior to an established cut-off date (date of original census). This class of people includes squatters and those that settle at a place on semi-permanent basis.

ESS5 will guide the development of RPs for some project activities under MWSP. This is due to the fact some project activities may lead to land acquisition and displacement, e.g., construction of water retention infrastructure, access roads to markets, etc.

## **2.5. Comparison and Gaps between the World Bank's Environmental and Social Framework and Malawi's Legislation on Resettlement**

Gaps between the World Bank's ESS5 and Malawi's legislation on Resettlement are in the following areas:

- a. Extent of entitlement: World Bank ESS5 includes affected parties with non-formal property rights, while this does not apply in all instances in Malawi.
- b. Timing of payments: World Bank ESS5 requires payment before loss of assets, while the Malawi legislation does not have this requirement.
- c. Relocation and resettlement: World Bank ESS5 requires additional assistance with resettlement (such as establishment of new sites) while this is not provided in Malawi's laws.
- d. Livelihood restoration: The World Bank ESS5 requires that livelihoods are improved or at least restored, while the Malawi's laws contain no requirements for livelihood restoration.



- e. Grievance mechanisms: World Bank ESS10 requires that a grievance mechanism be established as early as possible in the project development phase, while the Malawian legislation provides for dispute resolution mechanisms in the form of land tribunals and the court system requires.

Table 3 and Table 4 analyse gaps that exist between the World Bank's Environmental and Social Framework (ESF) and Malawi's legislation on resettlement and how the identified gaps have been addressed.

Project affected persons	Name of Legislation	Provision within legislation in Malawi	World Bank Provisions	Appropriate measures for addressing the gaps.
<i>Landowner/ Occupier</i>	Public Roads (Amendment Act) 2017	<ul style="list-style-type: none"> <li>○ The Act and its amendment stipulate payment of compensation based on loss or damage suffered by the claimant arising from the damage to or destruction of his interest in the surface rights on such land</li> <li>○ This damage or loss includes the damage sustained because of the severance of such land from his other land or other injurious matter affecting his other movable or immovable property and if the claimant is compelled to change his residence or place of business, the reasonable expenses incidental to such change</li> </ul>	<ul style="list-style-type: none"> <li>○ ESS5 stipulates that landowners are entitled to compensation for land, compensation for building on replacement costs, expenses on labour</li> </ul>	<ul style="list-style-type: none"> <li>○ <i>Compensation of land for land to project affected persons.</i></li> <li>○ <i>Compensation on crops and trees on market values.</i></li> </ul>
<i>Landowner/ Occupier</i>	Public Roads (Amendment Act) 2017	<ul style="list-style-type: none"> <li>○ The Act and its Amendment stipulate that for customary estate, landowners are entitled to reasonable compensation in respect of disturbance</li> <li>○ This compensation shall be assessed using open market value based on the loss suffered by the claimant arising from damage to or destruction of his interest in the land, and the surface rights on such land may include compensation for other disturbance <ul style="list-style-type: none"> <li>✓ Where should he move to his residence or place of business</li> <li>✓ Where alternative land cannot be made available to him and the land remaining to him for any purpose is not an economic unit</li> <li>✓ Where alternative land is made available to him, and where in making the alternative land equally as fit for use as the land which he has been deprived of, it is likely to involve a loss in terms of money, materials or work.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>○ ESS5 stipulates that the recommended option is compensation of land for land. Other losses are to be compensated for in terms of replacement costs.</li> <li>○ The policy stipulates that temporary structures or buildings are entitled for compensation for loss of assets other than land or cash compensation at full replacement costs include, <ul style="list-style-type: none"> <li>✓ Relocation expenses prior to displacement</li> <li>✓ Providing labour and relocation expenses prior to displacement</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>○ <i>Compensation of land for land to project affected persons will be the priority. Compensation for money for land to project affected people in cases of lack of alternative suitable land.</i></li> <li>○ <i>Compensation of all structures at full replacement costs and labour costs prior to displacement</i></li> <li>○ <i>Compensation for crops and trees at market values.</i></li> <li>○ <i>Resettlement assistance to project affected persons</i></li> </ul>
<i>Landowner/ Owner</i>	Lands Acquisition and Compensation Act 2017	<ul style="list-style-type: none"> <li>○ The Act and its amendment stipulate that compensation will be based on an assessment made by an independent valuer appointed by the Minister.</li> </ul>	<ul style="list-style-type: none"> <li>○ ESS5 stipulates that owners of buildings built illegally are entitled to compensation for loss of assets other than land at</li> </ul>	<ul style="list-style-type: none"> <li>○ <i>Compensation of all structures at full replacement costs prior to displacement</i></li> </ul>

**Table 1: An analysis of gaps between Malawi's land related legislation and World Bank's ESF**

Project affected persons	Name of Legislation	Provision within legislation in Malawi	World Bank Provisions	Appropriate measures for addressing the gaps.
		<ul style="list-style-type: none"> <li>The Act and its amendment stipulate that compensation is given when land is acquired.</li> </ul>	full replacement costs including labour costs prior to displacement.	
<i>Landowner/ Owner</i>	Lands Acquisition and Compensation Act 2017	<ul style="list-style-type: none"> <li>The law stipulates that reasonable compensation should be given for loss of land by affected persons</li> <li>The Act and its amendment stipulate that in assessing compensation the following matters should be taken into consideration the market value of the land, or interest therein of the claimant at the valuation date</li> </ul>	<ul style="list-style-type: none"> <li>ESS5 stipulates that owners of buildings built illegally are entitled to compensation for loss of assets other than land at full replacement costs including labour costs prior to displacement.</li> </ul>	<ul style="list-style-type: none"> <li><i>Compensation of structures at full replacement costs and labour costs prior to displacement</i></li> </ul>
<i>Landowner/ Owner</i>	Land Act 2017	<ul style="list-style-type: none"> <li>The Act states that any person who suffers disturbance of, or loss or damage to any interest which he may have or may have had in unallocated customary land because of the land being acquired for public utility purposes should be paid reasonable compensation for such disturbance, loss or damage</li> </ul>	<ul style="list-style-type: none"> <li>ESS5 stipulates that landowners are entitled to compensation for land, compensation for building on replacement costs, expenses on labour</li> <li>The policy stipulates that landowners are entitled to compensation for crops</li> </ul>	<ul style="list-style-type: none"> <li><i>Compensation for crops and trees at real replacement values.</i></li> <li><i>Compensation of land for land to project affected persons.</i></li> <li><i>Compensation should include transaction cost.</i></li> </ul>
<i>Encroachers</i>	Land Act, 2017	<ul style="list-style-type: none"> <li>The Act states that a court order can be issued against alleged trespassers, encroachers, or unlawful users or occupiers to vacate land within 7 days or longer. The number of days to vacate land depends on several factors including how long it would take the defendant to take down or remove structures, buildings, fences or improvements of any kind erected on the land: how long it will take the defendant to harvest, collect, take in or remove crops, plants, trees and shrubs and to how long it will take the defendant to remove any chattels belonging to him. Failure to comply with the Court order could lead to forced removal from the land by an authorized officer, police officer or officer of the court.</li> <li>The Act states that any person who uses or occupies any public land without title commits an offence</li> </ul>	<ul style="list-style-type: none"> <li>ESS5 stipulates that people are entitled to compensation regardless of the legal status of their structures or occupation of the land</li> <li>The Standard stipulates that owners of buildings built illegally are entitled to compensation for loss of assets other than land at full replacement costs including labour costs prior to displacement</li> </ul>	<ul style="list-style-type: none"> <li><i>Compensation of all structures at full replacement costs prior to displacement</i></li> <li><i>Compensation on crops and trees on real replacement values.</i></li> <li><i>Compensation on labour costs based on real replacement values.</i></li> </ul>

Project affected persons	Name of Legislation	Provision within legislation in Malawi	World Bank Provisions	Appropriate measures for addressing the gaps.
		<ul style="list-style-type: none"> <li>○ The Act is silent on compensation for alleged trespassers, encroachers, or unlawful users or occupiers</li> </ul>		
<i>Landowner/ Owner</i>	Customary Land Act, 2016	<ul style="list-style-type: none"> <li>○ The Act states that customary land shall be transferred subject to payment of appropriate compensation assessed by a registered valuer and agreed upon by the land committee and the Commissioner or between a person or representative of group of persons under a customary estate or those with a derivative right to use the land and the Commissioner</li> <li>○ The Act favours land for land compensation. It provides that if the Government or reserved land is to be exchanged with the customary land which is the subject of the transfer, the Government will identify an alternative piece of land to be transferred to the Traditional Land Management Area or the affected persons.</li> </ul>	<ul style="list-style-type: none"> <li>○ ESS5 favours land for land compensation in cases of loss of land by project affected persons.</li> </ul>	<ul style="list-style-type: none"> <li>○ <i>Compensation of land for land to project affected persons.</i></li> <li>○ <i>Compensation of structures at full replacement costs prior to displacement</i></li> </ul>
<i>PAPs</i>	Environment Management Act of 1996 and the Environmental Impact Assessment Guidelines	<ul style="list-style-type: none"> <li>○ The Act and the Guidelines require a social-economic and environmental assessment to be conducted on the impact of the proposed project. This can include determination of eligibility for compensation.</li> <li>○ The EIA Guidelines also provide for meaningful consultations to be conducted</li> </ul>	<p>ESS5 advocates the identification of people who will be affected by the project to determine who will be eligible for assistance and to discourage inflow of people who will be ineligible</p> <p>The Standard also requires meaningful consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs)</p>	<i>Identification of person who will be affected by the project</i> <i>Consultations to be conducted with affected persons and communities</i>
<i>Timing of compensation payment</i>		Silence in all land Acts	ESS5 stipulates that displaced people are provided with prompt and effective compensation at full replacement cost for losses of assets directly attributable to the project but does not specify the period for payment of compensation	<i>The project will ensure compensations are paid promptly before commencement of the project</i>

<b>Project affected persons</b>	<b>Name of Legislation</b>	<b>Provision within legislation in Malawi</b>	<b>World Bank Provisions</b>	<b>Appropriate measures for addressing the gaps.</b>
<i>Livelihood restoration and assistance</i>		No reference	Livelihood and living standards are to be restored in real terms to pre displacement levels or better.	
<i>Consultation and disclosure</i>	Environment Management Act of 1996 and the Environmental Impact Assessment Guidelines	Consult project affected persons and stakeholders	Consult project-affected persons, host communities and local NGOs, as appropriate. Provide them with opportunities to participate in the planning, implementation, and monitoring of the resettlement program, especially in the process of developing and implementing the procedures for determining eligibility for compensation benefits and development assistance (as documented in a resettlement plan), and establishing appropriate and accessible grievance mechanisms.	<i>Consultations will be undertaken at every stage of project development</i>
<i>Grievance mechanism and dispute resolution</i>	Customary Land Regulations (Customary Land Act 2016)	Sets up dispute settlement procedures for land	Establish appropriate and accessible grievance mechanisms	<i>Include GRM in the Stakeholder Engagement Plan which should adequately cover resettlement related grievances</i>

<b>Project Activities</b>	<b>Name of Legislation</b>	<b>Provision within piece of legislation in Malawi</b>	<b>World Bank Provisions</b>	<b>Appropriate measures for addressing the gaps.</b>
Timing of compensation payment		Silence in all land Acts	ESS5 stipulates that displaced people are provided with prompt and effective compensation at full replacement cost for losses of assets directly attributable to the project but does not specify the period for payment of compensation	The project will ensure compensations are paid promptly before commencement of the project
<i>Livelihood restoration and assistance</i>		No reference	Livelihood and living standards are to be restored in real terms to pre displacement levels or better.	<i>The project will ensure that livelihood restoration measures and assistance are affected in accordance with the World Bank provisions</i>
<i>Consultation and disclosure</i>	Environment Management Act of 1996 and the Environmental Impact Assessment Guidelines	Consult project affected persons and stakeholders	Consult project-affected persons, host communities and local NGOs, as appropriate. Provide them with opportunities to participate in the planning, implementation, and monitoring of the resettlement program, especially in the process of developing and implementing the procedures for determining eligibility for compensation benefits and development assistance (as documented in a resettlement plan), and establishing appropriate and accessible grievance mechanisms.	<i>Consultations with project affected people at all stages of project development</i>
<i>Grievance mechanism and dispute resolution</i>	Customary Land Regulations (Customary Land Act 2016)	Setting up dispute settlement procedures for land	Establish appropriate and accessible grievance mechanisms	<i>Include GRM in the Stakeholder Engagement Plan which should adequately cover land related grievances</i>
<i>Livelihood restoration and assistance</i>		No reference	Livelihood and living standards are to be restored in real terms to pre displacement levels or better.	<i>The project will ensure that livelihood restoration measures and assistance are affected in accordance with the World Bank provisions</i>
<i>Consultation and disclosure</i>	Environment Management Act of 1996 and the Environmental Impact Assessment	Consult project affected persons and stakeholders	Consult project-affected persons, host communities and local NGOs, as appropriate. Provide them with opportunities to participate in the planning, implementation, and monitoring of the resettlement program, especially in the process of developing and implementing the procedures for determining eligibility	<i>Consultations with project affected people at all stages of project development</i>

	Guidelines		for compensation benefits and development assistance (as documented in a resettlement plan), and establishing appropriate and accessible grievance mechanisms.	
<i>Grievance mechanism and dispute resolution</i>	Customary Land Regulations (Customary Land Act 2016)	Setting up dispute settlement procedures for land	Establish appropriate and accessible grievance mechanisms	<i>Include GRM in the Stakeholder Engagement Plan which should adequately cover land related grievances</i>

**Table 2: An analysis of gaps between Malawi’s land related legislation and World Bank’s ESF**

**NB:** In case of conflict between the national laws and World Bank ESS 5, the latter will prevail.

## **CHAPTER 3: RESETTLEMENT ACTION PLAN PRINCIPLES AND OBJECTIVES**

### **3.1 Objectives of Resettlement Action Plan**

Resettlement Action Plan (RAP) is prepared to ensure that the involuntary resettlement is avoided where feasible or minimized through exploring the project and design alternatives. It is also aimed at enhancing or at least restoring the livelihoods of all affected persons in real terms, relative to pre-Project levels and improving the standards of living of the affected PAPs.

### **3.2 Principles of Resettlement Action Plan**

The overall policy guidance on execution of the Malawi Water and Sanitation project is to avoid resettlement at the earliest opportunity. It is the considered view of the government that by and large, resettlement disrupts the existing social and economic fabric of the poor communities. In this regard, the implementation of project activities will be coordinated on a set of principles to avoid or minimize resettlement related risks. The principles revolve around the basic tenets of the World Bank Environmental and Social Standard 5 (ESS5) as well as the existing policies and pieces of legislation of the Government of Republic of Malawi. Key principles are as follows:

Principle 1: Subprojects eligible for funding from MWSP shall be those proposed at suitable sites. Suitable sites for funding of a subproject are those sites where the implementation of a project would not bring about involuntary resettlement, involuntary physical dislocation, eviction of squatters, loss of land (whether ownership is recognized by customary land tenure or land titles, impact on vi cultivations and property, loss of access to property, loss of access to natural resources and other economic resources.

Principle 2: In cases where compensation for improvements is still found to be inevitable for subproject implementation, The Government of Malawi through BWB and BCC, Ministry of Lands, Housing and Urban Development (MLHUD), Ministry of Finance, Economic Planning and Development Ministry of Local Government and Rural Development in consultation with local leaders will make sure that appropriate compensation and resettlement assistance to the project affected person either in Cash or kind is done in accordance with the process outlined by this RPF.

The preparation of this RAP has been based on the following RAP implementation activities :

#### **a. Socio-Economic Surveys**



A basic survey was carried out to assess the individual social and economic conditions. This survey provided insight into the factors such as income, household information, gender, age of the PAPs. All 21 PAPs were interviewed. The initial survey was conducted on 28<sup>th</sup> March 2024. Data was collected through face-to-face individual interviews capturing basic personal information (age, marital status, number of individuals in their household, duration of the business being carried out).

**b. Stakeholder Consultation Process, special consideration of vulnerable social groups and negotiation for fair compensation options**

A total of thirteen stakeholder consultations were carried out in sites where the RAP will be implemented with affected persons and inform them of their entitlements and resettlement options. Face to face meetings were held in the PSF sites with the PAPS, market leaders, community leaders, CGRCs and hospital management to ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, women and ensure their participation in consultations. The details of the stakeholder meetings have been provided in annex 6 and 7.

**c. Setting up of accessible grievance redress mechanisms**

. The project has set up ward grievance committees (WGC in all sites. However, some wards are large in size, making them unreachable to some of the PSF sites. Special site-specific committees were established for easy access to the PAPS in Bangwe market, Limbe Produce Market and Limbe Flea Market. The following is the composition of the Special Grievance Redress Committee (GRC):

- Women representative
- Men representative
- People living with disability representative.
- PAP representative
- Faith based organisation representative.
- Youth representative
- Councillor (ex-official)
- Market chairperson (ex-official)
- Market chairperson (ex-official)

**d. Report Preparation**

The resettlement action plan has been prepared elaborating affected persons' entitlements, the income and livelihood restoration strategy, and institutional arrangement, monitoring and reporting framework, budget, and time-bound implementation schedule.

**e. Disclosure of /RP: Disclosure and Compensation Agreement Forms Signing**

Upon approval of the RAP, it will be disclosed, including documentation of the consultation process before the Project appraisal and in a manner accessible to affected persons and other stakeholders. Disclosure of compensation amounts and signing compensation agreement forms will be made for all PAPS. The final resettlement plans, and their updates will also be disclosed to the affected persons and other stakeholders.

**f. Provision of resettlement assistance to PAPS**

Payment of compensation and provision for other entitlements and implement the resettlement plan under close supervision throughout the project implementation. A livelihood restoration plan will be implemented.

**g. Establishment of a pre-resettlement baseline data**

The project will monitor and assess resettlement outcomes, their impact on the livelihoods of the affected persons, and whether the objectives of the resettlement plan have been achieved by considering the baseline conditions and the results of resettlement monitoring and disclose monitoring reports, through monitoring the livelihoods i.e. revenue, profits and expenditures of the businesses

**h. Compliance with relevant policies and laws**

Land acquisition and resettlement activities by government will be implemented in compliance with the World Bank ESS5 and Malawi Government policies and laws.

**i. RAP Approval process**

According to the projects RPF, the RPs prepared for specific projects will have to firstly be approved by the Government of Malawi, through Ministry of Lands, Housing and Urban Development. The Ministry, where necessary will deploy its staff to verify certain components of the projects to ascertain details of the RPs. After this process the RPs will be sent to the World Bank for final Approval. Once the consultations have been completed and the consents have been signed, a RAP document will be finalised and be submitted to World Bank for approval. Following the approval from the bank, compensation money will be processed through Blantyre City Council finance department and the compensation payments will be made to the PAPs.

**j. Asset valuation and computation of compensation packages**

The proposed project will involve relocation people from one business area to another leading to loss of business revenue. Permanent loss of land will be undertaken using the direct comparison method. Shifting allowances will be provided for PAPs for both temporary and permanent displacement. Vulnerability allowances will be provided for vulnerable PAPs.

## **CHAPTER 4: DEMOGRAPHIC INFORMATION FOR MAKHETHA, LIMBE AND BANGWE**

### **4.1 Demographic Information**

The Project Development Objective is to increase access to improved water supply and safely managed sanitation services in the Blantyre metropolitan area through the development and rehabilitation of water and sanitation infrastructures in Blantyre City and surrounding areas. Among the infrastructures targeted by the project are public sanitation facilities in five markets in Blantyre. This section looks at the social and economic terrain of the Project area. It focuses on the demographic and socio-economic characteristics of people in the Project area, with a view to providing the baseline socio-economic situation and provides a basis for predicting socio-economic impacts as well as designing appropriate mitigation measures.

#### **4.1.1 Population**

The City of Blantyre is not only one of the largest cities but also the commercial capital of Malawi. The 2018 census showed that Blantyre City population is 879,000 with 50.13% being males and 49.87% being females. Table 1 shows population distribution in the proposed project locations where resettlement will happen as recorded during the 2018 census.

**Table 3: Population distribution in 2018**

<b>No.</b>	<b>Facility</b>	<b>Location</b>	<b>Ward</b>	<b>Population in Ward</b>
1.	Bangwe Market	Bangwe	Bangwe	18, 815
2.	Limbe Flea Market	Limbe	Limbe Central	7, 438
3.	Limbe Depot	Limbe	Limbe Central	
4.	Makhetha Clinic	Makhetha	Nkolokoti	37, 763

#### **4.2 Land use and tenure**

Land in the city is managed by the Commissioner for Lands, Malawi Housing Corporation, and Blantyre City Council. The land on which the project is taking place belongs to BCC. The sites in Bangwe and Limbe are marketplaces where most of the residents do small businesses such as cloth shops, restaurants and timber sell displays.

The table is a summary of socio-economic data of PAPs in all project sites where the RAP will be implemented. The PAPs reside in high density townships which are described as peri-urban due to their setting of a mixture of rural and urban characteristics. Example of these areas are Bangwe,

Soche, Wisiki and Chiswe. In terms of population, it is significantly high in such areas compared to low density areas where the economic standard of residents is high.

#### **4.3 Gender**

In reference to the census conducted, there are 21 PAPs of which 8 are female while 13 are male. Out of nine restaurant business operators, eight are females and only one is a male. The timber selling business is dominated by male unlike the restaurant business whose majority of owners are female.

#### **4.4 Household Size**

The average number of people per household is six for restaurant owners which is higher compared to households of timber sellers where the average number of people is 5.

#### **4.5 Household Vulnerability**

Majority of the women solely depend on their business as a source of livelihood to sustain their needs and that of their households. In addition, the income from their business is much lower compared to that of timber selling hence making them more vulnerable to economic hardship. For households supported by their partners, they are still the key contributors towards the household needs. Table 6 summarizes the livelihood of the PAPs in Limbe and Bangwe Markets.

**Table 4: Summary information of PAPs**

<b>Location</b>	<b>No. of Males</b>	<b>No. of Females</b>	<b>Main Source of Income</b>	<b>Other Sources</b>	<b>Marital status</b>	<b>Household Head</b>	<b>Average No. of people per HH</b>	<b>Residential area</b>
Limbe Flea Market	0	3	Restaurant business	<ul style="list-style-type: none"> <li>Depending on support from their partners for household livelihood sustainability</li> </ul>	<ul style="list-style-type: none"> <li>All are married</li> </ul>	All households are male headed	6	<ul style="list-style-type: none"> <li>Bangwe</li> </ul>
Limbe Produce	1	5	Solely depend on income from restaurant business	<ul style="list-style-type: none"> <li>1 person get support from her partner to support their household</li> </ul>	<ul style="list-style-type: none"> <li>2 are widows</li> <li>4 are married</li> </ul>	<ul style="list-style-type: none"> <li>3 households are female headed</li> <li>3 households are male headed</li> </ul>	6	<ul style="list-style-type: none"> <li>Chilobwe</li> <li>Soche</li> <li>Bangwe</li> <li>Bvumbwe</li> <li>Chimwankhunda</li> </ul>
Bangwe Market	8	3	Timber selling is their main source of income	<ul style="list-style-type: none"> <li>2 people have other sources of income (farming and selling rice)</li> <li>9 people solely depend on Timber</li> </ul>	<ul style="list-style-type: none"> <li>10 are married</li> <li>1 is single</li> </ul>	<ul style="list-style-type: none"> <li>10 households are male headed</li> <li>1 household is female headed</li> </ul>	5	<ul style="list-style-type: none"> <li>Green Malata</li> <li>Mondiwa</li> <li>Maganga</li> <li>Mthandizi</li> <li>Chiswe</li> <li>Mgomanjira</li> <li>Wisiki</li> <li>Masala</li> </ul>

Makhetha Clinic	1		Employed	<ul style="list-style-type: none"><li>• none</li></ul>	<ul style="list-style-type: none"><li>• married</li></ul>	<ul style="list-style-type: none"><li>• male headed</li></ul>	5	<ul style="list-style-type: none"><li>• Makheta</li></ul>
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## **CHAPTER 5: ELIGIBILITY CRITERIA FOR PROJECT AFFECTED PERSONS**

### **5.1 Eligibility criteria**

Eligibility for the affected people will be categories as follows according to the RPF.

- a. Affected Individual – An individual/business that suffers loss of land, property, other assets or investments made on land, livelihood, and/or access to natural and/or economic resources as a result of the sub project investments funded under MWSP.
- b. Affected Household – A household is affected if one or more of its members is affected by MWSP-1 sub projects, either by loss of property, land, and access, or otherwise his or her livelihood could be affected in any way by project activities. They include: any members in the households, men, women, children, dependent relatives and friends, tenants; vulnerable individuals who may be too old or ill to farm along with the others; relatives who depend on one another for their daily existence.

Therefore, all PAPs eligible for resettlement, including those that will be temporarily relocated, are eligible for compensation or other assistance, matching with the nature and extent of the impact involved. In addition, in marketplaces affected people shall be considered eligible for compensation in cases where their businesses are operational on the proposed PSF sites.

### **5.2 Types of PAPs and impacts**

A Project Affected Persons (PAPs) refers to any individual, whether a tenant, government lessee, property owner, or non-titleholder (unauthorized occupant), who has been impacted by the project resulting in the loss of their land or other property within the affected area. According to the World Bank's ESF ESS 5, affected persons may be classified as persons:

- a) Who have formal legal rights to land or assets.
- b) Who do not have formal legal rights to land or assets, but have a claim to land or assets that is recognized or recognizable under national law,<sup>14</sup> or
- c) Who have no recognizable legal right or claim to the land or assets they occupy or use

Based on the environmental and social screening report and the Environmental and Social Management Plan, the types of PAPs according to the loss or impact are as follows:

- i. Individuals who have constructed temporary shelters and their businesses are in operational.



- ii. Individuals who are displaying their merchandise on or very close to the site.

**Eligibility for Vulnerability Assistance**

The identification of vulnerable households will be on the following criteria:

- Predisposition to economic vulnerability.
- Age;
- Disability and Infirmity;
- Female headed and child headed households;

In this RAP, the female headed households are vulnerable.

**5.3 Entitlement framework**

The Entitlement Matrix (table 2) presents the types of losses or impacts, entitled persons, and compensation for each type of loss for the PAPs.

**Table 5: Entitlements Matrix as provided under the project RPF**

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits	
Agricultural land	Less than 20% of land holding affected - Land remains economically viable.	Farmer/ title holder	Cash compensation for affected land equivalent to replacement value	
		Tenant/ lease holder	Cash compensation for the harvest or product from the affected land or asset, equivalent to the average market value of last 3 years, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater.	
	Greater than 20% of land holding lost - Land does not become economically viable	Farmer/ Title holder		Land for land replacements was feasible, or compensation in cash for the entire landholding according to PAP's choice equal to replacement cost.
				Land for land replacement will be in terms of a new parcel of land of equivalent size and productivity with a secure tenure status at an available location which is acceptable to PAPs. Transfer of the land to PAPs shall be free of taxes, registration, and other costs.
				Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
				Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)

		Tenant/Lease holder	Cash compensation equivalent to the average of last 3 years' market value for the mature and harvested crop, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater.
			Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
Land users	Impact on livelihood	Landless, encroachers	Compensation to restore livelihood and ensure they will not be worse off because of the investments' activities.
Commercial and Industrial Land	Land used for business partially affected - Limited loss	Title holder/ business owner	Cash compensation for affected land
			Opportunity cost compensation equivalent to 5% of net annual income based on tax records for the previous year (or tax records from comparable business or estimates where such records do not exist).
		Business owner is leasing holder	Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist)

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
	Assets used for business severely	Title holder/ business	Land for land replacement or compensation in cash according to PAP's
	Assets used for business are severely affected - If partially affected, the remaining assets become insufficient for business purposes	Title holder/ Business owner	Land for land replacement or compensation in cash according to PAP's choice. Land for land replacement will be provided in terms of a new parcel of land of equivalent size and market potential with a secured tenure status at an available location which is acceptable to the PAP.
			Transfer of the land to the PAP shall be free of taxes, registration, and other costs.
			Relocation assistance (costs of shifting + allowance)
		Opportunity cost compensation equivalent to 2 months' net income based on tax records for the previous year (or tax records from comparable business, or estimates)	
		Businessperson	Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the

		is leasing holder	relocation allowance, whichever is higher.
			Relocation assistance (costs of shifting)
			Assistance in rental/ lease of alternative land/ property (for a maximum of 6 months) to re-establish the business.
Residential Land	Land used for residence partially affected, limited loss - Remaining land viable for present use.	Title holder	Cash compensation for affected land in line with market value for the specific residential area
		Rental/lease holder	Cash compensation equivalent to 10% of lease/ rental fee for the remaining period of rental/ lease agreement (written or verbal)
	Land and assets used for residence severely affected - Remaining area insufficient for continuing use or	Title holder	Land for land replacement or compensation in cash according to PAP's choice, based on the replacement cost. Land for land replacement shall be of minimum plot of acceptable size under the zoning laws or a plot of equivalent size, whichever is larger, in either the community or a nearby resettlement area with adequate physical and social infrastructure systems as well as secured tenure status.

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits	
	become smaller than minimally accepted under zoning laws		When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value.	
			Transfer of the land to the PAP shall be free of taxes, registration, and other costs.	
			Relocation assistance (costs of shifting + allowance)	
	Land and assets used for residence severely affected - Remaining area insufficient for		Rental/lease	Refund of any lease/ rental fees paid for time/ use after date of removal
				Cash compensation equivalent to 3 months of lease/ rental fee
				Assistance in rental/ lease of alternative land/ property

	continued use or becomes smaller than minimally accepted under zoning laws	holder	Relocation assistance (costs of shifting + allowance)
Buildings and structures (Commercial structure)	Structures are partially affected - Remaining structures viable for continued use	Owner	Cash compensation for affected building and other fixed assets
			Cash assistance to cover costs of restoration of the remaining structure
	Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant).	
		Disturbance compensation equivalent to two months rental costs	
	Entire structures are affected or partially affected - Remaining structures not suitable for continued use	Owner	Cash compensation for entire structure and other fixed assets without depreciation equal to replacement cost, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP.
			Right to salvage materials without deduction from compensation
			Relocation assistance (costs of shifting + allowance)
			Rehabilitation assistance if required (assistance with job placement, skills training)
Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant)		
	Relocation assistance (costs of shifting + allowance equivalent to four months rental costs)		

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			Assistance to help find alternative rental arrangements
			Rehabilitation assistance if required (assistance with job placement, skills training)
		Squatter/ informal dweller	Cash compensation for affected structure without depreciation
			Right to salvage materials without deduction from compensation
	Structures are partially affected - Remaining	Owner	Cash compensation for affected building and other fixed assets
			Cash compensation to cover costs of restoration of the remaining structure

Buildings and structures (Residential structure)	structures viable for continued use	Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant). Disturbance compensation equivalent to two months rental costs
	Entire structures are affected or partially affected - Remaining structures not suitable for continued use	Owner	Cash compensation for entire structure and other fixed assets without depreciation equal to replacement cost, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP.
			Right to salvage materials without deduction from compensation
			Relocation assistance (costs of shifting + allowance)
		Squatter/informal dweller	Cash compensation for affected structure without depreciation Right to salvage materials without deduction from compensation
	Partial or complete loss of other property or secondary structure (i.e., billboards, fences, drainage channels, etc.)	Owners of structures (regardless of if the land is owned or not)	Replace or repair the structure to original or better condition.
Owners of structures (regardless of whether the land is owned or not)			Cash compensation for affected structure without depreciation Relocation assistance (costs of shifting + assistance to find alternative secure accommodation preferably in the community of residence through involvement of the project Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available) Rehabilitation assistance if required assistance with job placement, skills training)

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
		Street vendor (informal without title or lease to the stall or shop)	Opportunity cost compensation equivalent to a 2 month's net income based on tax records for the previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher. Relocation assistance (costs of shifting) Assistance to obtain alternative sites to re-establish the business.

Standing crops	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether owner, tenant, or squatter)	Cash compensation is equivalent to the average of the last 3 years' market value for the mature and harvested crop, plus the labour cost.
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees plus 10% premium
Loss of access to water sources	Loss of access to water for household use, for household plots, etc.	Affected households	Replace water access: Provide alternate access to water sources in the interim period. Ensure that the investment's design takes into consideration different uses and needs for water and accommodate the users accordingly.
Loss of community properties such as burial grounds and places of worship, community centres, and community facilities	Loss of access to these sites,	Communities affected	Consultation: Undertake consultation with affected households to
	temporarily or permanently, loss of investment made.		determine appropriate arrangements and compensation if suitable. Replacing the community facilities such as schools and dispensaries.
Loss of livelihoods	Loss of means of livelihoods such	Wage earners (workers	Livelihood restoration measures- land or non-land based: Undertaken to help the affected persons restore their livelihood.

### Application of Entitlement Matrix for this RAP

The RAP aligns with the project RPF. Under this RAP, the impact of the PSF project is permanent loss of land and loss of livelihoods. Permanent loss of land will be compensated for 100%. Business operators with structures on public land (BCC land) in the three markets will be compensated for loss of livelihood. Following the disturbance due to relocation, the PAPs are entitled to compensation for loss of business profit for two days and shifting allowance.

Location	Impact	Entitlements	Relocation (distance in m)
Limbe produce market	Loss of business profits (permanent relocation)	<ul style="list-style-type: none"> <li>Loss of business profits for 2 days relocation</li> <li>Shifting allowance</li> </ul>	58m

Limbe flea market	Loss of business profits (permanent relocation)	<ul style="list-style-type: none"> <li>• Loss of business profits for 2 days relocation</li> <li>• Shifting allowance</li> </ul>	12m
Bangwe Market	Loss of business profits (temporary relocation)	<ul style="list-style-type: none"> <li>• Loss of business profits for 1 day relocation</li> <li>• Shifting allowance</li> </ul>	1.6m
Makhetha clinic	Permanent loss of land	100% compensation	n/a

The project has engaged the PAPs through the market committees and has reached a negotiated settlement which will cover all entitlements ie MK100,000 for Limbe markets and MK370,000 for Bangwe Market. It is important to note that PAPs in the two Limbe markets opted to relocate to the new sites before compensation because the alternative sites are better suited for their businesses. Ample notification will be given to PAPs in Bangwe market. Provision of ample time for relocating persons to dismantle their temporary structures for the material to be reused at a new location. The PAPs suggested that two days would be enough for them to relocate.

For loss of land at Makhetha clinic, the PAP is affected in a way that the remaining land has reduced in size that is not viable for its current use. A valuation exercise was undertaken by the Ministry of Lands and the valuation report prepared to cover all entitlements including disturbance allowance, The PAP was consulted and showed willingness to give the land for the project activities upon cash compensation after valuation in the presence of Ministry of Lands officers.

## **5.4 Livelihood restoration**

The primary objective of this Resettlement Action Plan (RAP) is to ensure a seamless transition for Project-Affected Persons (PAPs) who are being relocated, minimizing disruptions to their livelihoods and businesses. The goal is to prevent any loss of income or business continuity while supporting PAPs to adapt effectively to their new circumstances. Adequate compensation for the loss of income and business operations during the resettlement period will be provided to mitigate potential vulnerabilities and promote economic stability.

Additionally, the project will implement a comprehensive livelihood restoration program tailored to the needs of affected businesses. This program will include targeted training on financial literacy, effective bookkeeping practices, business management, and strategic marketing. These capacity-building initiatives aim to empower PAPs by enhancing their operational skills, improving their business performance, and increasing profitability in their new locations.

Moreover, the project will establish a monitoring and support mechanism to ensure that PAPs effectively utilize the training and resources provided. Regular follow-ups, mentorship opportunities, and access to financial services, such as microloans or grants, will be explored to strengthen the resilience of their businesses. This holistic approach underscores the project's commitment to ensuring that PAPs not only recover but thrive post-relocation.

## **CHAPTER 6: VALUATION OF AND COMPENSATION FOR LOSSES**

### **6.1 Basis of valuation methods**

The bases of valuation of assets in this Project are the local laws and policies and the World Bank Involuntary Resettlement policies.

**Local Provisions:** There are several legal provisions in Malawi, which govern compensations if one's assets are affected.

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



- Section 14 of the principal Land Act, 2016 provides that "any person who by reason of any acquisition made under section 13 (1) or Sections (2) and (3)), suffers any disturbance of or loss or damage to any interest which he may have or immediately prior to the occurrence of any of the events referred to in this section, may have had in such land shall be paid such compensation for such disturbance, loss or damage as is reasonable.
- Additionally, the Land Acquisition and Compensation (amendment) Act (2022) Sections 10 provides the procedure for the assessment of appropriate compensation and the grounds for the same.
- The approved 2002 Malawi National Land Policy (4:12,16) and Land Acquisition and Compensation (amendment) Act 2022 describes how valuations must be conducted especially on customary lands. In part it says that "land values shall be determined by open market procedures for customary lands acquired by compulsory, by the government. The policy further notes that "the inadequacy of compensation is always the direct result of excluding certain items or qualities from the factors considered when determining values; and delays in payment of compensation".

On the other hand, the World Bank Environmental and Social Framework ESS 5 specifically requires that compensation should be done on a full replacement cost basis without depreciation of the affected asset and the value of the salvage materials are not to be considered, nor is the value of the benefits derived from the Project subtracted from the gross value of the assets.

**Valuation practice in Malawi:** The assessment was done in consultation with landowners and local leaders to confirm on land ownership. The valuation approach used to determine the amount of compensation was based on the law, Land Acquisition and Compensation Act, 2022 which outlines procedures to legally acquire land and how to assess. Direct comparison method was adopted whereby the land was compared with prices obtained for other similar properties at the same point in time. The assessment also incorporated a disturbance allowance considering the inconvenience caused to the landowner. In this regard, the PAP compensation was calculated for the value of land and disturbance

With reference to the Property Valuation (Amendment) Act 2024 Part IV, section 21 (1) states that Every valuer shall, in accordance with instructions received for any valuation, indicate the purpose of the valuation in the valuation report. Section 21 (2) Without derogating from the generality of

the foregoing, the purpose of valuation may be for(a) rating; (b) compensation; (c) land rent assessment; (d) deceased estate administration; (e) capital gains tax administration; (f) transfer of land; (g) rental; (h) mortgage; (i) financial reporting; (j) insurance; (k) investment; (l) purchase; (m) sale; (n) reserve price; (o) lease renewal and surrender; (p) stock market floatation; (q) [court] bail; and (r) any other purpose the Board may prescribe.

Section 22 (1) Every valuer shall state the basis and method of valuation adopted and all assumptions used in achieving the value of the property. Section 22 (2) the basis of valuation may, considering the scale of the exercise, include the state of the property market, cost of property and income receivable on the property.

## **6.2. Valuation methods used**

Valuation of assets has been done in the following manner:

### a) Valuation of loss of land

The assessment was done in consultation with landowners and local leaders to confirm on land ownership. The valuation approach used to determine the amount of compensation was based on the Land Acquisition and Compensation Act, 2022 which outlines procedures to legally acquire land and how to assess. Direct comparison method was adopted whereby the land was compared with prices obtained for other similar properties at the same point in time. The assessment also incorporated a disturbance allowance considering the inconvenience caused to the landowner. In this regard, the PAP compensation was calculated for the value of land and disturbance and transaction cost. The valuation report prepared by the Ministry of Lands is provided in Appendix 5.

### b) **Valuation for loss of business:**

This method requires that financial records be inspected for the past 3 to 5 years and a market multiplier be used to achieve the value for the business. Loss of business is anticipated for two days of relocation and not anticipated for a longer period as the PAPs will be relocated within the market in locations that are better suited for their businesses. The PAPs do not keep business records, making it a challenge to calculate the profits from the past 3 to 5 years. Hence the profit was made by asking the PAPs for their highest daily profit on the busiest days, which are market days. A negotiated settlement was reached with the PAPs through the market committees of MK

100, 000 for restaurant and secondhand clothes business owners and MK 370,000 for timber business owners. This compensation would cover loss of business profit for two days of relocation and shifting allowance. The maximum daily profit was multiplied by two days which the owners said will be able to move Project-Affected Persons (PAPs) from the Limbe Flea Market and Limbe Produce Depot have relocated to new locations within the markets, because the locations are advantageous to their businesses. Further loss of business profit is not anticipated because relocations are within the same market at the same locality. For Limbe produce market, the new location is centrally located at the market entrance and in front of the bus depot, they were previously located at the top end of the market. For Limbe flea market, the new location is at the market entrance, while they were previously located next to the dumpsite and public toilet at the edge of the market. There is no loss of structure, as the temporary structures were relocated to the new sites, while the timber businesses have no structures. In a post-relocation survey at the Limbe markets showed that the PAPs expressed appreciation for the move, noting that it had positively impacted their businesses, leading to an increase in profits.

#### **Additional support for PAPs:**

All the PAPs were assisted in finding a new place for their business. Market leaders were given authority to identify potential new business areas for the PAPs within the BCC-designated market area, and the PAPs were allowed to suggest a place ideal for their business. The PAPs and the PST conducted a site visit to the newly identified business areas. After the visit, the PAPs agreed that the site was suitable for their business and have since relocated to the new site. A follow-up survey was conducted to assess the business viability of the new location, and the results showed that it is a better location than the previous one, with profits doubling for most businesses. Additionally, for the abandoned structures at the previous site, the owners dismantled the shacks to safely keep the materials for potential reuse.

## **CHAPTER 7: IMPLEMENTATION MECHANISM**

### **7.1 Objectives of stakeholder engagements**

According to the ESS 10 of World Bank, active participation of beneficiaries is necessary throughout the various stages of planning, design, implementation and valuation for resettlement for projects to be truly sustainable. Thus, stakeholder engagements have been ongoing since the Project started. Prior to the work, individuals affected by the PSF were informed of the RAP

through PST from the Blantyre city council. The activities of the RAP i.e. site visits and PAP consultation were carried out from 28<sup>th</sup> March 2024 and 13<sup>th</sup> May 2024 for Limbe Produce, Limbe Flea Market and Bangwe Market and for Makhetha Clinic, the activities for the RAP started from 21<sup>st</sup> February 2024 and ended 21<sup>st</sup> August 2024

Consultation activities with the PAPs included discussions and suggestions on new business areas and site visits to the new areas. The aim of consulting the PAPs was to inform them about the proposed project and how they will be affected, to discuss the compensation process as they relocate from the project site to the proposed resettlement site. During the RAP preparation process, stakeholder engagement was conducted to accomplish the following:

- To enable stakeholders to learn about the project, its impacts and how they will be mitigated.
- To inform PAPs about the compensation and resettlement procedures and to secure their cooperation.
- To assist in the identification or verification of PAPs and their association to type and magnitude of asset loss.

Consultation meetings were held in all three sites where there are PAPs. These consultations involved market leaders, Project Affected Persons (PAPs) and non-PAPs through focus group discussions and one on one conversations.

During consultation, PAPs were identified, and basic information of the PAPs was collected. Consultations continued to discuss with the PAPs on how the project will affect them and negotiate on compensation payments making them understand that they will be compensated for loss of business due to resettlement (for Limbe markets) and assistance on relocating their merchandise to a new location (Bangwe market). It was emphasized that no compensation payments would be made to PAPs until compensation payments have been agreed between both parties and compensation amounts have been disclosed to them and they have agreed to the amounts. Further, PAPs were informed that no construction work would start until all compensation was paid to all PAPs.

During the consultations, frequently asked questions were the following:

- To let the existing toilet remain in operation during the construction phase since it was the only sanitary facility in the market.
- People pointed out that installation of benches on their business site incurred cost. Will that be considered for compensation?
- Asked about the compensation being for two days only, was there or will there be consideration of the building materials lost during resettlement and extra materials required and purchased for the new site?
- The PAPs expressed that they have lost most of their savings to resettle and refurbish the new site. They asked if this would be considered in the compensation package
- The resettlement exercise was tedious for the following reasons: distance of the construction site to the resettlement site, the cost of labor and transport to assist with moving the timber.
- Their business would suffer because the new site is inconspicuous with narrow access and customers would be discouraged from patronizing their business
- Their greatest concern was that the project was happening during the business’ peak season
- They were worried about accidents or incidents because the new site is congested and has a lot of human traffic

All questions raised by PAPs were addressed and clarified within responses provided in Table 4. Where there were disputes/ grievances, PAPs were told that special CGRC have been established and some of them will be included in the committee for easy resolution of any grievances.

## 7.2 Stakeholder analysis

**Table 6: Stakeholder type and their roles**

Stakeholder type	Roles/contributions	Rationale for consultation
Blantyre City Council	1. Facilitation of the identification of PAPs and evaluation exercise	a) Continuation with consultations from the RFP preparation.

	<ol style="list-style-type: none"> <li>2. Provision of funds for compensation</li> <li>3. Complementarity of development initiatives</li> </ol>	<p>b) Understanding the expectations of the developer in the RAP preparation process; and</p> <p>c) Reinforcing the need for availing resources for compensation to execute the RAP in time as planned.</p>
World Bank	<ol style="list-style-type: none"> <li>1. Set guidelines on the resettlement process</li> <li>2. Approve the RAP</li> </ol>	a) To ensure compliance with the World Bank (WB) policies and guidelines and Government of Malawi regulations
Market leaders	<ol style="list-style-type: none"> <li>1. Facilitate and participate in the consultative process for development of the RAP</li> <li>2. Witness payment of compensation money to PAPs</li> <li>3. Identify land for resettlement of PAPs within the market area</li> <li>4. Help in conflict resolution</li> <li>5. Assist in monitoring implementation of the RAP</li> </ol>	a) These market leaders have upper control of all vendors and have records on where any vendor is displaying their merchandise. This makes them an ideal to identify a new location for the PAPs
Project affected people (PAPs)	<ol style="list-style-type: none"> <li>1. To participate in the development of RAP.</li> <li>2. To understand the RAP process to avoid or reduce complaints and grievances in future.</li> <li>3. To agree with and endorse the level and nature of compensation</li> <li>4. To surrender land for the project and to participate in the project developmental initiatives</li> </ol>	a) These are the people that are directly involved, as they would have to be involuntarily relocated to a new area since the PSF will be constructed on the site or near where currently are doing their businesses

### **7.3 Consultations meetings**

Consultative and participatory meetings and discussions approaches were employed during the stakeholder engagement. The Project Support Team explained what was entailed in the Project proposal and envisioned social and environmental impacts. After presentations, questions and opinions were exchanged between the team and the participants.

#### **7.3.1 Participation during implementation phase**

During implementation of the RAP, the PAPs will be informed about their rights and options. This will be done mainly through group meetings and where possible, through one-on-one engagements with the PAPs. During these meetings the PAPs and other market leaders will be engaged in discussions and processes that will be followed to ensure compensation takes place and transitioning to a new place is carried out in a manner that benefits the PAPs. To ensure there is transparency and communication on any project-related challenges, a Grievance Redress Mechanism (GRM) will be put in place. Care will be taken to ensure the system is aligned to the already existing redress mechanism in the communities. PAPs will be represented at all levels of the GRM. The grievance mechanism will be instituted and continue to operate, and all grievances will be recorded. Participation of market leaders and PAPs in disseminating information and resolving disputes will be important once RAP implementation starts.

#### **7.5 Site selection for resettlement**

The toilets being constructed at Limbe produce market affects land and temporary shelters of restaurant owners. The site for toilets at Limbe Flea market and Bangwe market are vendors very close to proposed site posing threat to their safety. All these sites belong to BCC and these vendors will be assisted in finding a new place for their businesses. The PAPs at Limbe markets will be compensated for loss of business due to resettlement and those at Bangwe market will be compensated for the labour cost of moving and offloading their merchandise to a new place. Market leaders are tasked with roles to find new places for the vendors.

#### **7.6 Delivery of monetary compensation**

Once the PAPs have agreed with the compensation packages and the finalized RAP is approved by the BCC management, Project Implementation Unit and World Bank, BCC will prepare cash to be disbursed to the PAPs. Payments will be made through bank accounts of the PAPs and in cases where the PAP does not own a Bank account, a cheque will be issued instead. The officials and the Project Support Team (PST) representatives will verify that the amount to be paid is the

amount agreed to by the PAP and BCC. The project accountant will then deliver the payment to the PAP, who will sign a receipt acknowledging payment in full as agreed to in the accepted compensation package.

### **7.7 Communication and information**

Communication between the PAPs and BCC shall be maintained throughout the RAP implementation period. The existing channels of communication, mainstreamed throughout the preparation of this RAP, shall be maintained in the implementation of the RAP. The PST will be overall responsible for communication. In the RAP implementation phase, the PAPs will receive information on the RAP process and entitlements as well as the RAPs implementation structure, reminder on cut-off date, the GRM and the contact persons within the communities.



## CHAPTER 8 GRIEVANCE MECHANISM

The project established Ward Grievance Redress Committees (WGRC) in all wards where the MWSP-1 is being implemented. Nevertheless, some wards are large making some members of WGRC unreachable to PAPs. To address this challenge, special grievance committees were established closer to the sites for easy access to the PAPS that is in Bangwe market, Limbe Produce and Limbe Flea Markets. The committee members consist of a representative of Projected Affected Person to present issues of interest to the committee. This was done considering the small number of PAPs in the area hence the CGRC were trained to ably handle the grievances related to the relocation activities, their impacts and mitigation measures.

The following is the composition of the Special Grievance Redress Committee (GRC):

- Women representative
- Men representative
- People living with disability representative.
- PAPs representative
- Faith based organisation representative.
- Youth representative
- Councillor (ex-official)
- Market chairperson (ex-official)
- Market chairperson (ex-official)

The safeguard team oriented and trained the grievance committees on their roles and responsibilities which include.

- Meet with affected communities to inform them about the potential project and its possible impact on land and livelihoods.
- Notify the respective local authorities and leaders about the project and its implications.
- Facilitate a triangulation of information among affected persons, community leaders and representatives, and an independent agent (e.g., local organizations, NGOs, other government agencies, land valuers) to identify eligible Project Affected Persons (PAPs).

- Arrange meetings with PAPs to discuss the compensation and valuation process.
- Ensure that all types of compensation are clearly explained to the individuals and households involved, alongside representatives from the Ministry of Lands and consultants.
- Address grievances or complaints, including specific concerns about compensation and relocation as well as disputes regarding livelihood restoration measures.
- Ensure that all grievances including issues of compensation for PAPs are handled fairly and resolved in time
- Ensure that affected individuals or communities have easy access to the mechanism and are aware of their rights to raise grievances or complaints.
- Provide appropriate remedies and compensation to address the harm or losses suffered by affected individuals or communities, in line with relevant laws, regulations, and project commitments.
- Record, resolve and refer grievances to City Grievance Redress Committee (CGRC)

In the implementation of the GRM for this project, the reporting channels were disclosed for the committees and PAPs to be aware of where to report grievances. The following were the channels discussed:

- Grievance boxes which are in the sites placed at designated area for easy access
- WhatsApp/text number: 0899505153
- GRM toll-free number: 3005
- Gender Based Violence hotline: 0899505152
- In person reporting to the Project Grievance Redress Committees (PGRC) and City Grievance Redress Committees (CGRC)

The grievance mechanism will be implemented in line with the GM processes and procedures stipulated in the project Stakeholder Engagement Plan and the Grievance Manual.

## CHAPTER 9: BUDGET AND BUDGET ASSUMPTIONS

### 9.1 Details of the PAPs by type of loss

Table 4 provides details of the PAPs by type of loss and site of their business. As can be noted from the table, the total number of Project Affected Persons is 21. The distribution of affected properties in the three sites is as follows: Limbe produce has 6 PAPs, Limbe Flea market has 3 PAPs, Bangwe market has 11 PAPs and 1 PAP at Makhetha clinic. PAPs from Limbe Flea market and Limbe Produce will be permanently relocated while those from Bangwe market will be temporarily relocated. Out of 20 PAPs, 11 are female and 10 are male.

**Table 7: Details of the PAPs by type of loss**

No.	Number of individuals	Sex		Site	Type of Business	Type of loss
1	6	5 F	1M	Limbe Produce Market	Restaurant	Loss of business site and loss of business/profit
2	3	3F	0M	Limbe flea market	Second cloth seller	Loss of business site and loss of business/profit
3	11	3F	8M	Bangwe market	Timber seller	Loss of business site
4	1	1M		Makhetha clinic	n/a	Loss of land and limitation of land use

Table 5 is a summary of budget for the compensation for the PAPs, the Project Implementation Unit has budgeted for the resettlement costs.

**Table 8: Summary Budget for PAPs compensation**

<b>Asset acquisition</b>	<b>Amount or number</b>	<b>Total estimated cost (MK)</b>	<b>Total estimated cost (USD)</b>	<b>Agency responsible</b>
Land Acquisition and Preparation	1	2,898,000.00	1,515.69	BCC
Livelihoods restoration	9	900,000.00	470.71	BCC
Shifting allowance	11	4,070,000.00	2,128.66	BCC
<b>TOTAL</b>	<b>21</b>	<b>7,868,000.00</b>	<b>4,115.06</b>	

Exchange. Rate: 1 US\$ = MK1912 of June 2024 based on Reserve Bank of Malawi Selling rate

## **9.2 Budget assumptions and Limitations**

The budget has the following limitations:

1. The budget is for losses at preconstruction stage only.
2. The estimate of losses is derived from maximum profit obtained by the PAPs per day at Limbe markets and the cost of labour for resettlement for the Bangwe PAPs
3. The exchange rate used is USD 1= MK1912

## **CHAPTER 10: MONITORING, EVALUATION AND REPORTING**

### **10.1 Monitoring requirements**

RAP implementation will undergo thorough monitoring to provide Blantyre City Council (BCC) with an effective method for evaluating resettlement progress and identifying potential challenges. The Monitoring and Evaluation (M&E) system will encompass administrative monitoring, including daily planning, implementation, feedback, troubleshooting, and progress reporting. It is crucial that monitoring is guided by verifiable indicators since the BCC will handle most compensation processes, including implementation, payment, and monitoring. Ensuring compliance through monitored indicators is fundamental in the RAP implementation process. Monitoring will occur regularly, at least monthly. Following up with relocated individuals in the

initial months is necessary to ensure they are adjusting to their new circumstances. Below is a list of key indicators to be incorporated into reports prepared by the BCC:

- The number of individuals economically displaced (e.g., affected shops and activities) due to project activities.
- Number of individuals relocated by the project.
- Number of individuals temporarily relocated by the project.
- Number of grievances received per month.
- Total grievances received (open and closed cases).
- Amounts of compensation paid for each category of PAPs and other benefits obtained by individuals.
- Status of affected Project Affected Persons (PAPs) and their economic and livelihood situation.
- Number of vulnerable individuals relocated, with an assessment of their coping mechanisms.
- Number of individuals returned (temporary resettlement) after project decommissioning.

Monitoring and Reporting for RAP implementation will continue after relocation to focus on the livelihood restoration to ensure that the relocation does not negatively affect the business and incomes of the business owners. The Council will maintain records of all progress and produce regular monitoring resettlement implementation reports outlining successes and challenges faced.

## CHAPTER 11: RAP IMPLEMENTATION SCHEDULE

### 11.1 Institutional Arrangements for RAP Implementation

Blantyre City Council will have the overall responsibility to coordinate implementation of the RAP. The PIU will set up a team to monitor compensation process. The actual execution will be done through collaboration with all relevant stakeholders interested in RAP implementation.

Safeguard team with guidance from PIU will have the following functions in compensation:

- Acting as the primary channel of communication between the various interest groups/organizations involved in the compensation process. They will serve to facilitate communication between BCC and the PAPs.
- Solve amicably any problems relating to compensation process. If they will be unable to resolve any problems, they will channel them through the appropriate grievance procedures.
- Assume primary responsibility of assisting BCC in overseeing the compensation processes in all its phases.

**Table 9: RAP Implementation Budget**

Indicative Budgetary Item	Frequency	Cost (MK)	Unit cost (USD\$)
PAPs trainings (Business management)	1	1,000,000.00	523.01
PAPs trainings (Bookkeeping)	1	760,000.00	397.49
Monitoring and evaluation exercises on the implementation of RAP	2	1,160,000.00	606.69
RAP audits	1	580,000.00	303.35
<b>Total</b>		<b>3,500,000.00</b>	<b>1,830.54</b>

### 11.2 Implementation Schedule

For this RAP, the schedule covers the period from the preparation of the RAP to the conclusion of the proposed project and the time that the resettlement site will be available for full use (Table 7). It is important to note that the procedure in the plan, starting from notification of the PAPs before their resettlement will be carried out in phases. Before the commencement of works, provision of notices to PAP's, dismantling of immovable property and transportation of the property to designated resettlement site. These include the target dates for start and completion of all RAP activities before civil works for the proposed project commence.

*Table 10 RAP activities implementation schedule*

Activities	Time Frame					Implementing Agency
	31/10/24	15/12/2024	7/01/25	4/02/25	10/04/25	
Completion of RAP						BCC
Approval/No Objection for RAP						World Bank
Sensitisation meeting with WGRC members						BCC (PST, WDC, Market leaders)
Stakeholder Consultation meeting.						BCC (PST, WDC, Market leaders, PAP's representative)
Provision of notices for resettlement						BCC
Transportation of property to new location						BCC, PAP
RAP completion report						BCC

## CHAPTER 12: CONCLUSIONS

This chapter presents the key conclusions of this Resettlement Action Plan. The following is a summary of the conclusions:

- The RAP is for the proposed construction of Public Sanitation Facilities at Limbe Flea market, Limbe Produce Market, Bangwe market and Makhetha Clinic under the Malawi Water and Sanitation Project-1.
- The RAP will be implemented and financed by the Blantyre city council.
- According to findings from field investigations and public consultations conducted in the proposed project sites from 28<sup>th</sup> March 2024 to 13<sup>th</sup> May 2024 the proposed project will generate the following potential impacts of resettlement and loss of business days on the site and closer to the site.
- A total of 21 PAPs will be affected through loss business site.
- The national and international legislation and policies have been reconciled to ensure that the PAPs are adequately compensated.
- For this RAP, all PAPs are eligible for compensation or other assistance, commensurate with the nature and extent of the impact. This aligns with the principles of international best practice policies, specifically adhering to the World Bank's ESS5.
- Stakeholder engagement: using consultative and participatory meetings, interviews and discussions with all of the PAPs being personally informed about the proposed project.
- The general feeling from all stakeholders is that they are excited about the public sanitation facilities which are going to help sanitation in marketplaces.
- Grievance redress mechanisms have been places in all sites to help the PAPs with their concerns.
- A total budget of MK **4,970,000.00 (US\$2,599.37)** is estimated for compensations in the RAP.

For the RAP to be successful, there will be need for continued monitoring and evaluation to ensure that the recommendations are followed. It is also important to monitor the Grievance Redress process to ensure that dissatisfaction with the RAP process for the PAPs is minimised. This will ensure that arising issues are properly addressed to facilitate and continue to build the PAPs as well as the community's trust.



## REFERENCES

1. Government of Malawi (2016), **Land Act**; Ministry of Lands, Housing and Urban Development
2. Government of Malawi (2013), **Water Resources Act**; Ministry of Agriculture, Irrigation and Water Development, Lilongwe
3. Government of Malawi (1995), **Constitution of the Republic of Malawi**, Ministry of Justice and Constitutional Affairs, Lilongwe
4. Government of Malawi (2016), **Physical Planning Act**, Ministry of Lands, Housing and Urban Development
5. Government of Malawi (2017), **Environment Management Act**, Number 19. Department of Environmental Affairs
6. The World Bank Group (2017) Environmental and Social framework

**Annex 1: Stakeholder meeting conducted during RAP implementation**

<b>Item No</b>	<b>Date for the Meeting</b>	<b>Venue for the meeting</b>	<b>Targeted group</b>	<b>Stakeholders in attendance</b>	<b>Agenda For the Meeting</b>	<b>Discussion</b>
1.	28 March 2024	Bangwe Market	Bangwe Market Executive Committee	PAPs Representative, BCC Safeguard team, Bangwe market masters	<ul style="list-style-type: none"> <li>• Project brief</li> <li>• Role of the Market leaders during the project implementation</li> </ul>	<ul style="list-style-type: none"> <li>• A presentation on components and objectives of the MWSP-1 was made</li> <li>• Project impacts and their mitigation measures were presented to the team</li> <li>• A safety need for the timber sellers to relocate during the project presentation</li> <li>• Role of the market leaders to identify a suitable business site for relocation.</li> </ul>
2.	28 March 2024	Limbe Depot and Limbe Flea Market	Limbe Market and Limbe depot restaurant operators	Market Masters, Market Chairpersons, BCC Safeguard team	<ul style="list-style-type: none"> <li>• Project brief</li> <li>• Anticipated Impacts and their mitigation measures</li> </ul>	<ul style="list-style-type: none"> <li>• A presentation on components and objectives of the MWSP-1 was made</li> <li>• Project impacts and their mitigation measures were presented to the team</li> <li>• A need to relocate to another business site within the market to pave way for the construction since the land belongs to the City Council</li> <li>• Role of the market leaders to identify a suitable business site for relocation.</li> </ul>

						<ul style="list-style-type: none"> <li>• Collection of basic information for the PAPs</li> </ul>
3.	09 May, 2024	Bangwe market	Bangwe Limbe Market wood sellers (PAPs)	CGRC Representative	<ul style="list-style-type: none"> <li>• Consultation on compensation</li> </ul>	<ul style="list-style-type: none"> <li>• The type of loss the business operators will experience</li> <li>• Their views on the compensation</li> <li>• An update on the identified site for relocation and the PAPs opinion about the new site</li> </ul>
4.	09 May, 2024	Limbe Depot	Limbe Market and Limbe depot restaurant operators	CGRC Representative	<ul style="list-style-type: none"> <li>• Consultation on compensation</li> </ul>	<ul style="list-style-type: none"> <li>• The type of loss the business operators will experience</li> <li>• Their views on the compensation</li> <li>• An update on the identified site for relocation and the PAPs opinion about the new site</li> <li>• An agreement on the amount of compensation for the loss of business</li> </ul>
5.	17 May, 2024	Makhetha Clinic	Landowner	Nkolokoti ward Councilor, ESCOM Engineers, CGRC Representative,	<ul style="list-style-type: none"> <li>• Community consultation on pole relocation</li> </ul>	<ul style="list-style-type: none"> <li>• Explanation on the need for the relocation of the electricity pole</li> <li>• The proposed site for relocation</li> </ul>
6.	23 May, 2024	Bangwe market	Bangwe Market	PAPs, CGRC Representative	<ul style="list-style-type: none"> <li>• Compensation Procedure</li> </ul>	<ul style="list-style-type: none"> <li>• Continued negotiations on compensation for the loss of business days during relocation</li> <li>• Explained the procedures to undergo until the compensation is approved by the client and World Bank</li> </ul>

7.	29 May, 2024	Makhetha Clinic	Landowner	Nkolokoti ward Councilor, ESCOM Engineers, CGRC Representative	<ul style="list-style-type: none"> <li>• Resistance of the landowner to relocate the electricity pole</li> </ul>	<ul style="list-style-type: none"> <li>• Discussed on the landowners' concerns regarding relocation implications</li> <li>• Area measurement for the site to be occupied</li> </ul>
8.	13 June, 2024	Makhetha Clinic	Landowners (PAPs)	ESCOM Engineers, Local leaders, CDC Executive members, BCC Safeguard team	<ul style="list-style-type: none"> <li>• Pole relocation procedures</li> </ul>	<ul style="list-style-type: none"> <li>• Confirmation of Area measurement for the site to be occupied</li> <li>• Provision of feedback from BCC management</li> </ul>
9.	15 June, 2024	Makhetha Clinic	Landowners (PAPs)	Local leaders (Ward Councilor and village Chief), CDC Executive members, BCC Safeguard team	<ul style="list-style-type: none"> <li>• Consultation on compensation</li> </ul>	<ul style="list-style-type: none"> <li>• Disclosure on stakeholders to be invited for land valuation</li> <li>•</li> </ul>
10	08 August, 2024	Makhetha Clinic	Landowners (PAPs)	Ministry of Lands Personnel, Local leaders (Ward Councilor and Group village Chief), CDC Executive members, BCC Safeguard team	<ul style="list-style-type: none"> <li>• Land valuation</li> </ul>	<ul style="list-style-type: none"> <li>• Confirmation of Area measurement for the site to be occupied</li> <li>• Explanation of the procedures in valuation to all stakeholder's present</li> </ul>
11	21 August, 2024	Makhetha Clinic	Landowners (PAPs)	Ministry of Lands Personnel, Local leaders (Ward Councilor and village Chief), CDC Executive members, BCC Safeguard team	<ul style="list-style-type: none"> <li>• Disclosure of valuation results by the Ministry of Land</li> </ul>	<ul style="list-style-type: none"> <li>• Disclosure of valuation results to the landowner to agree and sign a consent to the offer</li> <li>• Explanation on the way forward after signing the consent form</li> </ul>
12	23 August, 2024	Makhetha Clinic	Landowners (PAPs)	Market master, CGRC representative,	<ul style="list-style-type: none"> <li>• Signing of consent forms</li> </ul>	<ul style="list-style-type: none"> <li>• PAPs were oriented on the aim of the consent forms and later signed the consent forms</li> </ul>

13	23 August, 2024	Limbe Flea market and Limbe Depot	Landowners (PAPs)	Market master, CGRC representative,	<ul style="list-style-type: none"> <li>• Signing of consent forms</li> <li>• PAPs were oriented on the aim of the consent forms and later signed the consent forms</li> </ul>
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## Annex 2: Commonly asked questions during the consultation meetings

BANGWE MARKET		
Item No.	Question/Concern/Suggestion	Response
1.	Asked PST to allow the market committee and market master mediate the relocation process starting with formal dissemination of the message to the PAPs and searching new site for relocation. Leaders opted for the mediation to ensure that eligible PAPs were identified and registered	Allowed the market leaders to intermediate the relocation process and PST to follow up with the committee and schedule a follow up meeting with the PAPs.
2.	Enquired on whether they will be any form of compensation to the PAPs.	PST members responded that the only form of compensation was provision of transport from the current site to relocation site.
3.	The Council was asked whether the existing toilets will remain in operation during the construction phase since it was the only sanitary facility in the market.	The PST confirmed that the existing toilets will remain operational to ensure that sanitation and hygiene is maintained during the project implementation.
4.	They also asked for designs of the toilet to appreciate the new development.	PST promised to revisit the site with the project engineer to share the designs.
5.	The proposed site was where the skip was placed, they asked the team to identify a new site to place the skip.	Promised to find new location for the skip
6.	Asked for a need to rework the water system for the existing toilet as they had no running water which compromised hygiene	On the issue of blockage of running water to the existing toilet, members promised to report to designated office for action.

7.	The new location would put their business at risk, in terms of security. The new site required a new offloading zone be considered and the options being the entrance along the road poses security risks and the also that the area is outside the market premises and their deliveries happen mostly at night which was not safe at the new location.	The Safeguards will continue to explore possibility of the business operators to squeeze to the nearby site for easy accessibility by their customers as there will be not much change from the initial site. <sup>1</sup>
8.	The relocation exercise was tedious for the following reasons: distance of the construction site to the relocation site, the cost of labor and transport to assist with moving the timber	The PST responded that the compensation calculations will consider those factors
<b>LIMBE FLEA MARKET AND LIMBE DEPOT</b>		
1.	People pointed out that installing benches incurred cost. Will that be considered for compensation?	This would be taken note of, to be discussed and suggested on issues of compensation and feedback would be given.
2.	Asked about the compensation being for two days only, was there or will there be consideration of the building materials lost during relocation and extra materials required and purchased for the new site?	This would be documented for revision and consideration by superiors and decision makers.
3.	Whilst they understood that they were illegally operating their business on public land, City Council was collecting market fees from them on daily basis for 6 years. Will they be reimbursed or will this be considered in any way?	This required an inquiry from the relevant authorities and subsequent feedback
4.	The PAPs expressed that they have lost most of their savings to resettle and refurbish the new site. They asked if this would be considered in the compensation package	This would be documented for revision and consideration by superiors and decision makers.

<sup>1</sup> The new site, located just a few meters from the old one, was proposed within the same premises. All fears and concerns were subsequently addressed and resolved (see Map Figure 3).

5.	The PAPs expectation was that they will receive assistance on all the issues raised. The PAPs also requested that they list the items lost during the relocation exercise (for consideration of compensation)	This was noted and stated that feedback would be given pending consultation.
<b>MAKHETHA CLINIC</b>		
1.	The landowners wanted to know how much the compensation for the pole relocation and land is acquired for the construction of the PSF	The PST representatives indicated that assessment by ESCOM personnel and the Ministry of lands will reveal the amount for compensation.
2.	The landowner enquired about whether BCC will acquire the entire open space or only site for the construction of the PSF	The PST representatives responded that the BCC will only acquire and compensate the land where PSF will be constructed, and the electricity pole is located
3.	Will the project commence before the PAP receive the compensation?	It was responded that the guidelines for the MWSP-1 recommends project implementation only after the PAPs are compensated and all grievances concerning the land are settled