

**THE UNITED REPUBLIC OF TANZANIA  
MINISTRY OF WATER**



**CLIMATE RESILIENT WATER SUPPLY PROJECT IN BUSEGA,  
BARIADI AND ITILIMA DISTRICTS, SIMIYU REGION**

**RESETTLEMENT POLICY FRAMEWORK**

APRIL | 24 | 2019

Location: Busega, Bariadi and Itilima Districts, Simiyu Region

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## TABLE OF CONTENTS

|  |             |
|--|-------------|
| <b>Acronyms.....</b>   | <b>VI</b>   |
| <b>Preamble .....</b>  | <b>VII</b>  |
| <b>Summary of Updated Items .....</b>  | <b>VIII</b> |
| <b>Definition of Terms .....</b>   | <b>IX</b>   |
| <b>1 Introduction and BackGround .....</b>                                       | <b>1</b>    |
| 1.1 Project Background.....  | 1           |
| 1.2 Justification .....  | 1           |
| 1.3 Methodology.....   | 1           |
| 1.4 Scope.....   | 2           |
| <b>2 Project Description .....</b>   | <b>3</b>    |
| 2.1 Geographical Location and General Layout.....                                | 3           |
| 2.2 Status of Project Design .....   | 6           |
| 2.3 Project Components for Phase 1 .....   | 6           |
| 2.3.1 Water Intake.....  | 6           |
| 2.3.2 Water Treatment Plant.....   | 6           |
| 2.3.3 Pumping Stations and Pumping Main to Command Reservoir.....                | 6           |
| 2.3.4 Main Command Reservoir.....  | 6           |
| 2.3.5 Gravity Main towards Bariadi and Lagangabilili .....                       | 7           |
| 2.3.6 Access roads.....  | 7           |
| 2.4 General Description of Phase 2.....  | 7           |
| 2.5 Secondary System to Supply Villages and Wards .....                          | 8           |
| 2.6 Construction Activities .....  | 8           |
| 2.7 Wayleave Requirements and Routing of Water Mains .....                       | 8           |
| 2.8 Project Components Triggering Displacement .....                             | 9           |
| <b>3 Legal Framework .....</b>   | <b>11</b>   |
| 3.1 National Legislation and Policies.....                                       | 11          |
| 3.1.1 Legislation Governing Land Acquisition, Compensation and Resettlement..... | 11          |
| 3.1.2 Policies Governing Land Acquisition, Compensation and Resettlement .....   | 24          |
| 3.2 International Requirements.....  | 26          |
| 3.3 Gaps between National Legislation and International Requirements.....        | 30          |
| <b>4 Institutional and Organisational Framework.....</b>                         | <b>37</b>   |
| 4.1 Introduction .....   | 37          |
| 4.2 Inter-Agency Coordination.....   | 37          |
| 4.3 Expected Responsibilities of the Participating Agencies.....                 | 38          |
| <b>5 Principles and Procedures .....</b>   | <b>41</b>   |
| 5.1 Principles Governing Resettlement Planning and Implementation.....           | 41          |
| 5.2 Procedure / Process for Resettlement Planning.....                           | 42          |
| 5.3 RAP Review and Approval .....  | 44          |
| <b>6 Project Impacts and Eligibility Criteria .....</b>                          | <b>46</b>   |
| 6.1 Estimation of Permanent Land Requirement .....                               | 46          |
| 6.2 Estimation of Affected Structures.....                                       | 46          |
| 6.3 Impact on Cultural Property.....   | 46          |
| 6.4 Impact on Commercial Structures .....  | 47          |
| 6.5 Impact on Communal Facilities .....  | 47          |
| 6.6 Impact on Public Parastatal Infrastructure .....                             | 47          |
| 6.7 Eligibility Criteria .....   | 48          |

|           |   |           |
|-----------|---|-----------|
| <b>7</b>  | <b>Valuation Methodology .....</b>  | <b>49</b> |
| 7.1       | Valuation of Land .....   | 49        |
| 7.2       | Valuation of Structures .....   | 51        |
| 7.3       | Valuation of Crops.....   | 51        |
| 7.4       | Valuation of Cultural Property .....  | 53        |
| 7.5       | Valuation of Communal Facilities .....  | 53        |
| 7.6       | Valuation of Losses Suffered by Tenants .....                                       | 53        |
| 7.7       | Valuation of Losses Suffered by Leaseholders and Investors .....                    | 53        |
| 7.8       | Compensation Packages .....   | 53        |
| 7.8.1     | <i>Compensation for Land.....</i>   | <i>53</i> |
| 7.8.2     | <i>Compensation for Structures .....</i>  | <i>54</i> |
| 7.8.3     | <i>Compensation for Crops.....</i>  | <i>54</i> |
| 7.8.4     | <i>Compensation for Cultural Property .....</i>                                     | <i>54</i> |
| 7.8.5     | <i>Compensation for Losses Suffered by Leaseholders, Investors and Lessors.....</i> | <i>54</i> |
| 7.8.6     | <i>Compensation for Losses Suffered by Tenants.....</i>                             | <i>54</i> |
| 7.8.7     | <i>Compensation for Communal Facilities .....</i>                                   | <i>55</i> |
| 7.8.8     | <i>Livelihood Restoration .....</i>   | <i>55</i> |
| 7.9       | Proposed Compensation Options .....   | 56        |
| 7.10      | Voluntary Land Donations for Secondary System.....                                  | 56        |
| 7.11      | Entitlement Matrix.....   | 57        |
| <b>8</b>  | <b>Organisation and Delivery of Entitlements.....</b>                               | <b>59</b> |
| 8.1       | Organisational Elements .....   | 59        |
| 8.2       | Procedures for Delivery of Entitlements.....  | 59        |
| <b>9</b>  | <b>Implementation Schedule .....</b>  | <b>61</b> |
| 9.1       | Timeframes for the Implementation of the RAP .....                                  | 61        |
| 9.2       | Linking Resettlement Implementation to Civil Works .....                            | 61        |
| <b>10</b> | <b>Grievance Redress mechanisms.....</b>  | <b>63</b> |
| 10.1      | Objectives of Grievance Redress.....  | 63        |
| 10.2      | Grievance Redress and Appeal System .....   | 63        |
| <b>11</b> | <b>Public Consultation and Participation .....</b>                                  | <b>67</b> |
| 11.1      | Public Consultation Mechanisms .....  | 67        |
| 11.2      | Notification Procedures .....   | 67        |
| <b>12</b> | <b>Monitoring and Evaluation Arrangements .....</b>                                 | <b>70</b> |
| 12.1      | Process/Performance Monitoring.....   | 70        |
| 12.2      | External Performance Evaluation .....   | 70        |
| 12.3      | Completion Audit/Impact Monitoring .....  | 70        |
| <b>13</b> | <b>Funding Arrangements for Resettlement .....</b>                                  | <b>72</b> |
| 13.1      | Flow of Funds .....   | 72        |
| 13.2      | Estimated Budget.....   | 72        |
|           | <b>Appendix: Guidelines for Voluntary Land Donations.....</b>                       | <b>73</b> |

## LIST OF TABLES

|   |    |
|---|----|
| Table 1: Options considered for the Simiyu Water Supply Project.....                              | 3  |
| Table 2: Land requirements (in hectares) for Phase 1 per project component and per district. .... | 46 |
| Table 3: Number of affected structures for Phase 1 per project component and per district. ....   | 46 |
| Table 4: Valuation for land. ....   | 50 |
| Table 5: Valuation for structures.....  | 51 |
| Table 6: Valuation for crops. ....  | 53 |
| Table 7: Valuation for cultural property.....   | 53 |

## LIST OF FIGURES

|  |    |
|--|----|
| Figure 1: Routing of water main for Phase 1.....             | 4  |
| Figure 2: Routing of water main for Phase 2 (Option 1). .... | 5  |
| Figure 3: RAP preparation and implementation process. ....   | 44 |
| Figure 4 Organisation for the delivery of entitlements.....  | 59 |
| Figure 5 Outline of resettlement process. ....               | 62 |
| Figure 6: Grievance redress system. ....                     | 64 |
| Figure 7: Process of complaints handling.....                | 66 |

## ACRONYMS

|          |  |
|----------|--|
| DED      | District Executive Director                      |
| ESMU     | Environmental and Social Management Unit         |
| GCF      | Green Climate Fund                               |
| GN       | Guidance Note                                    |
| ha       | Hectare  |
| IFC      | International Finance Corporation                |
| LRP      | Livelihood Restoration Plan                      |
| MLHHS    | Ministry of Lands, Housing and Human Settlements |
| MoW      | Ministry of Water                                |
| PAP      | Project Affected Person                          |
| PMU      | Project Management Unit                          |
| PS       | Performance Standard                             |
| RAP      | Resettlement Action Plan                         |
| RPF      | Resettlement Policy Framework                    |
| TANESCO  | Tanzania Electric Supply Company Limited         |
| TANROADS | Tanzania National Roads Agency                   |
| TTCL     | Tanzania Telecommunications Company Limited      |
| UWSA     | Urban Water and Sanitation Authority             |

## PREAMBLE

This document represents the Resettlement Policy Framework (RPF) for the Climate Resilient Water Supply Project in Busega, Bariadi and Itilima Districts. The document contains a record of the procedures, actions and commitments being formulated to guide the resettlement, relocation and compensation of the people and households impacted by the Project, consistent with the laws of the United Republic of Tanzania and the World Bank's and KfW's applicable policies and guidelines on Involuntary Resettlement.

### *Proponent's Commitment*

Ministry of Water endorses the Resettlement Policy Framework (RPF) presented in this document, and commits to its complete, timely and effective implementation. The RPF will be made public, along with Ministry of Water's stated commitment to implement the RAP.

## SUMMARY OF UPDATED ITEMS

| REPORT SECTION  | UPDATES   |
|---|---|
| Chapter 2: Project Description                        | Sections 2.3.3 and 2.3.4 (location of the command reservoir)  |
| Chapter 3: Legal Framework                            | Incorporated the new valuation regulations:<br>I. The Valuation and Valuers (General) Regulations, 2018<br>II. The Valuation and Valuers Registration Act, 2016                                   |
| Chapter 4: Institutional and Organisational Framework | Updated section based on workshop proceedings and clarifications  |
| Chapter 5: Principles and Procedures                  | Updated to incorporate workshop agreement on how to deal with the occupants of the road reserve   |
| Chapter 7: Valuation Methodology                      | Updated to incorporate the requirements of the new valuation regulations<br>Updated with guiding documents for voluntary land donations<br>Entitlement matrix restructured for easy understanding |
| Chapter 8: Organisation and Delivery of Entitlements  | Updated to reflect agreements and clarifications from the workshop  |
| Chapter 11: Public Consultation and Participation     | Updated to incorporate notification and sensitisation procedures as per the new valuation regulations   |
| Chapter 12: Monitoring and Evaluation Arrangements    | Updated to clarify the scope of external monitoring and the completion audit and monitoring indicators for the relocation of cultural property  |



## DEFINITION OF TERMS

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

1. "Census" means a field survey carried out to identify and determine the number of Project Affected Persons (PAP), their assets, and potential impacts; in accordance with the procedures, satisfactory to the relevant government authorities, and the international safeguard policies. The meaning of the word shall also embrace the criteria for eligibility for compensation, resettlement and other measures, emanating from consultations with affected communities and the local leaders.
2. "Compensation" means the payment in kind, cash or other assets given in exchange for the taking of land, or loss of other assets, including fixed assets thereon, in part or whole.
3. "Cut-off date" is the date of completion of the census and assets inventory within the project area boundaries.
4. "Project affected persons" (PAPs) means persons who, for reasons of the involuntary taking or voluntary contribution of their land and other assets under the project, result in direct economic and or social adverse impacts, regardless of whether or not the said PAPs physically relocate. These people may have their:
  - a. standard of living adversely affected, whether or not the PAP must move to another location;
  - b. right, title, interest in any house, land (including premises, agricultural and grazing land) or any other fixed or movable asset acquired or possessed, temporarily or permanently, adversely affected;
  - c. Access to productive assets adversely affected, temporarily or permanently; or
  - d. Business, occupation, work or place of residence or habitat adversely affected.
5. "Involuntary displacement" means the involuntary taking of land resulting in direct or indirect economic and social impacts caused by:
  - a. Loss of benefits from use of such land;
  - b. Relocation or loss of shelter;
  - c. Loss of assets or access to assets; or
  - d. Loss of income sources or means of livelihood, whether or not the project affected person has moved to another location.
6. "Land" includes the surface of the earth and the earth below the surface and all substances other than minerals and petroleum forming part of or below the surface, things naturally growing on the land buildings and other structures permanently affixed to land.
7. "Livelihood" comprises the capabilities, assets and activities required for a means of living.
8. "Livelihood restoration" means development initiatives that leads to an improved standard of living for PAPs.
9. "Building" means any building or other structure made or assembled on, in or under any land and includes the land on, in or under which the building or structure is situate.
10. "Land acquisition" means the taking of or alienation of land, buildings or other assets thereon for purposes of the Project.
11. "Village land" means the land declared to be village land under and in accordance with section 4 of the Land Act and includes and transfer land transferred to a village.
12. "Lease" means a lease or sublease, whether registered or unregistered of a right of occupancy and includes a short-term lease and agreement to lease.

13. "General land" means all public land which is not reserved land or village land and includes an occupied or unused village land.
14. "Cemetery" means any area or place appointed or set aside as a cemetery by an appropriate authority under any written law.
15. "Dead body" means the human remains of a deceased person.
16. "Grave" includes a burial vault, tomb, mausoleum or coffin and any gravestone, tablet, inscription, monument or memorial to the dead associated therewith.
17. "Rural area" means any area which is not an urban area.
18. "Unexhausted improvements" means any quality permanently attached to the land directly resulting from the expenditure of capital or labour by a person holding under a right of occupancy or Government lease, or any person acting on his behalf or holding under him for a term of years, and increasing the productive utility or amenity thereof, but does not include the results of ordinary cultivation other than standing crops or growing produce.
19. "Urban area" means an area within the jurisdiction of a city, municipal or town council.
20. "Relocation assistance" means the provision of development assistance in addition to compensation such as land preparation, credit facilities, training, or job opportunities, needed to enable project affected persons to improve their living standards, income earning capacity and production levels; or at least maintain them at pre-project levels.
21. "Resettlement and Compensation Plan", also known as a "Resettlement Action Plan (RAP)" or "Resettlement Plan" is a resettlement instrument (document) to be prepared when the final line route has been demarcated.
22. "Replacement cost" means replacement of assets with an amount sufficient to cover full replacement cost of lost assets and related transaction costs. In terms of land, this may be categorized as follows;
  - a. "Replacement cost for houses and other structures" means the prevailing market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure plus the costs of:
    - i. transporting building materials to the construction site;
    - ii. any labour and contractors' fees; and
    - iii. any registration and transfer taxes.
  - b. "Replacement cost for agricultural land" means the pre-project or pre-displacement, whichever is higher, value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of:
    - i. preparing the land to levels similar to those of the affected land; and
    - ii. any registration, transfer taxes and other associated fees.
23. "Resettlement assistance" means the measures to ensure that project affected persons who may require to be physically relocated are provided with assistance such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement during relocation.

# 1 INTRODUCTION AND BACKGROUND

## 1.1 Project Background

The Ministry of Water (MoW) is currently implementing the Water Sector Development Programme that aims to improve access to safe water and sanitation facilities in rural and urban areas in Tanzania. Under this programme, MoW is planning to construct a water supply scheme in Simiyu region from Lake Victoria to the districts of Busega, Maswa, Bariadi, Meatu and Itilima.

The project will be financed and built in phases but is planned to eventually cover about 20 % of Simiyu's total area including the five district centres and about 250 villages with up to 55% of the region's total population. Phase 1 will bring piped water to the towns of Nyashimo, Bariadi and Lagangabilili as well as to villages located up to a distance of 12 km from the water supply mains.

The project will be spearheaded by MoW but it is assumed that a separate utility will be established for project implementation and provision of bulk water supply. For the purpose of this report, the project proponent/owner is referred to as MoW and its Project Management Unit (PMU).

## 1.2 Justification

The purpose of this Resettlement Policy Framework (RPF) is to set out guidelines and principles to be followed during the land acquisition process and the Resettlement Action Plan (RAP). The scope covers the whole project and all phases to ensure equal and comparable compensation.

In addition, the RPF shall facilitate the estimation of the magnitude of impact as a result of the proposed project land take and the likely financial implications which is vital input into the estimation of the total cost for the proposed project.

## 1.3 Methodology

A combination of methodologies was adopted in the process of gathering information used in the formulation of this RPF. The choice of methodology was dependent on the type and nature of information required. The key methods included:

*Desk reviews:* Several legal documents were reviewed particularly those relevant to land acquisition, compensation and grievance handling procedures. This included most of the legal documents (Bills, Acts and policies including the different sector resettlement policy frameworks for purposes of harmonisation and incorporation of lessons learnt from other projects).

*Consultations:* Consultations with key informants and groups of people were mainly used for purposes of triangulation. This enabled verification of information gathered from other data sources. In depth discussions were held with key stakeholders at the national, district, ward and village levels including some of the potentially affected communities.

*Transect walks and observation:* Transect walks were necessary to understand the current land use situation in the proposed project area. This methodology facilitated the process of estimating and mapping of the different land uses, estimation and identification of affected assets, estimation of households likely to be displaced, and assessment of whether there is any public infrastructure within the proposed project area. In addition, the consultant got an opportunity to interact with some of the households in the direct impact zone, which was vital for understanding the land dynamics in the project area.

*Primary data:* This was particularly in reference to the acquisition of the prevailing compensation rates used by the directly affected districts, which were compared with the prevailing compensation rates

of the neighbouring indirectly affected districts. In addition, the consultant compared the prevailing compensation rates with the actual market rates for purposes of assessing fairness, adequacy and deviation from replacement cost if any.

*Online tools:* Google Earth was used to estimate the total number of structures located within the direct impact zone. The satellite images were taken on different dates between 2013 and 2016.

## **1.4 Scope**

According to World Bank OP 4.12, IFC's Performance Standard 5, the UN Basic Principles and Guidelines on Development Based on Forced Eviction and Displacement, and the Terms of Reference provided to the consultant, this RPF shall address the themes outlined below:

- Introduction and project description
- Principles and objectives governing resettlement and compensation preparation and implementation
- A description of the process for preparing and approving Resettlement and Compensation Plans
- Land acquisition and likely categories of impact
- Eligibility criteria for defining various categories of project affected persons
- A legal framework reviewing the fit between the beneficiary country laws and regulations and World Bank policy requirements and measures proposed to bridge any gaps between them
- Methods of valuing affected assets
- Organizational procedures for the delivery of entitlements
- A description of the implementation process, linking resettlement and compensation implementation to civil works
- A description of the grievance redresses mechanism
- A description of the arrangements for funding resettlement and compensation, including the preparation and review of costs estimates the flow of funds, and contingency arrangements
- A description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring
- Arrangements for monitoring by the implementation agency and, if required, by independent monitors

## 2 PROJECT DESCRIPTION

### 2.1 Geographical Location and General Layout

The Simiyu Water Supply Project is designed in order to supply treated potable water to the following towns, district centres and villages:

- Bariadi (Bariadi district)
- Lagangabilili (Itilima district)
- Mwanhuji (Meatu district)
- Nyashimo (headquarter of Busega district)
- Maswa (Maswa district)
- Villages within a 12 km zone from the water supply main

Water is planned to be abstracted from Lake Victoria and transferred to the above mentioned towns and villages via a long distance pipeline scheme. According to the draft feasibility study (GKW Consult 2015)<sup>1</sup>, taking into account the variations in the routing of the transmission pipelines and the development of the project in phases, the following alternatives were studied:

**Table 1: Options considered for the Simiyu Water Supply Project.**

| Option | Description  |
|--------|--|
| 1      | Supply of Nyashimo, Bariadi and Itilima in a first stage via pumping and gravity main; in a second stage: laying of a second pipe in parallel (70 km) and extension of transmission main to Maswa and to Meatu via Itilima branch          |
| 2      | Supply of Busega, Bariadi and Itilima in a first stage via pumping and gravity main; in a second stage: laying of a second pipe in parallel (70 km) and extension of transmission main to Maswa and further to Meatu via Maswa branch      |
| 3      | Supply of Busega, Bariadi and Itilima in a first stage via pumping and gravity main; in a possible second stage: laying of a second pipe in parallel (32 km) and supply of Maswa and Meatu through local surface and groundwater resources |

Engineering and financial analyses were prepared for the above mentioned options, and it was concluded that Option 2 should be eliminated and a phased approach should be implemented for the project as follows:

- In Phase 1, treated potable water will be supplied up to Nyashimo, Bariadi and Lagaganbilili, and water supply to livestock is excluded. The total length of the water main for Phase 1 is 135 km.
- Phase 2 will commence following the completion of Phase 1 which will take approx. 3 years. It provides for an extension of the water supply to Meatu and to Maswa. Based on the results of further investigations regarding the availability of local water resources in the southern districts, either an extension of the transmission main up to 325 km (Option 1) or the construction/rehabilitation of boreholes and dams will be implemented (Option 3).

It should be noted that Phase 1 is viable without Phase 2 but not vice versa. The layout and geographical coverage of the two project phases are shown in Figure 1 and Figure 2.

<sup>1</sup> GKW Consult (2015) Provision of Consultancy Services for Feasibility Study, Detailed Engineering Design, Preparation of Tender Documents for Water Supply Schemes from Lake Victoria to Bariadi, Lagangabilili and Mwanhuji Towns. Draft Feasibility Study Report. Ministry of Water and Irrigation, Tanzania.



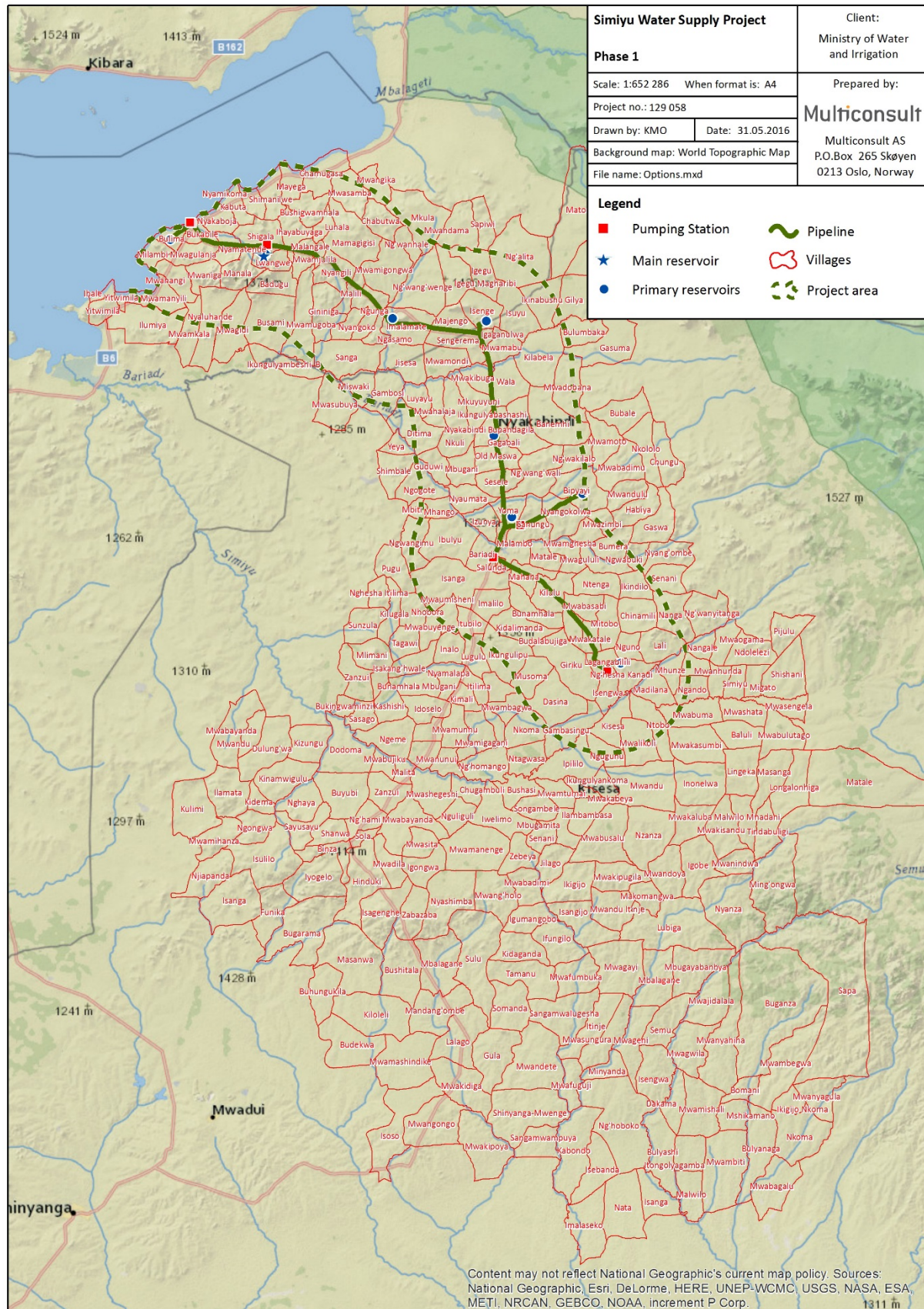


Figure 1: Routing of water main for Phase 1.



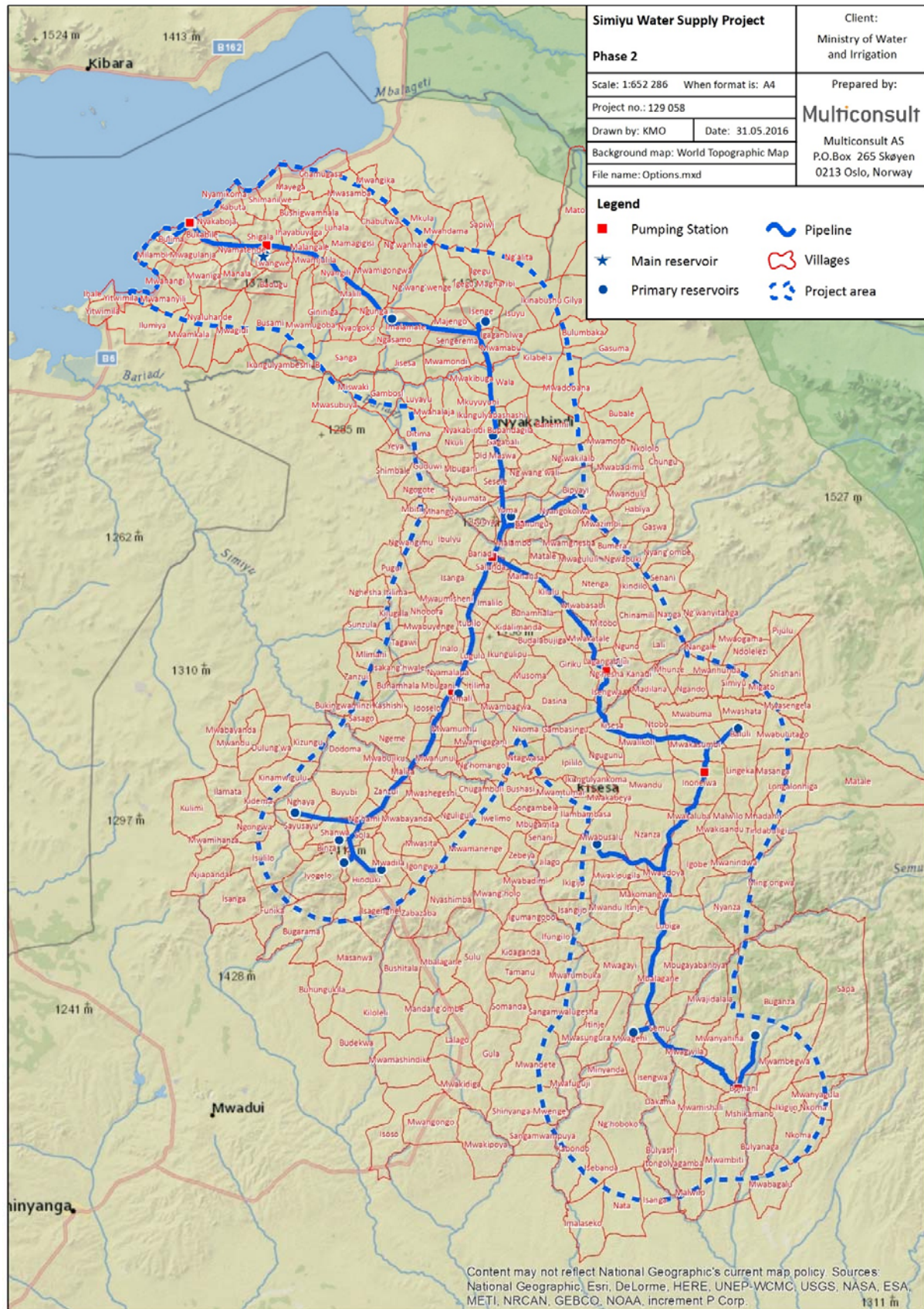


Figure 2: Routing of water main for Phase 2 (Option 1).

## **2.2 Status of Project Design**

The feasibility level design, upon which the previous version of the RPF was based, has recently been upgraded to detailed design. The latest design is presented in the Detailed Engineering Design Report dated 7 December 2018 (GKW Consult 2018).

The detailed design was reviewed during a field trip and workshop in Bariadi on 13 – 15 February 2019. MoW then raised several issues related to the routing of the water mains within (or outside) the road reserve. These issues have significant bearing on the magnitude of displacement and resettlement planning.

Until the detailed routing has been finalised, this Updated RPF has only taken into account those changes that have already been approved, viz. the change in location of the water treatment plant and the command reservoir. The changes have been incorporated into the description of project components below.

## **2.3 Project Components for Phase 1**

### **2.3.1 Water Intake**

The planned intake point is located at Bukabile village, Bariadi district, at a distance of 175m from the Lake Victoria shore line (1,140 masl.) and with a total water depth of about 4 m and an extraction at 3 m depth. The water abstraction for Phase 1 of the project amounts to 19,000 m<sup>3</sup>/day. The connection to the water treatment plant will be via an approx. 2.75km long steel pipe (The length of the raw water treatment main).

### **2.3.2 Water Treatment Plant**

The location of the water treatment plant was originally planned at a distance of 80 – 100 m from the lake shore line. However, in the detailed design it has been moved further inland about 1.7 km from the lake. This change was motivated by the recommendation in the ESIA that the water treatment plant should be located at further distance from the lake and at higher elevation in order to minimise the risk of flooding during heavy rains and to avoid wastewater effluents draining into the lake.

The needed area for the final phase (year 2035) is about 10 ha. The treatment works will include installations for full standard water treatment comprising dosing, mixing, flocculation, sedimentation, filtering, disinfections with all necessary tools and equipment for optimal operation of the plant.

### **2.3.3 Pumping Stations and Pumping Main to Command Reservoir**

In order to transfer the treated water from the water treatment plant to the main command reservoir, a single or two stage pumping scheme will be implemented. The locations of the pumping stations are shown in Figure 1 and Figure 2.

### **2.3.4 Main Command Reservoir**

In order to secure the sustainability of the proposed project, the location of the main command reservoir has been shifted to Lwangwe hill (1438 masl.) since Ngasamo hill (1,418 masl.) is earmarked for nickel mining. The volume of the main command reservoir will be 3,000 m<sup>3</sup> and it will require a plot of 1 ha (including the primary reservoir, see below).

The change in location of the command reservoir also implies that two of the primary reservoirs have been shifted to new locations: The former Shigala primary reservoir will be part of the command reservoir at Lwangwe hill (now called Lwangwe primary reservoir) and the Ngasamo primary reservoir has been shifted to the nearby Isadukilo hill (Isadukilo primary reservoir). New inflow and outflow pipelines have been included accordingly.



In conjunction with the realignments at Ngasamo (i.e. primary reservoir shifted from Ngasamo hill to the nearby Isadukilo hill), the detailed design has also accommodated a re-routing of the water main at Ngasamo village. This was done to avoid the settlements along the main road by creating a bypass to the south of Ngasamo village.

### **2.3.5 Gravity Main towards Bariadi and Lagangabilili**

From the main command reservoir at Lwangwe hill, the water will be supplied by gravity towards Bariadi. In order to allow for gravity supply to the secondary reservoirs (for rural/village supply) and to serve the phase 2 demand, there will be two gravity mains from the main reservoir towards Bariadi.

The first gravity main will provide water to the primary reservoirs along the route up to Yoma reservoir. Yoma reservoir will be at an elevation of 1,328 masl., volume of 2,000 m<sup>3</sup> and will be the main reservoir for Bariadi and other built-up residential areas. The distribution network in Bariadi has also been extended to Somanda area where 80% of the distribution will be by gravity and 20% by pumping.

The gravity main for phase 1 will only extend up to Bariadi, from where the water will be pumped to Lagangabilili primary reservoir and supplied to Lagangabilili by gravity. It should be noted that the second gravity main from Lwangwe hill will not be constructed until phase 2.

### **2.3.6 Access roads**

There will be access roads to all water reservoirs and pumping stations. The expected width of the access roads is 6m wide and the length varies with the distance from the existing roads. Land will be permanently acquired for all the new access roads, while existing roads will be improved if found necessary.

## **2.4 General Description of Phase 2**

According to GKW Consult (2015)<sup>2</sup>, the district centres of Mwanhuizi and Maswa are currently using local water resources, and the situation regarding water supply, taking into account quantity and quality issues, “is not as strenuous as in Bariadi”. Because of this and also based on engineering and financial analyses, GKW (2015)<sup>3</sup> has recommended a phased approach to project implementation. Phase 1 is already described above, while Phase 2 will extend the water supply to Mwanhuizi and Maswa.

The phased approach is based on the following reasoning (GKW 2015)<sup>4</sup>: Following an initial operation of the Phase 1 system for some ten years, a further extension could be considered. If response to the system is good and all villages/wards are connected and consuming the expected amount of water, an extension of the system beyond Lagangabilili would only be possible by constructing an additional main pipeline parallel to the pipeline constructed in Phase 1 (and extending the other system components, such as the treatment plant, the pump stations, reservoirs, etc.). If response to the system is lower and villages remain reluctant to connect to the system or use considerably less water than assumed, there are still reserves in the system to extend the supply system towards Mwanhuizi and/or Maswa. There is also the possibility, which is to be investigated, of developing local water resources in order satisfy the water needs of Mwanhuizi and Maswa.

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<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

A gravity supply towards Mwanhuizi and Maswa is not possible, and pumping will therefore be required. At Bariadi junction, the main splits, one branch will supply Mwanhuizi (via the Phase 1 main to Lagangabilili), while the second branch will supply Maswa.

## **2.5 Secondary System to Supply Villages and Wards**

A secondary system of reservoirs and pipelines is suggested for water supply to the villages and wards located within a 12 km zone from the water supply main. The proposed concept does not foresee direct water extraction from the main pipeline but village / ward supply via secondary reservoirs. The village connections are not designed in detail at this stage of the project, but the connections from the secondary reservoirs to the wards/villages have been estimated to cover a total distance of approx. 590 km.

The scale and coverage of the secondary system depends on the actual demand in the villages and the process of establishing COWSOs. The design of each secondary connection will be done through a participatory and demand-driven process, whereby the communities themselves identify suitable locations for the water infrastructure including routing of secondary pipelines. The COWSOs will be responsible for operation and maintenance of the water infrastructure and for setting user tariffs, with technical support through the districts and consultants/NGOs. It is assumed that the impacts of the secondary system will be minimal, provided that this bottom-up approach is respected and enforced.

## **2.6 Construction Activities**

The installation of the water pipelines, which constitutes the main construction works (in terms of scale and duration), involves the following steps/tasks: mobilisation, clearing of work strip, trenching, spoil disposal, pipe installing, backfilling, strength testing, clean-up, and work strip restoration. The detailed work schedule has not yet been defined, but it should be noted that the construction works for Phase 1 will take approx. 3 years and even longer for Phase 2 (if implemented).

Clearing of work strip for the pipeline right-of-way is performed in order to provide space for construction equipment, while trenching is performed in order to provide the minimum required cover and side clearance to the pipeline. Spoil removed from the trench is normally left alongside the trench in a spoil bank, unless traffic conditions require immediate transport. Excess soil or rock should be disposed of in appropriate areas or spread over disturbed areas along the pipeline route, if possible.

Usually pipe segments are strung on wooden skids alongside the trench. The pipe installation works depend on the pipe material. Backfilling is done, according to the technical specification, using partly native material and partly imported sand or soil. Further, the pipeline is pressurised to a minimum of 1.25 times its design pressure, according to the technical specifications. Clean-up and work strip restoration include re-contouring the work strip and repairing roads, drainage, river banks and fences.

The number of construction workers will be decided by the contractors. It is expected that the construction works will be divided into several lots and that each contractor will deploy multiple teams for the installation of pipelines, water reservoirs and pump stations. Each team typically consist of 8-15 persons. The expected number of workers for the water treatment plant is 50-70 persons. In total, there will be several hundred workers involved in the construction of the entire water supply scheme during the construction phase (estimated at 3 years for Phase 1).

## **2.7 Wayleave Requirements and Routing of Water Mains**

The main water pipelines are planned to be routed along the main roads and within the existing road reserve. For national (trunk) and regional roads, the width of the road reserve is 60 m (i.e. 30 m on each side of the centre line), which is an expansion of the former road reserve width (50 m). TANROADS

is currently in the process to secure the expanded portion (i.e. from 22.5 m to 30 m from the centre line) including relocation of structures and payment of compensations to affected property owners.

The standard wayleave requirement for water mains in Tanzania is currently 10 m (i.e. 5 m on each side of the centre line). However, according to the new Water Supply and Sanitation Act of 2018 (waiting for President's approval), the width of the wayleave will be not less than 20 m. This expanded wayleave requirement will need to be incorporated into the detailed design once a decision has been reached regarding the routing of the water mains.

Where the acquisition of the expanded portion of the road reserve is purposely for the project's water mains, it is recommended that MoW takes lead of land acquisition to ensure that the process adheres to the requirements stipulated in this RPF.

In situations where land has already been acquired by TANROADS, MoW will ensure that potential complaints arising from the land acquisition process are resolved with due consideration of the requirements of the RPF.

## 2.8 Project Components Triggering Displacement

The table below outlines the impacts of each project component and the principles to be followed.

| Project Component  | Impact  | Principle  |
|--|---|--|
| Intake, treatment plant and associated facilities        | <ul style="list-style-type: none"> <li>- Loss of land</li> <li>- Loss of developments on land</li> <li>- Disruption to livelihoods</li> </ul>   | <ul style="list-style-type: none"> <li>- Land compensation</li> <li>- Compensation for developments on land (crops, possibly structures)</li> <li>- Livelihood restoration</li> </ul>  |
| Main water pipeline                                      | <ul style="list-style-type: none"> <li>- Loss of land (for wayleave)</li> <li>- Loss of developments on land</li> <li>- Disruption to land based livelihoods</li> <li>- Disruption to cultural property</li> <li>- Damage/disruption of normal functionality of communal infrastructure (cattle dips, charco dams, schools, health centres, communal ginneries)</li> <li>- Disruption of public/private infrastructure (Telecom masts, transmission lines, optic fibre cables)</li> </ul> | <ul style="list-style-type: none"> <li>- No land compensation if within the original road reserve boundaries (22.5 m from the centre line).</li> <li>- Land compensation if outside the original road reserve boundaries or if crossing through village land)</li> <li>- Compensation for developments on land (structures, crops etc.)</li> <li>- Compensation for damaged property and support to livelihood restoration</li> <li>- Compensation and facilitation for the relocation of cultural property</li> <li>- Replacement/restoration of all communal facilities damaged</li> <li>- Facilitation for the relocation of public/private infrastructure</li> </ul> |
| Reservoir tanks, Primary Reservoirs and pumping stations | <ul style="list-style-type: none"> <li>- Loss of land</li> <li>- Loss of developments on land</li> <li>- Disruption of livelihoods</li> </ul>   | <ul style="list-style-type: none"> <li>- Land compensation unless communities have voluntarily donated the land. Community donations should be properly documented.</li> <li>- Compensation for developments on land</li> <li>- Support to livelihood restoration if impact is significant</li> </ul>  |
| Secondary and tertiary pipelines                         | <ul style="list-style-type: none"> <li>- Minimal disruption to livelihoods</li> <li>- Minimal land requirement</li> </ul>   | <ul style="list-style-type: none"> <li>- Compensation for damaged crops during construction</li> <li>- No land compensation (community contribution)</li> </ul>  |
| Infrastructure for water distribution (yard taps)        | <ul style="list-style-type: none"> <li>- Minimal impact on land</li> </ul>  | <ul style="list-style-type: none"> <li>- Community contribution</li> </ul>   |
| Communal sanitation facilities                           | <ul style="list-style-type: none"> <li>- Minimal impact on land</li> </ul>  | <ul style="list-style-type: none"> <li>- Community contribution</li> </ul>   |
| Camp sites and borrow area, soil tips                    | <ul style="list-style-type: none"> <li>- Temporary occupation of land</li> </ul>  | <ul style="list-style-type: none"> <li>- Leasing of land for an agreed period with clear documentation for negotiations undertaken with owners</li> </ul>  |
| Offices  | <ul style="list-style-type: none"> <li>- Permanent occupation of land</li> </ul>  | <ul style="list-style-type: none"> <li>- Land compensation</li> </ul>  |

| Project Component         | Impact  | Principle   |
|---------------------------|---|---|
|                           | <ul style="list-style-type: none"> <li>- Loss of developments on land</li> <li>- Disruption of livelihoods</li> </ul> | <ul style="list-style-type: none"> <li>- Compensation for developments on land</li> <li>- Support to livelihood restoration if impact is significant</li> </ul> |
| Upgrading of access roads | <ul style="list-style-type: none"> <li>- Damage to property (crops and structures)</li> </ul>                         | <ul style="list-style-type: none"> <li>- Compensation for damaged property</li> </ul>   |

### 3 LEGAL FRAMEWORK

#### 3.1 National Legislation and Policies

##### 3.1.1 Legislation Governing Land Acquisition, Compensation and Resettlement

###### The Constitution of the United Republic of Tanzania

| Theme                         | Relevant Sections   |
|-------------------------------|---|
| Right to own property         | Part III, Article 24, Sub-article 1 states that every person is entitled to own property, and has a right to the protection of his property held in accordance with the law.  |
| Information and communication | Part III, Article 18, states that every person -<br>(a) has a freedom of opinion and expression of his ideas;<br>(b) has out right to seek, receive and, or disseminate information regardless of national boundaries;<br>(d) has a right to be informed at all times of various important events of life and activities of the people and also of issues of importance to the society. |
| Compensation                  | Part III, Article 24, Sub-article 2 states that subject to the provisions of Sub-article (1), it shall be unlawful for any person to be deprived of his property for the purposes of nationalization or any other purposes without the authority of law which makes provision for fair and adequate compensation.   |
| Safeguard of property         | Part III, Article 27 states that every person has the duty to protect the natural resources of the United Republic, the property of the state authority, all property collectively owned by the people, and also to respect another person's property.  |
| Discrimination                | Part III, Article 29, Sub-article 4 prohibits attempts by any law to confer any right, status, or special position upon any citizen of the United Republic on the basis of lineage, tradition or descent.   |

###### The Land Act, 1999

| Theme                     | Relevant Sections  |
|---------------------------|--|
| Land tenure               | Part II, Section I, Sub-section 1(a) states that all land in Tanzania is public land vested in the President as trustee on behalf of all citizens.   |
| Land categorization       | Part II, Section 4 classifies public land into the following categories;<br>(a) general land;<br>(b) village land;<br>(c) reserved land.   |
| Reserved land             | Part II, Section 6 defines reserved land as land<br>(a) Reserved, designated or set aside under the provisions of the: cap. 389(i) Forest Ordinance; cap. 412(ii) National Parks Ordinance; Act No.12 1974(iii) Ngorongoro of Conservation Area ordinance; Act No. 20; (iv) Wildlife conservation Act, 1994 (v) the Marine Parks and 29 of 1994 Reserves Act, 1994 cap 378; (vi) the town and country planning ordinance; cap 167; (vii) highway ordinance cap 320; (viii) public Recreation Grounds Ordinance act No.47; (ix) Land Acquisition Act1967<br>(b) Land parcel within a natural drainage system from which the water resource of the concerned drainage basin originates;<br>(c) Land reserved for public utilities;<br>(d) Land declared by order of the Minister, in accordance with the provisions of this act to be hazardous. |
| General land              | "General land" means all public land which is not reserved land or village land  |
| Land rights               | Part IV, Section 19 defines the rights to occupy land are declared to be;<br>a) granted right of occupancy<br>b) derivative right  |
| Application for wayleaves | Part XI, Sub-part 3, Section 152, Sub-section 1 requires that any corporate body or ministry with the desire to create a wayleave should submit application to the   |

| Theme  | Relevant Sections  |
|--|--|
|  | Commissioner of lands in a prescribed format with all the required detailed information about the wayleave for the commissioner for review and further processing.   |
| Notice for acquisition of public wayleave        | <p>Part XI, Sub-part 3, Section 152, Sub-section 4 requires the applicant of a wayleave to serve notice to all</p> <p>(a) all persons occupying land under a right of occupancy over which the proposed wayleave is to be created, including persons occupying land in accordance with customary pastoral rights;</p> <p>(b) All local government authorities in whose area of jurisdiction land over which the proposed wayleave is to be created is located.</p> <p>(c) All persons in actual occupation of land in an urban and peri-urban area over which the proposed wayleave is to be created;</p> <p>(d) Any other interested person.</p>  |
| Approval of creation of wayleaves / right of way | <p>Part XI, Sub-part 3, Section 154, Sub-section 6 states that upon approval of the wayleaves creation, the Minister shall</p> <p>a) delineate the route of that public right of way;</p> <p>b) publish it in the Gazette</p> <p>c) Notify all local government authorities having jurisdiction along the route of the public right of way;</p> <p>d) Publicize in any manner which is calculated to bring it to the attention of people occupying and using land along the route of the public right of way;</p> <p>e) Come into force thirty days after it has been published in the Gazette.</p>  |
| Surrender for the right of occupancy             | <p>Part VI, Sub-part III, Section 43, Sub-section 4 gives the procedure for surrender of right of occupancy, and requires</p> <p>(a) notify the occupier;</p> <p>(b) where the surrender is of a part of the land-</p> <p>(i) notify the occupier of any revision to the rent for the remaining portion of the land;</p> <p>(ii) cancel the existing certificate of occupancy;</p> <p>(iii) issue a new certificate of occupancy to the occupier;</p> <p>(c) Present any deed of surrender and certificate of occupancy to the registrar.</p> <p>(5) The registrar shall take steps which are necessary to amend the register in the light of the information of which he is notified by the commissioner;</p>   |
| Compensation                                     | Part II, Section 1(g) requires payment of full, fair and prompt compensation to any person whose right of occupancy or recognized long-standing occupation or customary use of land is revoked or otherwise interfered with to their detriment by the State.   |
| Compensation assessment                          | <p>Part II, Section I(g) also requires that the factors below are put into consideration during the assessment of compensation for land</p> <p>(i) Market value of the real property;</p> <p>(ii) Disturbance allowance;</p> <p>(iii) Transport allowance;</p> <p>(iv) Loss of profits or accommodation;</p> <p>(v) Cost of acquiring or getting the subject land;</p> <p>(iv) Any other loss or capital expenditure incurred to the development of the subject land;</p> <p>(vii) Interest at market rate will be charged.</p>  |
| Eligibility for compensation                     | <p>Part V, Section 23, Subsection 6 states that where a person or family has occupied land in the same location under a residential license for not less than three years, he or they shall be entitled to compensation under the Land Acquisition Act, 1967 where that land is to be acquired for a public purpose or where that person or family is to be removed from the land as if that person or family had a right of occupancy in the land.</p> <p>Part X, Section 156, Sub-section 1 states that compensation shall be payable to any person for the use of land, of which he is in lawful or actual occupation, as a communal right of way and, with respect to a wayleave, in addition to any compensation for the use of land for any damage suffered in respect of trees, crops and buildings as result of the creation of such wayleave.</p> <p>Sub-section 2 defines damages to include any damage caused as a result of any preliminary work undertaken in connection with surveying or determining the route of that wayleave, whether the trees, crops or buildings so damaged were include in the route of the wayleave as delineated in the order of the minister.</p> |

| Theme                                 | Relevant Sections   |
|---------------------------------------|---|
| Compensation responsibility           | Part X, Section 156, Sub-section 3 specifies that the duty to pay compensation lies with the Government department of ministry, local or public authority or corporate body which applied for the public right of way and that duty shall be complied with promptly.  |
| Relocation                            | Part VI, Sub-part 2, Section 34, Sub-section 3 states that where a right of occupancy includes land which is occupied by persons under customary law, it shall be a condition of that right of occupancy that those customary rights shall be recognized and those persons so occupying the land shall be moved or relocated only-<br>(a) so far as is necessary to enable the purpose for which the right of occupancy was granted to be carried out; and<br>(b) in accordance with due process and principles of fair administration, being given-<br>(i) not less than one hundred and eighty days' notice of any requirement to move; and<br>(ii) the opportunity to reap crops sown before any notice to move was to those Persons; and<br>(iii) the right to continue to use water which those Persons had a right to use before being given notice to move; and<br>(iv) prompt payment of full compensation for loss of any interests in land and any other losses that are incurred due to any move or any other interference with their occupation or use of land. |
| Grievance resolution                  | Part X, Section 156, Sub-section 4 stipulates that in case of a disagreement on the amount or method of payment of compensation or in case of dissatisfaction with the time taken by the body under a duty to pay that compensation, , recipient of the compensation may apply to the High Court to determine the amount and method of payment of compensation and the High Court may in making any award, make an additional costs and inconvenience incurred by the person entitled to compensation through the dilatory or other unsatisfactory procedures of that public authority.   |
| Institutions for grievance resolution | Part XIII, Section 167-(1) vests exclusive the following land courts with the responsibility to hear and determine all manner of disputes, actions and proceedings concerning land.<br>(a) the Court of Appeal;<br>(b) the Land Division of the High Court established in accordance with law for time being in force for establishing courts divisions;<br>(C) The District Land and Housing Tribunal<br>(d) Ward Tribunals<br>(6) Village Land Council  |
| Information disclosure                | Part XIV, Sections 168 and 169 offer guidance on how detailed information should be disclosed to affected persons occupying general or village land. Information should be disclosed both in written and oral format in either English or Swahili.  |
| Advance notice prior to land entry    | Part XIV, Sections 170 requires any person authorized by the commissioner to give an advance notice of not less than 48 hours prior to entry of any land for inspection and to inspect at reasonable times between 6:00am and 6:00pm. Any damages caused during such inspections shall be promptly assed and compensation paid.   |

### The Land Acquisition Act, 1967

| Theme                      | Relevant Sections  |
|----------------------------|--|
| Preliminary investigations | Part 2, Section 5, Sub-sections 2 authorizes the conducting of following activities as part of the preliminary investigations on sites identified as potential locations of public projects.<br>(a) to enter upon and survey and take levels of any land in such locality;<br>(b) to dig or bore , under the subsoil;<br>(c) to do all other acts necessary to ascertain whether the land is adapted for such purpose;<br>(d) to clear, set out and mark the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon: |



| Theme                                   | Relevant Sections   |
|---|---|
|   | Provided that no person shall enter into any building or up on any enclosed court or garden attached to a dwelling house (except with the consent of the occupier thereof) without previously giving such occupier at least three days' notice of his intention to do so.   |
| Notice of intention to acquire land     | Part 2, Section 6 requires that once a resolution to acquire land for a public purpose has been made, a notification in regard to the intention to acquire the land should be given to the persons interested or claiming to be interested in such land, or to the persons entitled to sell or convey the same, or to such of them as shall, after reasonable inquiry, be known.  |
| Notice to take over land                | Part 2, Section 7, Sub-sections 1, requires the parties interested in land to officially publish a notice to take over land in a gazette and give at least 6 weeks' notice period to the previous owners prior to takeover of land ownership. The 6 weeks begin from the day of the published notice in the gazette.<br><br>In section 8, Sub-section 1, it is preferable that all notices are delivered in person to all the concerned. Owners who cannot be easily identified or located, the notices should be given to the current occupiers of land or left within their land boundaries. In case of a corporation, the notice should be delivered to the company premises or to the company representative.<br><br>Part 2c, Section 23 cautions that, when a notice is served it does not imply that the land owners have been automatically relieved of their rights as owners of land. The notices will only serve as information and the acquisition will follow the procedures laid out in the law until compensation is made and formal transfer process has been completed.   |
| Degree of impact on structures (houses) | Part 2, Section 9 states that no person shall at any time be required to yield up possession of a part only of any house or other building if such person is willing and able to yield up possession of the whole of such house or building.  |
| Degree of impact on land                | Part 2, Section 10 requires that for any loss of land that results into residual land of less than half an acre, the owner will have the right to be compensated for the residual land. It should however be noted that this principle does not apply to cities, townships and municipalities.  |
| Compensation                            | Part 2, Section 11, Sub-section 1 requires that where any land is acquired for public use, compensation can be agreed upon or determined in accordance with the provisions of the law.  |
| Land compensation                       | Part 2b, Section 11, Sub-section 2 stipulates that compensation value for land will be limited to the same value as the land acquired and with similar terms and conditions as the land acquired.<br><br>Part 2b, Section 14 further gives the detailed considerations during the assessment of the value of land. It states that " In assessing compensation for any land acquired under the provisions of this Act, the Minister or the Court, as the case may be, shall,<br>(a) Take into account the value of such land at the time of the publication of notice under section 8 without regard to any improvement or work made or constructed thereon thereafter or to be made or constructed in the implementation of the purpose for which it is acquired;<br>(b) When part only of the land belonging to any person is acquired, take into account any probable enhancement of the value of the residue of the land by reason of the proximity of any improvements or works made or constructed to be made or constructed on the part acquired;<br>(c) Take into account the damage, if any, sustained by the person having an estate or interest in the land by reason of the severance of such land from any other land or lands belonging to the same person or other injurious effect upon such other land or lands;<br>(d) Not take into account any probable enhancement in the value of the land in future;<br>(e) Not take into account the value of the land where a grant of public land has been made under the provisions of subsection (2) of section 11;<br>(f) Assess such compensation in accordance with such principles, 'in addition to and not inconsistent with the principles specified in this section, as may be prescribed - |



| Theme  | Relevant Sections   |
|--|---|
| Compensation for vacant land                   | <p>Part 2b, Section 12, Sub-section 1: No compensation shall be awarded in respect of any land Restriction on which is vacant ground.</p> <p>Vacant land is further elaborated in subsection 4 to include the following categories.</p> <ul style="list-style-type: none"> <li>(a) Having been fenced or hedged; or</li> <li>(b) Having been levelled; or</li> <li>(c) Having been ploughed or cleared; or</li> <li>(d) consisting of a cleared or partially cleared site of some former development; or</li> <li>(e) Being used, otherwise than as an ancillary to adjacent land which is not vacant land or land which is inadequately developed, as a place of deposit for refuse or waste or as standing or parking places for vehicles:</li> </ul> <p>However, in regard to rural areas, land shall be considered vacant if it has not been utilized for agricultural purposes for the last 12 months preceding the acquisition or the notice to take over possession.</p> |
| Compensation for burial grounds or similar use | <p>Part 2b, Section 12, Sub-section 3 indicates that for such land as a cemetery or crematorium, compensation shall, consist of the value of any unexhausted improvements of the land and a grant of some public land not exceeding in value the value of the land acquired and upon the same terms and conditions as the land acquired was held so far as the same may be practicable and the public land so granted shall, so far as the same may be practicable, be within the same city, municipality, township or minor settlement, as the case may be, within which the land acquired is situate unless the holder of such Government lease or right of occupancy agrees to accept a grant of public land elsewhere.</p>  |
| Definition of developed land                   | <p>Part 2b, Section 12, Sub-section 5 stipulates that land shall not qualify as developed/eligible for compensation if the state of the developments on land is in substantial disrepair, if the land has been unoccupied or occupied by just a watchman for the last 3 months prior to the notice of intent to acquire land, if it gets cultivated or pastured just after the publication, or if it's not considered as properly managed in the case of rural areas.</p>   |
| Implications for delayed compensation payments | <p>Part 2b, Section 15 states that, in situations where land is possessed before compensation payment, the previous land owner should be paid 6% interest per annum from the time of possession to the date of compensation payment.</p>  |
| Eligibility for compensation                   | <p>Part 2b, Section 17 describes legitimate owners of land as those persons in possession of the title or those who receive rent from such land and all those who have a claim on the same piece of land shortly before the notice to acquire such land.</p> <p>Part V, Section 23, Sub-section 6 states that where a person or family has occupied land in the same location under a residential license for not less than three years, he or they shall be entitled to compensation under the Land Acquisition Act, 1967 where that land is to be acquired for a public purpose ..."</p>  |
| Unconcluded acquisitions                       | <p>Part 2c, Section 19 stipulates that in circumstances where the land acquisition has not been concluded and the possession has not taken place, the land owners may not be entitled to compensation save for compensation for any damages or costs incurred during the preparatory phase of the acquisition.</p> <p>However in situations where the land has been possessed and the possessor fails to notify the land owners that he does not intend to complete the acquisition, within one month, the land owners will be entitled to compensation</p>   |
| Acquisition of Government/leased land          | <p>Part 2c, Section 24 states that nothing in this Act shall prevent the president or the minister from entering into any agreement with a person having any estate or interest in land for the acquisition of such estate or interest or from acquiring any land under any terms or conditions contained in any Government lease or right of occupancy or under the provisions of any other written law.</p>   |

## The Village Land Act, 1999

| Theme  | Relevant Sections   |
|--|---|
| Village land   | Village land" means the land declared to be village land under and in accordance with Section 4 of the Land Act and includes any land transferred to a village  |
| Classification of village land                               | Village land can be categorized as customary land or communal land depending on the user rights awarded   |
| Transfer of village land to general land                     | Part III gives legal guidance on the procedure to follow if part of the village land is to be transferred to general or reserved land for public interest. Where public interest is defined as investments, of national interest, according to Section, 4 Sub-section 2.  |
| Notification of village councils upon identification of land | Part III, Section 4, Sub-section 3 requires that once such land has been identified a notification should be forwarded to the village council, specifying<br>(a) the location of the area of the village transfer land<br>(b) the extent and boundaries of the village transfer land<br>(c) a brief statement of the reasons for the proposed transfer  |
| Notification of affected households                          | Part III, Section 4, Sub-section 4 requires the village council to disseminate the details of the contents of the notice to the affected villagers.   |
| Compensation   | Part III, Section 4, Sub-section 8 emphasizes that no village land shall be transferred until the type, amount, method and timing of the payment of compensation has been agreed upon between the concerned parties, and not earlier than 90 days from the notification. However, if general or reserved land is to be exchanged with the village land, then that general or reserved land has to have been identified and ready for transfer to the village.   |
| Notification for transfer of village land                    | Part III, Section 13 stipulates that a transfer of village land to general or reserved land shall be notified in the Gazette and shall come into effect thirty days after the date of the publication of the notice.  |
| Conflict resolution  | Part IV, Section 15, Sub-section 9 recommends that where there is a dispute between two or more persons, family units or groups of persons as to which of the parties is entitled to land under any of the provisions of subsections (1), (2) or (3), the village council shall refer the matter to the Village Land Council to mediate between the parties and where the Village Land Council is unable to resolve the dispute between the parties, the village council shall refer the dispute to the Ward Tribunal and may further refer the matter to court having jurisdiction in the area where the Land is situated.   |
| Vulnerable groups  | Part IV, Sub-part b, Section 20, Sub-section 2 states that any rule of customary law and any decision taken in respect of land held under customary tenure, whether in respect of land held individually or communally, shall have regard to the customs, traditions, and practices of the community concerned to the extent that they are in accordance with the provisions of Sections 9 and 9A of the Judicature and Application of Laws ordinance and of any other written law and subject to the foregoing provisions of this subsection, that rule of customary law or any such decision in respect of land held under customary tenure shall be void and inoperative and shall not be given effect to by any village council or village assembly or any person or body of persons exercising any authority over village land or in respect of any court or other body, to the extent to which it denies women, children or Persons with disability lawful access to ownership, occupation or use of any such land."<br>Part IV, Sub-part b, Section 23, Sub-section 2c requires villages councils during the determination of whether to grant a customary right of occupancy, to have special regard in respect of the equality of all persons ,such as -<br>i. Treat an application from a woman, or a group of women no less favourably than an equivalent application from a man, a group of men or a mixed group of men and women; and<br>ii. Adopt or apply no adverse discriminatory practices or attitudes towards any woman who has applied for a customary right of occupancy;<br>Part IV Subpart B, section 33 sub section 1(d & e) encourages decision makers to always ensure that the special needs of women , landless people and the disabled for land within the village is and will continue to be adequately met, before considering the approval of granted/derivative rights in land within the village.<br>Part IV, Sub-part C, Section 57, Sub-section 3 states that "In making any determinations under subsection (2), a village adjudication committee or as the case may be an adjudication officer shall have regard and treat the rights of women and the rights of |

| Theme | Relevant Sections   |
|-------|---|
|       | pastoralists to occupy or use or have interest in land not less favourably than the rights of men or agriculturalists to occupy or use or have interests in land. |

### The Land Disputes Courts Act, 2002

| Theme                                 | Relevant Sections  |
|---------------------------------------|--|
| Land authorities                      | Part II, Section 3, Para 2 establishes and defines the jurisdictions of the different institutions involved in the determination of disputes within a given area. These include<br>(a) The Village Land Council;<br>(b) The Ward Tribunal;<br>(c) The District Land and Housing Tribunal;<br>(d) The High Court (Land Division);<br>(e) The Court of Appeal of Tanzania.   |
| Functions of the Village Land Council | Part III, Section 7 states that “subject to Section 61 of the Village Land Act, 1999, the functions of the Village Land Council shall include:”<br>(a) to receive complaints from parties in respect of land;<br>(b) to convene meetings for hearing of disputes from parties; and<br>(c) to mediate between and assist parties to arrive at a mutually acceptable settlement of the disputes on any matter concerning land within its area of jurisdiction.   |
| Ward Tribunal                         | Part 4, Section 10-(1) states that each Ward Tribunal established under the Ward Tribunals Act, 1985 shall be a Court for the purpose of this Act, the Land Act, 1999 and the Village Land Act, 1999 and shall have jurisdiction and powers in relation to the area of a District Council in which it is established.<br>Part 4, Section 15. However, introduces a limiting factor when it states that “Notwithstanding the provisions of section 10 of the Ward Tribunals Act, 1985, the Jurisdiction of the Tribunal shall in all proceedings of a civil nature relating to land be limited to the disputed land or property valued at three million shillings.”<br>Part VII, Section 50.(1) states that, “In the exercise of its Customary Law jurisdiction, a Ward Tribunal shall apply the Customary Law prevailing within its local jurisdiction, or if there is more than one such law, the law applicable in the area in which the act, transaction or matter occurred or arose, unless it is satisfied that some other Customary Law is applicable but it shall apply the Customary Law prevailing within the area of its local jurisdiction in matter of practice and procedure to the exclusion of any other Customary Law. |
| District Land and Housing Tribunal    | Part 4, Section 19 clearly gives guidance towards escalation of grievances. It states that “a person aggrieved by an order or decision of the Ward Tribunal may appeal to the District Land and Housing Tribunal”<br>Part 5B, Section 33, Para (1): The District Land and Housing Tribunal shall have and exercise original jurisdiction.<br>(a) In all proceedings under the Land Act, 1999 and Village Land Act, 1999. Customary Leaseholds (Enfranchisement) Act, 1968 and Rent Restriction Act, 1984, the Regulation of Land Tenure (Established Village) Act, 1992; and<br>Section 33 Para 2(a) in proceedings for the recovery of possession of immovable property; to proceedings in which the value of the property does not exceed fifty million shillings; and<br>(b) in other proceedings where the subject matter is capable of being estimated at a money value, to proceedings in which the value of the subject matter does not exceed forty million shillings:   |
| High Court (Land Division)            | Part 5 Section 37 defines the jurisdictions of the court (Land Division) as follows:<br>(a) In proceedings for the recovery of possession of immovable property in which the value of the property exceeds fifty million shillings;<br>(b) In other proceedings where the subject matter capable of being estimated at a money value in which the value of the subject matter exceeds forty million shillings;<br>(c) In all proceedings under the Tanzania Investment Centre Act, 1997, the Land Act, 1999 and the Land Acquisition Act, 1967 in respect of proceedings   |

| Theme | Relevant Sections  |
|-------|--|
|       | <p>involving the Government;</p> <p>(d) In all proceedings involving Public Corporations specified in the Rent Restriction (Exemption) (Specified Parastatals) Order, 1992; and in such other disputes of National Interests which the Minister may by notice published in the Gazette specify; and</p> <p>(e) In all such other proceedings relating to land under any written law in respect of which jurisdiction is not limited to any particular court or tribunal.</p> |

### The Land (Assessment of the Value of Land Compensation) Regulations, 2001

| Theme                                   | Relevant Sections   |
|---|---|
| Basis                                   | Section 3 stipulates that the basis for land compensation shall be the market value of land   |
| Market value                            | Section 4 elaborates on the computation methodologies for the market value of land. It prescribes the use of comparative method evidenced by actual recent sales of similar properties or replacement value for special properties that might not be saleable.  |
| Compensation components                 | <p>Section 7 requires the computation of compensation values to put into the following parameters.</p> <ul style="list-style-type: none"> <li>I. Value of unexhausted improvements</li> <li>II. Disturbance allowance</li> <li>III. Transport allowance</li> <li>IV. Accommodation allowance</li> <li>V. Loss of profits</li> </ul> |
| Computation of accommodation allowance  | Section 8 gives guidance on the computation of accommodation allowance by recommending the multiplication of the market rent of a building by 36 months to arrive at a payable figure.  |
| Computation of loss of profits          | Section 9 recommends that the loss of profit from business conducted on the piece of land, shall be computed by taking into consideration the net monthly profit from the business multiplied by 36 months to arrive at the loss of profits payable. The net monthly profit can be evidenced by audited accounts.                   |
| Computation of disturbance allowance    | Section 10 calculates disturbance allowance by computing the value of land with the average percentage rate of interest offered by commercial banks on fixed deposits for twelve months at the time of loss of interest in land   |
| Computation of transport allowance      | Section 11 gives guidance on the computation of transport allowance. It recommends that this will be estimated by computing the actual costs of transporting 12 tons either by road or rail (whichever is cheaper) for a distance of 20 km from the point of displacement   |
| Compensation of unoccupied land         | Section 12 advises that the compensation package for unoccupied land shall not include transport allowance, loss of profits and accommodation allowance.  |
| Prompt payments                         | Section 13, Sub-sections 2 define "prompt compensation payment" as payment of compensation within 6 months after the targeted land has been acquired.   |
| Computation of interest on compensation | Section 13, Sub-sections 3 stipulates that computation of interest shall be based on the average percentage of interest rates offered by commercial banks on fixed deposits from the time the land is acquired until compensation is paid.  |
| Valuation                               | Section 5 recommends that the assessment of the value of land should be undertaken by a "qualified valuer" <sup>5</sup> .   |
| Approval of the valuation report        | Section 6 states that every assessment of the value of land and unexhausted improvements for purposes of compensation payment by Government of local government authority shall be verified by the Chief Valuer of the Government or his representative.  |

<sup>5</sup> A qualified valuer is a valuer with a professional or academic qualification in land valuation or with a professional or academic qualification in a subject that includes land valuation.

### The Land (Compensation Claims) Regulations, 2001

| Theme                          | Relevant Sections  |
|--------------------------------|--|
| Eligibility for compensation   | <p>Section 4 defines the following categories of people as eligible compensation claimants.</p> <ol style="list-style-type: none"> <li>the holder of a granted right of occupancy on general or reserved land which is transferred to village land</li> <li>the holder of a granted customary right of occupancy on land which is declared hazardous</li> <li>the holder of customary right of occupancy where land becomes subject to a grant of occupancy to another person and such holder is required to move or relocate</li> <li>the occupier of land which he has obtained under or as a consequence of a disposition by a holder of a granted or customary right of occupancy where such occupier is refused occupancy under section 54 of the land act</li> <li>the occupier of land in urban or peri-urban areas where such land is acquired by the president under a scheme of regularisation.</li> </ol> |
| Participation during valuation | <p>Section 6 requires that the following procedures be followed to ensure participation and involvement of the land subject to compensation.</p> <ol style="list-style-type: none"> <li>publish a notice in a public notice board/gazette notifying the occupiers of land subject to compensation</li> <li>occupiers to submit their claims for compensation</li> <li>Physical presence of the occupier during the assessment.</li> </ol>  |
| Compensation schedule          | <p>Section 9 recommends the preparation of a compensation schedule which will be submitted together with the compensation claims to the fund for verification and consideration for compensation payment</p>   |
| Forms of compensation          | <p>Section 10 recommends that compensation could be in monetary terms or shall take the form of all or a combination of any of the following:</p> <ol style="list-style-type: none"> <li>a plot of land of comparable quality, extent and productive potential</li> <li>a building of comparable quality, extent and use</li> <li>plants and seedlings</li> <li>regular supplies of food stuffs for a specified period of time</li> </ol>  |

### The Valuation and Valuers (General) Regulations, 2018

| Theme                                  | Relevant Sections  |
|--|--|
| Basis for assessment of Value for land | <p>Section 8 and 9 stipulate that the basis for assessment of any land and unexhausted improvements for purposes of compensation under the Act shall be the market value of such land and unexhausted improvements. Where the computation of market value will be based on the comparative method with evidence from actual recent sales of similar properties or by use of the income approach or replacement cost method where the property is of special nature and not saleable.</p> <p>Section 53(4) states that in assessing land values consideration shall be made on all pertinent value determinants and including:-</p> <ol style="list-style-type: none"> <li>location where the subject land is situated;</li> <li>accessibility to the said land;</li> <li>legal and social land use restrictions including zoning;</li> <li>general condition of the site;</li> <li>distance of the subject land in relation to public services such as roads, markets, schools, hospitals;</li> <li>land aspects including terrain of subject land;</li> <li>security of tenure;</li> <li>land size and shape;</li> <li>land use;</li> <li>availability of the public utilities to the subject land such as electricity, water, sewage system;</li> <li>productivity of the subject land;</li> <li>third party interests;</li> <li>readiness of the land for use; and</li> </ol> |

| Theme                                  | Relevant Sections   |
|--|---|
|  | (n) Infrastructure already in place.  |
| Compensation                           | <p>Compensation for loss of interest in land shall include value of land, unexhausted improvements, disturbance allowance, transport allowance, accommodation allowance and loss of profit (section 12(i)).</p> <p>(2) The owner of the property shall be entitled to accommodation and transport allowance only when the house built on his land is in use at the time of valuation.</p>   |
| Computation of accommodation allowance | The market rent for the building shall be assessed and multiplied by thirty six months in order to arrive at accommodation allowance payable (Section 13).  |
| Computation of loss of profit          | The net monthly profit of the business carried out on the land shall be assessed, evidenced by audited accounts where necessary and applicable or returns evidenced by Revenue Collection Authority and multiplied by thirty six months in order to arrive at the loss of profit payable (Section 14).  |
| Computation of disturbance allowance   | The disturbance allowance shall be calculated by multiplying value of the interest in land by the average percentage rate of interest offered by the Central Bank on fixed deposits for twelve months at the time of loss of interest in land (Section 15).   |
| Computation of transport allowance     | Transport allowance shall be the actual costs of transporting twelve tons of luggage by rail or road, as prescribed by the responsible Transportation Regulatory Authority within twenty kilometers from the point of displacement (Section 16).  |
| Assessing crop value                   | <p>Section 52(8) states that value determination for a plant shall include but not limited to the following:</p> <ul style="list-style-type: none"> <li>(a) number of plants in an acre/hectare;</li> <li>(b) age of the plant to optimum production;</li> <li>(c) harvest seasons;</li> <li>(d) production and operating costs;</li> <li>(e) average yield per season;</li> <li>(f) costs or prices of crop from production/collection point;</li> <li>(g) average interest rates for fixed deposit in central bank</li> </ul> <p>Section 55(6) provides regulations regarding the assignment of crop growth stage and it states that it shall be as follows:-</p> <ul style="list-style-type: none"> <li>(a) seedlings 15%;</li> <li>(b) early growth 25%;</li> <li>(c) young 50%;</li> <li>(d) early maturity 75%;</li> <li>(e) full maturity 100%;</li> <li>(f) old stage 30%.</li> </ul> |
| Compensable items                      | <p>Section 54. The compensable items shall include land and all unexhausted improvements permanently affixed to land such as:-</p> <ul style="list-style-type: none"> <li>(a) crops, plants and trees;</li> <li>(b) buildings and ancillary structures;</li> <li>(c) site works including landscape, fences, paved walkways, driveways, retaining walls and stone masonry, storm water drains, swimming pools;</li> <li>(d) canals and irrigation water systems, embankments, ponds and dams;</li> <li>(e) infrastructure systems including water piping, electrical distribution systems, road and railway systems, sewerage system;</li> <li>(f) water storage tanks-overhead or underground, water wells, boreholes; and</li> <li>(g) children playgrounds structures;</li> <li>(h) Graves according to Graves (Removal) Act 1969.</li> </ul>  |
| Assessing value of buildings           | <p>Section 55(3) requires that in assessing building value rates the following considerations shall be taken into account:</p> <ul style="list-style-type: none"> <li>a) the cost of replacing a building or a structure of similar nature,</li> <li>b) quality of construction,</li> <li>c) levels of completion in works-in-progress and</li> <li>d) size based on local market prices of materials and</li> </ul>  |

| Theme                              | Relevant Sections  |
|------------------------------------|--|
|                                    | e) labour charges.   |
| Information sharing and disclosure | <p>Section 57(1 and 2) requires that valuation for compensation purpose is preceded by sensitization meetings to be attended by the Valuer with the objective of conveying the purpose of valuation, procedures involved, duration of the exercise, the rates applicable in valuation, legal rights and obligations.</p> <p>Section 59(3) Verbal or written communication, for non-statutory valuations may be served to property owner or authorized representative specifying date and time of proposed entry.</p> <p>Section 62 requires that upon completion of the property inspection for compensation, there shall be a formal certification for the completion of inspection work so carried out to be filled by property owner, local government officials and the field Valuer for each property inspected.</p>  |
| Proof of ownership                 | <p>Section 58(1) states that proof of ownership or any encumbrance of the property which is subject of valuation shall be the onus of the property owner(s) or the client issuing the instructions, to be produced before commencement of valuation.</p> <p>(2) Without prejudice to sub regulation (1), the Valuer shall satisfy himself in respect to ownership status, through official authorities dealing with land matters and or official land titles or certificates.</p> <p>(3) Valuer may use other sources of information including past valuation reports, land documents, copy of title, satellite or digital maps, tools and information from asset register to re-verify the same.</p>  |
| Mobilisation for valuation         | <p>Section 64.(1) In undertaking valuation for compensation a Valuer shall:-</p> <ul style="list-style-type: none"> <li>(a) receive formal instructions from the acquiring authority indicating all necessary information to enable him undertake the valuation;</li> <li>(b) satisfy himself that the acquisition of the said land is satisfactory;</li> <li>(c) conduct preliminary inspection of the project site which shall include the following:- <ul style="list-style-type: none"> <li>(i) identification of boundaries of the project area;</li> <li>(ii) determination of compensation value rates to be used for the project;</li> <li>(iii) identification and notification of local leaders who will participate; and</li> <li>(iv) mobilization of resources and tools;</li> </ul> </li> <li>(d) participate or convene in sensitization and awareness meetings for all interested parties; and</li> <li>(e) make known the purposes of the exercise, name of the acquiring authority;</li> <li>(f) inform coverage of the project area;</li> <li>(g) define compensable items;</li> <li>(h) describe the valuation methodology to be used;</li> <li>(i) share value rates to be applied;</li> <li>(j) make known all statutory entitlements and obligations;</li> <li>(k) give cut-off date and entitlements to people affected with the project;</li> <li>(l) indicate duration of the exercise;</li> <li>(m) oversee distribution of statutory forms;</li> <li>(n) any other relevant information stakeholders might require;</li> </ul> |
| Valuation Exercise                 | <p>conduct field inspection which shall involve:-</p> <ul style="list-style-type: none"> <li>(i) prior notification to PAPs of the intended valuation through their local leaders;</li> <li>(ii) identification of people affected with project or authorized representatives through local leaders;</li> <li>(iii) identification of compensable items by the people affected with project or authorised representatives in the presence of local leaders and neighbours;</li> <li>(iv) inspection and recording of compensable items in a prescribed Valuation Form No. 3 of the Part B of Fourth Schedule in duplicate;</li> <li>(v) adjudication of individual parcels of land using appropriate technology;</li> <li>(vi) taking measurements of buildings, structures and other land developments;</li> <li>(vii) counting of crops individually or in clusters or using crop per unit area;</li> <li>(viii) capturing images showing people affected with project and improvements;</li> </ul>  |



| Theme                            | Relevant Sections   |
|----------------------------------|---|
|                                  | (ix) handing over a copy of the endorsed valuation form to the people affected with the project;<br>(x) filling in and signing of Valuation Form No. 4 of Part B of the Fourth Schedule;  |
| Verification of Valuation report | (2) The Chief Valuer shall approve valuation reports and compensation Schedules after verification by the following in the following order:<br>(a) field Valuer in-charge;<br>(b) Valuer in-charge;<br>(c) Executive Officers in-charge for the Villages (in rural areas) and Mtaa (in urban areas);<br>(d) Executive Officers in-charge of the Wards (in both urban and rural areas);<br>(e) Authorized Land Officer and authorized Valuer;<br>(f) District Commissioner (DC).<br>(3) Valuation report and compensation schedule for the purpose of payments shall be read together. |

### The Valuation and Valuers Registration Act, 2016

| Theme   | Relevant Sections  |
|---|--|
| Basis for valuation                           | Every registered valuer shall indicate in the valuation report the purposes for which the valuation is required (section 49(1) and shall state the basis and method of valuation adopted and all assumptions used in arriving at values.   |
| Methods of valuation                          | Section 51 requires that the valuer will use any of the following valuation methods or provide clarifications when other methods are applied<br>(a) Direct comparative method<br>(b) Replacement cost or contractors test method<br>(c) Income approach or investment method<br>(d) Profit method and<br>(e) Residual method   |
| Validity of valuation for compensation report | Section 52(2) states that valuation reports prepared for purposes of compensation shall be valid for the period of two years commencing from the date of endorsement of the valuation report. (3) the endorsement of the valuation report shall be effected within six months after the valuation of interest of property of the last person.<br>Section 52(8); Prompt payment to be six months after the endorsement by the Chief Valuer<br>Section 52(6) indicates that where compensation is not settled within two years, the valuation shall not have any legal effect and should start afresh.<br>Section 53(1); declares cut-off date to be the date of commencement of valuation exercise. |
| Compensation payment                          | Section 52 (4) requires that upon approval of the valuation report by the Chief Government Valuer, the entity responsible shall be liable to effect prompt compensation payment to all affected persons. Prompt payment refers to compensation payment within six months after approval of valuation report by the CGV.<br>Section 52(5) stipulates that an entity that fails to effect prompt payment of compensation shall in addition to the principal sum pay an interest chargeable at the average percentage rate of interest offered by commercial banks on fixed deposits until such compensation is paid.   |
| Cut-off date                                  | Section 52(8) defines the cut-off date as the date of commencement of valuation. Section 53(3) further emphasises that upon commencement of valuation, a person shall not add or improve anything to the land or such premises   |
| Certification of the valuation report         | Registered valuers are required to endorse a seal in the valuation report bearing his name, registration number, address and date or the firm of which he is a partner or director otherwise the report shall be void.   |



### The Graves (Removal) Act, 1969

| Theme  | Relevant Sections  |
|--|--|
| Possibility of removing graves                       | Section 3 informs that where any land on which a grave is situated is required for a public purpose the Minister may cause such grave and any dead body buried therein to be removed from the land and, in such case, shall take all such steps as may be requisite or convenient for the reinstatement of the grave and the reinterment of the dead body in a place approved by him for the purpose.  |
| Notification of interested parties                   | Section 4 requires that all parties (individuals, families, religious communities) with an interest in the grave should be notified in person and the notice should also be published in a gazette, as soon as may be practical.   |
| Contents of the notice of intention to remove graves | <p>Section 5 specifies the contents of the notice as the following</p> <ul style="list-style-type: none"> <li>a) A description of the land from which it is intended to remove the grave or dead body;</li> <li>b) An address at which particulars of the graves and dead bodies concerned may be inspected;</li> <li>c) The name or description of the cemetery or burial ground where it is proposed to re-inter such dead bodies and the manner in which it is proposed to reinstate such graves or any parts thereof;</li> </ul> <p>However, in case of an objection, section 5d) requires the party with an interest in the grave to notify the Minister within 21 days. Where the party with an interest in the grave would want to undertake the grave removal, then the Minister the interested party would have to notify the minister and remove the grave within 2 months from the date of publication of the notice in the Gazette.</p>  |
| Graves removal                                       | <p>Section 6 recommends that all authorized parties can proceed with the removal of graves upon expiration of the notice period in such a way that may be requisite for the removal, transportation and reinstatement or re-interment of a grave or dead body.</p> <p>Section 7, Sub-section 1 emphasizes that the removal, transportation and reinstatement or re-interment conditions of a grave or dead body shall be undertaken</p> <ul style="list-style-type: none"> <li>a) As far as is possible, with due regard to the views of the persons interested and the religious susceptibilities of the members of the religious community to which the person belonged whose grave or dead body it is;</li> <li>b) With due solemnity and respectful treatment of the dead;</li> <li>c) So far as is practicable, without unnecessary damage to the grave and the dead body;</li> <li>d) So that a dead body which is disinterred is transported and reinterred without undue delay;</li> <li>e) Under such conditions of privacy as ensures that no dead body is</li> <li>f) exposed to public view;</li> <li>g) In a manner which is not injurious to public health;</li> <li>h) In accordance with such directions as may be given by a public officer appointed by the Minister to supervise the undertaking.</li> </ul> <p>Sub-section 2 informs that the supervisor of the graves removal process may:</p> <ul style="list-style-type: none"> <li>a) Permit the removal and re-interment of a dead body to be accompanied by such religious rites or ceremonies as are appropriate to the religious community to which the person belonged whose dead body is removed;</li> <li>b) Direct that a dead body which is disinterred shall, instead of being re-interred; be cremated in the manner customary among the members of the religious community to which the person belonged whose dead body is removed.</li> </ul> <p>However, the decision will be based on the requests/applications of the parties with an interest in the grave.</p> |
| Compensation for graves                              | <p>Section 9, Sub-section 2 states that the compensation payable under this section shall be limited to the reasonable expenses incurred in the removal, transportation, reinstatement and re-interment of the grave or dead body and any placatory or expiatory rites or other ceremony accompanying such removal and reinterment.</p> <p>However, compensation is only payable to those who would personally undertake the graves removal.</p>   |

### The Road Act No. 13, 2007

| Theme  | Relevant Sections   |
|--|---|
| Road Reserve                                       | The preambles of the Act; has defined road reserve to mean; the area of land specified by the Minister under section 13( 1) of the Act and lying on either side of the road measured from the centre of such road. Section 29(1) of the Act states that; The road reserve is exclusively for the use of road development and expansion or any other road related activities.  |
| Road reserve utilisation                           | Section 29(2)(1): According to this sub-section; road authority may, in writing, permit any person or authority to use the road reserve temporarily under its jurisdiction for utilities such as placing of public lighting, telegraph, adverts,. Telephone, electric supplies and posts, drains, sewers and mains, only in cases where such use or uses do not hinder any future use of the road reserve by the road authority.  |
| Conditions for the utilisation of the road reserve | Section 29(3): states that the authorised user of the road reserve shall be allowed to use the road reserve, upon such terms and conditions as the road authority may impose and shall be bound to remove such utilities and their related developments and make good the area at his own cost without any compensation in case the said road reserve is required for road expansion, development or maintenance or any other road related activities by the road authority.. |

### The Road Management Regulations, 2009

| Theme                                      | Relevant Sections  |
|--|--|
| Procedures for the use of the road reserve | Regulation 29: defines road reserve width to be 60 metres, 40 meters, 30 metres and 25 meters for trunk/regional roads, collector roads, feeder roads and community roads respectively. Upon application for the use of the road reserve and upon its acceptance; the road authority shall have a written approval stating the purpose, use and any accompanying condition of utilisation.                 |
| Management of the Road reserve             | Regulation 30: vest the management of public road and road reserve to the road authority and no one should use the public road and road reserve without a written permission of the road authority. When an entity is allowed to use the road reserve; such utility shall be located at the end of the road reserve or a distance from the road reserve as may be authorised by road authority in writing. |

### **3.1.2 Policies Governing Land Acquisition, Compensation and Resettlement**

The policy review below is limited to policies that might have a direct input into the land acquisition compensation and resettlement planning for the proposed project.

#### National Land Policy, 1997

The objective of the National Land Policy is to promote and ensure secure land tenure system, to encourage the optimal use of land resources and to facilitate broad-based social and economic development without endangering the ecological balance of the environment. The policy seeks to establish, support and guarantee a secure land tenure system, which will facilitate the sustainable use of resources and land management. It also seeks to ensure that sensitive areas, such as forests, river basins, areas of biodiversity and national parks are not allocated to individuals for the purpose of development activities. The four basic tenets of the land policy are;

- I. All land in Tanzania is public land vested in the president as a trustee on behalf of the citizens.
- II. Land has value
- III. The rights and interests of citizens shall not be taken without due process of the law
- IV. Full, fair and prompt compensation shall be paid when land is acquired.

The NLP acknowledged that under customary law, women's access to land was insecure and indirect and therefore it provided women with the right to acquire land in their own right through purchase and allocation:

*"Under customary land law, women generally have inferior land rights relative to men, and their access to land is indirect and insecure. Traditional provisions, which used to protect women's land use rights, have been eroded. In allocating land village councils have been guided by custom and have continued to discriminate against women by allocating land to heads of household who are usually men". (Paragraph 4.2.5 of the National Land Policy, 1995).*

#### National Human Settlements Development Policy, 2002

The overall goal of the National Human Settlements Development Policy (NHSDP) is to promote the development of sustainable human settlement and to facilitate the provision of adequate and affordable shelter to all people, including the poor. Among its many objectives the policy advocates for:

- Environmental protection within human settlements and protection of natural ecosystems against pollution, degradation and destruction in order to attain sustainable development.
- Development of human settlements where everyone has adequate and affordable shelter, which is durable, healthy, safe and legally secure, accessible and which matches with the culture and living habits of the occupants.
- It further states that human settlements require access to water, roads, energy, schools, drainage and proper waste management system
- In addition it highlights the cultural practices (restrictions on allocation and inheritance of land and property) still promote restrictions to women's ownership of houses despite the fact that such restrictions do not exist in the national law. This is quite relevant for the proposed area as the society is dominantly patrilineal.

The policy requirements give a clear definition of what is considered adequate human settlement/housing for project consideration during the identification of relocation sites and design of replacement housing. In addition it is clear that there is need for women involvement when it comes to decisions on land and property irrespective of the cultural norms, particularly with reference to single headed households.

#### Women and Gender Development Policy, 2000

The objective of this policy is to promote gender equality and equal participation and opportunities for men and women. The project proponent is therefore expected to do likewise while undertaking the proposed development water supply project. The challenge here is that the project area is dominantly patrilineal with almost no respect for women involvement. During the land acquisition process project planners should pay special attention to this especially when dealing with households of widows, women who never married, separated/divorced women. Efforts should be made to make direct contact with them instead of their male relatives who might be culturally perceived as the household heads.

#### Agriculture and Livestock Policy, 1997

The policy recognises that agricultural activities are critically dependent on environmental resources such as land, water, forest and air among others. It emphasises that the use of these resources can

affect directly or indirectly other natural resources through dynamic and complex interrelationships existing in the natural systems. The policy therefore advocates for:

- the promotion of integrated, sustainable use and management of natural resources such as land, water, soil and vegetation in order to conserve the environment
- the protection and improvement of the wellbeing of the people whose principle occupation and way of life is based on agriculture
- rangeland management and livestock development
- commercialisation of agriculture
- irrigation development services
- promotion of the beef industry

Within the project area is vast land for grazing and livestock watering facilities that might be located along the route of the main pipeline. Restoration of these areas and facilities after construction should be prioritised by the project.

#### Cultural Policy, 1997

Cultural Policy covers a wide range of topics relating to both living cultural heritage and historical and archaeological remains (“cultural property”). The policy requires that “all land development shall be preceded by Cultural Resource Impact Studies”. Consultations with the stakeholders have indicated that there are some sensitive cultural sites (burial grounds) close to the proposed main pipeline route and the proposed reservoir tanks at Isenge (Wagunda graveyard for Chiefs). During construction phase, appropriate measures will be taken to involve local and national authorities for the conservation of such historical or cultural sites. Where this will be unavoidable arrangements for relocation will be devised in compliance with the legal and cultural preferences.

#### National Strategy for Growth and Poverty Reduction 2005

The National Strategy for Growth and Poverty Reduction (NSGPR) established in 2005 is coordinated under the Poverty Reduction Strategy (MKUKUTA) as a national organizing framework. The NSGPR addresses the aspiration of the Tanzania Development Vision (Vision, 2025) for high and shared growth, high quality livelihood, peace, stability, unity, quality education and international competitiveness. NSGRP has been formulated within the context of the UN Millennium Development Goals (MDGs) to be achieved by 2015.

The proposed project will contribute to the goals of NSGPR by providing safe and reliable water and sanitation services that may result into economic growth, employment and improved livelihood.

#### Development Vision, 2025

Development Vision 2025 is a long-term development philosophy that articulates a desirable future condition, which the nation envisages it will attain. It describes plausible course of action to be taken for visions achievement. It seeks to actively mobilize the people and other resources towards the achievement of shared goals.

### **3.2 International Requirements**

The Environmental and Social Safeguards of the Green Climate Fund, a potential financier of the proposed project, is based on the International Financing Corporation Performance Standards (IFC PS), 2012. The below table summarises the requirements of the IFC Performance Standard 5 on Land Acquisition and Involuntary Resettlement, 2012 version.

| Theme                    | Relevant Sections  |
|--------------------------|--|
| Involuntary resettlement | IFC Guidance Note 5, Para 1 clarifies that involuntary resettlement refers both to physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or other means of livelihood) as a result of project-related land acquisition and/or restrictions on land use.  |
| Socio-economic risks     | <p>IFC Guidance Note 5, GN1 identifies the main social risks as:</p> <ul style="list-style-type: none"> <li>• Landlessness</li> <li>• Joblessness</li> <li>• Homelessness</li> <li>• Marginalisation</li> <li>• Food Insecurity</li> <li>• Loss of access to common property and social services</li> <li>• Social disarticulation</li> </ul> <p>In addition, GN3 request for the assessment of impact on common property and natural resources like fruit trees, medicinal plants firewood, non-timber resources, fallow lands woodlots and fish stocks. All of which have been relevant for this project and have been given due consideration during resettlement planning as will be seen in the valuation and compensation methodology.</p>   |
| Regulation               | IFC Guidance Note 5, GN 6 requires that if displacement is unavoidable, any project-related eviction should conform to national laws and be conducted in a manner consistent with the objectives of this Performance Standard. The proposed project will conform with the national laws for land acquisition.  |
| Consultation             | <p>IFC Guidance Note 5, GN 2 advocates for Informed participation and consultation throughout resettlement planning. This way project development benefits will be enhanced, communities are able to share in the project benefits thereby improving their standards of living.</p> <p>IFC Guidance Note 5, GN 9 advocates for the identification and consultation with individuals and communities that will be displaced by land acquisition and/or restrictions on land use as well as host communities who will receive those who are resettled, to obtain adequate information about land titles, claims, and use. All categories of affected households and communities should be consulted, and particular attention should be paid to vulnerable groups.</p> <p>It further recommends that consultation should capture men's and women's views and concerns. In addition, clients should ensure all households and communities are informed early in the planning process about their options and rights regarding displacement and compensation.</p> <p>It further recommends ongoing consultation, reporting and feedback to communities throughout project development.</p> <p>This project has taken care of all these requirements during the stakeholder engagement process which was started during the preparation of the EIS is planned to continue throughout the project development phase.</p> |
| Compensation rates       | <p>IFC Guidance Note 5, GN 10 highlights that many countries have legally defined rates of compensation for crops and/or land. It is recommended that clients assess the government-established compensation rates and adjust as necessary to meet the replacement rate criterion. The assessment of these rates is best achieved via the commissioning of an experienced agronomist or similarly qualified professional with a working knowledge of the host country's compensation and agricultural pricing systems.</p> <p>For this particular project, the project will adopt the prevailing compensation rates (crops and land) developed by the different district councils. (Copies are attached to this report). Basis for compensation for structures will be based on market rates for structures or the cost of construction of similar structures.</p>   |
| Livelihood restoration   | <p>IFC Guidance Note 5, GN 11 recognises the fact that compensation alone does not guarantee the restoration or improvement of livelihoods. To that effect, the project has proposed additional measures towards livelihood restoration.</p> <p>GN 12 recommends the following types of assistance to land-based livelihoods:</p> <p>(i) assistance in acquiring or accessing replacement land, including access to grazing land, fallow land, forest, fuel and water resources;</p>   |

| Theme                  | Relevant Sections  |
|------------------------|--|
|                        | <p>(ii) physical preparation of farm land (e.g., clearing, levelling, access routes and soil stabilization);</p> <p>(iii) fencing for pasture or cropland;</p> <p>(iv) agricultural inputs (e.g., seeds, seedlings, fertilizer, irrigation); (v) veterinary care;</p> <p>(vi) Small-scale credit, including rice banks, cattle banks and cash loans; and (vii) access to markets (e.g., through transportation means and improved access to information about market opportunities).</p> <p>The applicable measures recommended by GN 12 will be considered during the preparation of the LIF for this project.</p>  |
| Adequate housing       | <p>IFC Guidance Note 5, GN 13 advocates for the provision of adequate housing and a degree of security of tenure to displaced persons at resettlement sites. Adequate housing or shelter can be measured by quality, safety, size, number of rooms, affordability, habitability, cultural appropriateness, accessibility, security of tenure and locational characteristics. Adequate housing should allow access to employment options, markets, and other means of livelihood such as agricultural fields or forests, and also basic infrastructure and services, such as water, electricity, sanitation, health-care, and education depending on the local context and whether these services can be supported and sustained.</p> <p>It is expected that the project will consider the same principles during the selection of relocation sites if needed and the design of replacement housing for directly affected households.</p>   |
| Security of tenure     | <p>IFC Guidance Note 5, GN 13: Security of tenure is an important component of adequate housing. Security of tenure at its highest level means that residents are the legally recognized owners of their land and structures and are free to trade or collateralize their possession. At a minimum, security of tenure affords residents protection from eviction.</p> <p>The project will adopt all possible measure to ensure that the tenure of replacement land is secure and legally and traditionally recognized. During the first round consultations the issue was raised with the village councils for consideration. Support for land registration to directly affected households will be adopted as a benefit for displaced households. This will be limited to customary certificates.</p>  |
| Opportunistic settlers | <p>IFC Guidance Note 5, GN 17 indicates that the client is not required to compensate or assist opportunistic settlers who encroach on the project area after the cut-off date for eligibility. The client should nevertheless accommodate individuals or groups who are not present at the time of registration but who have a legitimate claim to membership of the Affected Community.</p> <p>This project is likely to suffer from both opportunistic settlers and absentee land owners given its location that is far from any major employment centers. Opportunistic settlers will not be an issue for this project as TANROADS is already in control and has instituted serious restrictions in regard to the use of the road reserve. In addition proper methodologies for disseminating the cut-off date should be adopted.</p>  |
| Grievance redress      | <p>IFC Guidance Note 5, GN 30 recognizes that regardless of scale, involuntary resettlement may give rise to grievances among affected households and communities over issues ranging from rates of compensation and eligibility criteria to the location of resettlement sites and the quality of services at those sites. Timely redress of grievances through an effective and transparent grievance mechanism is vital to the satisfactory implementation of resettlement and to completion of the project on schedule.</p> <p>IFC Guidance Note 5, GN 31 advises that the client should make every effort to resolve grievances at the community level without impeding access to any judicial or administrative remedies that may be available. The client should ensure that designated staff are trained and available to receive grievances and coordinate efforts to redress those grievances through the appropriate channels, taking into consideration any customary and traditional methods of dispute resolution within the Affected Communities.</p> <p>For that reason the project has developed a community based grievance resolution procedure as outlined in chapter 10 of this document.</p> |
| Valuation of property  | <p>IFC Guidance Note 5, GN 22: The rate of compensation for lost assets should be calculated at full replacement cost, (i.e., the market value of the assets plus transaction</p>  |

| Theme                    | Relevant Sections  |
|--------------------------|--|
|                          | <p>costs). The process used for determining compensation values should be transparent and easily comprehensible to project-affected people. Rates should be adjusted for inflation annually, at a minimum. For losses that cannot easily be valued or compensated for in monetary terms, in-kind compensation may be appropriate. However, this compensation should be made in goods or resources that are of equivalent or greater value, are culturally appropriate and which can be sustainably maintained by the community.</p> <p>The RPF has attempted to propose measures that will eventually achieve compensation at replacement value. It should be noted though that it's not possible to deviate from the government regulations in regard to valuation of property especially structures. Therefore to achieve replacement value in kind compensation should be advocated for in regard to residential premises and land as opposed to cash compensations wherever possible.</p>  |
| Cut-off date             | <p>IFC Guidance Note 5, GN 32 defines the cut-off date as the date of completion of the census and assets inventory. Individuals taking up residence in the project area after the cut-off date are not eligible for compensation or resettlement assistance provided that notification of the cut-off date has been well communicated, documented, and disseminated.</p> <p>The cut-off date for this project will be pegged to census and asset inventory exercise per district. The cut-off date will be communicated both verbally and officially (letters addressed to each PAP) with copies to the local leadership.</p>   |
| Resettlement instruments | <p>IFC Guidance Note 5, GN 43: A Resettlement Action Plan should be prepared for any project that results in physical displacement. The scope and level of detail of the Resettlement Action Plan will vary with the magnitude of displacement and the complexity of the measures required to mitigate adverse impacts. In all cases, the Resettlement Action Plan will describe the manner in which the objectives of Performance Standard 5 will be achieved. At a minimum, the Resettlement Action Plan should: (i) identify all people to be displaced; (ii) demonstrate that displacement is unavoidable; (iii) describe efforts to minimize resettlement (iv) describe the regulatory framework; (v) describe the process of informed consultation and participation with affected people regarding acceptable resettlement alternatives, and the level of their participation in the decision-making process; (vi) describe the entitlements for all categories of displaced people and assess risks to vulnerable groups of the various entitlements; (vii) enumerate the rates of compensation for lost assets, describe how they were derived and demonstrate that these rates are adequate, i.e., at least equal to the replacement cost of lost assets; (viii) provide details on replacement housing; (ix) outline plans for livelihood restoration if applicable; (x) describe relocation assistance to be provided; (xi) outline the institutional responsibility for the implementation of the Resettlement Action Plan and procedures for grievance redress; (xii) provide details of the arrangements for monitoring and evaluation and Affected Communities' involvement in this phase; and (xiii) provide a timetable and budget for the implementation of the Resettlement Action Plan.</p> <p>Given the potential magnitude of foreseen physical displacement, a Resettlement Action Plan has to be prepared for this project.</p> |
| Vulnerable groups        | <p>IFC Guidance Note 5, GN 44: Additional measures, such as the provision of emergency health care, should be designed for vulnerable groups during physical relocation, particularly pregnant women, children, the elderly, and the handicapped.</p> <p>This will be considered on a case by case basis during resettlement implementation.</p>   |
| Relocation assistance    | <p>IFC Guidance Note 5, GN 44: Relocation assistance should be provided to people who are physically displaced by a project. Assistance may include transportation, food, shelter, and social services that are provided to affected people during the relocation to their new site. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray the expenses of relocating to a new location, such as moving and lost workdays.</p> <p>The national law makes through provisions for support during the relocation process through provisions for transport allowance and accommodation allowance. However, no support is given during the transition period.</p>   |



### 3.3 Gaps between National Legislation and International Requirements

| Theme             | IFC PS 5  | National Legislation   | Comment  |
|-------------------|---|--|--|
| Impacts           | <p>IFC Guidance Note 5, GN1 identifies the main social risks as</p> <ul style="list-style-type: none"> <li>- Landlessness</li> <li>- Joblessness</li> <li>- Homelessness</li> <li>- Marginalisation</li> <li>- Food Insecurity</li> <li>- Loss of access to common property and social services</li> <li>- Social disarticulation</li> <li>- loss of income sources or other means of livelihood</li> <li>- loss of assets</li> </ul> | <p>The Land Act 1999, Part X, Section 156, Sub-section 1 states that compensation shall be payable</p> <p>i) for the use of land</p> <p>ii) damages suffered in respect of trees, crops and buildings</p> <p>Part II Section I, Sub-section g recognizes the loss of profits, accommodation and also the loss of capital or any other expenses incurred during the development of the said land</p>  | <p>The National law does not consider restrictions of access to common property and social services as an impact. It does not consider the social residual impacts of resettlement.</p> <p>The project will wherever possible mitigate against restricted access to social services and common property</p>  |
| Displaced persons | <p>Displaced persons may be classified as persons (i) who have formal legal rights to the land or assets they occupy or use;</p> <p>(ii) who do not have formal legal rights to land or assets, but have a claim to land that is recognized or recognizable under national law;</p> <p>(iii) who have no recognizable legal right or claim to the land or assets they occupy or use.</p>  | <p>Land Acquisition Act, Part 2b, Section 17 describes legitimate owners of land as those persons in possession of the title or those who receive rent from such land and all those who have a claim on the same piece of land shortly before the notice to acquire such land.</p> <p>Part V, Section 23, Sub-section 6 states that where a person or family has occupied land in the same location under a residential license for not less than three years, he or they shall be entitled to compensation under the Land Acquisition Act, 1967 where that land is to be acquired for a public purpose ..."</p> <p>Further, Land Act, Part X, Section 156, Sub-section 1 states that compensation shall be payable to any person for the use of land, of which he is in lawful or actual occupation, as a communal right of way and, with respect to a wayleave, in addition to any compensation for the use of land for any damage suffered in respect of trees, crops and buildings as result of the creation of such wayleave.</p> | <p>Regarding the eligibility all PAPS occupying/utilising the old road reserve (within 22.5m from the centreline) will be eligible for compensation for the improvements on land only.</p> <p>While occupants of the new section of the road reserve (22.5-30m from the centreline) will be eligible for compensation for both land and improvements on land</p> |
| Land              | No outright definition of land  | The Land Acquisition Act, Part I, Section 1: "Land" includes the surface of the earth and the earth below the surface and all substances other than minerals and petroleum forming part of or below the surface, things naturally growing on the   | National guidance will prevail.  |



| Theme                               | IFC PS 5  | National Legislation  | Comment  |
|-------------------------------------|---|---|--|
|                                     |   | land buildings and other structures permanently affixed to land."   |  |
| Degree of impact on land and assets | GN 5, footnote 21 recognises the residual impact of resettlement on land by appreciating that it's possible that land acquisition can render the residual land economically unviable  | <p>The Land Acquisition Act, Part 2, Section 9 and 10 states that no person shall at any time be required to yield up possession of a part only of any house or other building if such person is willing and able to yield up possession of the whole of such house or building.</p> <p>The Land Acquisition Act, Part 2, Section 10 specifies that residual land of less or equal to half an acre should be considered economically unviable and can therefore qualify for compensation, though this does not apply to urban centres</p>   | <p>The National regulations are more specific in this regard and apply to both land and housing, while the IFC performance standard only refers to land without specifications of what can be considered as a small fraction.</p> <p>National regulations will be followed in this regard though cautiously.</p>             |
| Consultations                       | IFC Guidance Note 5, GN 2 advocates for informed participation and consultation throughout resettlement planning. This way project development benefits will be enhanced, communities are able to share in the project benefits thereby improving their standards of living. It further advocates for continued and ongoing consultation and reporting to the affected communities throughout project development | <p>The Land Act 1999, Part XI, sub-part 3, Section 152, the Land Acquisition Act, Part 2, Section 6,7,8, the Village Land Act, Part III, Section 4,13 and the Graves (Removal) Act, Section 4, all provide for notification and consultation of the parties with an interest in a targeted piece of land.</p> <p>The Valuation and Valuers (general) Regulation, section 57(1 and 2) requires that valuation for compensation purpose is preceded by sensitization meetings to be attended by the Valuer with the objective of conveying the purpose of valuation, procedures involved, duration of the exercise, the rates applicable in valuation, legal rights and obligations.</p> <p>Section 59(3) Verbal or written communication, for non-statutory valuations may be served to property owner or authorized representative specifying date and time of proposed entry.</p> <p>Section 62 requires that upon completion of the property inspection for compensation, there shall be a formal certification for the completion of inspection work so carried out to be filled by property owner, local government officials and the field Valuer for each property inspected.</p> | <p>Consultation requirements in national law are more instructional and offer limited opportunities for dialogues. Project will create more opportunities to encourage PAPs input at key decision points beyond the census survey phase. Such opportunities will be further specified in the Stakeholder Engagement Plan</p> |

| Theme        | IFC PS 5   | National Legislation  | Comment  |
|--------------|--|---|--|
| Eligibility  | Those with formal rights, informal rights and users without any form of right but with a claim on land are eligible  | <p>Land Acquisition Act, Part 2b, Section 17 describes legitimate owners of land, eligible for compensation, as those persons in possession of the title or those who receive rent from such land and all those who have a claim on the same piece of land shortly before the notice to acquire such land.</p> <p>The Land (Compensation Claims) Regulations, Section 4 gives the different categories of people eligible as compensation claimants:</p> <ul style="list-style-type: none"> <li>a) The holder of a granted right of occupancy on general or reserved land which is transferred to village land</li> <li>b) The holder of a granted customary right of occupancy on land which is declared hazardous</li> <li>c) The holder of customary right of occupancy where land becomes subject to a grant of occupancy to another person and such holder is required to move or relocate</li> <li>d) The occupier of land which he has obtained under or as a consequence of a disposition by a holder of a granted or customary right of occupancy where such occupier is refused occupancy under section 54 of the land act</li> <li>e) The occupier of land in urban or peri-urban areas where such land is acquired by the president under a scheme of regularization.</li> <li>f) those with lawful or actual occupation of a wayleave</li> </ul> | <p>The national legislation does not provide clear guidance on how third party claimants (e.g tenants, share croppers, squatters, seasonal users, original owners of the land in the road reserve) who might have claims on land but without possession of proof for any right of occupancy will be handled.</p> <p>In order to comply with the IFC performance standards, the project will broaden the eligibility criteria to include third party impacts.</p> <p>Proof of ownership will be determined through alternative means including tenancy agreements, confirmation by land owner, neighbours or village authorities.</p> |
| Cut-off date | IFC Guidance Note 5, GN 32 defines the cut-off date as the date of completion of the census and assets inventory   | The valuers and valuation (general) regulations 2018, specify the cut-off date as the date for the commencement of the Census (asset inventory)   | It was agreed to the date for the completion of the inspection as the cut-off date   |
| Compensation | IFC Guidance Note 5, GN 22: The rate of compensation for lost assets should be calculated at full replacement cost, (i.e., the market value of the assets plus transaction costs). | The Land Act, Part II, Section 1(g) requires payment of full, fair and prompt compensation to any person whose right of occupancy or recognized long-standing occupation or customary use of land is revoked or otherwise interfered with to their detriment by the State, and advocates for compensation assessment based on market value of real property using the comparative sale method of computation or the replacement value of non-saleable items.  | <p>IFC guidelines related to computation of replacement cost will be adopted for this project.</p> <p>In addition, preference will be made for in kind compensation as opposed to cash compensations.</p> <p>Avoidance of physical displacement will be prioritised.</p>   |

| Theme                           | IFC PS 5  | National Legislation  | Comment  |
|---------------------------------|---|---|--|
|                                 |   | <p>The valuers and valuation (general) regulations 2018 further specifies that the valuer can use any of the following valuation methods to compute the market value of property</p> <ul style="list-style-type: none"> <li>(a) Direct comparative method</li> <li>(b) Replacement cost or contractors test method</li> <li>(c) Income approach or investment method</li> <li>(d) Profit method and</li> <li>(e) Residual method</li> </ul> <p>However, all these methodologies factor in depreciation and therefore failing to achieve full replacement cost</p>   |  |
| Timing of compensation payments | GN23: Compensation for lost land and assets should be paid prior to the client taking possession of this land or assets and where possible people should have been resettled at their new sites and moving allowances paid to them. | <p>Village Land Act, Part III, Section 4, Sub-section 8 emphasizes that no village land shall be transferred until the type, amount, method and timing of the payment of compensation has been agreed upon between the concerned parties, and not earlier than 90 days from the notification.</p> <p>The Valuation and Valuers Registration Act 2016, Section 52 (4) requires that upon approval of the valuation report by the Chief Government Valuer, the entity responsible shall be liable to effect prompt compensation payment to all affected persons. Prompt payment refers to compensation payment within six months after approval of valuation report by the CGV.</p> <p>Section 52(5) stipulates that an entity that fails to effect prompt payment of compensation shall in addition to the principal sum pay an interest chargeable at the average percentage rate of interest offered by commercial banks on fixed deposits until such compensation is paid.</p> <p>The Land Acquisition Act, Part 2b, Section 15 states that, in situations where land is possessed before compensation payment, the previous land owner should be paid 6% interest per annum from the time of possession to the date of compensation payment.</p> | The project proponent should endeavour to pay compensation prior to land take over and within the limits of prompt payments (six months after approval). |

| Theme                 | IFC PS 5   | National Legislation  | Comment  |
|-----------------------|--|---|--|
| Grievance redress     | IFC Guidance Note 5, GN 30 recognizes that regardless of scale, involuntary resettlement may give rise to grievances among affected households and communities over issues ranging from rates of compensation and eligibility criteria to the location of resettlement sites and the quality of services at those sites. | The Village Land Act 1999, Part III, Section 3 and the Land Disputes (Courts) Act clearly gives the structure for compensation and land dispute resolution starting from village level to the courts of law   | The structure seems accessible especially in regard to the village land councils. However, they will need to be empowered to take on the project specific grievances by working together with project grievance committees to be established per district.   |
| Valuation of property | IFC Guidance Note 5, GN 22: The rate of compensation for lost assets should be calculated at full replacement cost, (i.e., the market value of the assets plus transaction costs).   | <p>Section 55(3) requires that in assessing building value rates the following considerations shall be taken into account:</p> <ol style="list-style-type: none"> <li>the cost of replacing a building or a structure of similar nature,</li> <li>quality of construction,</li> <li>levels of completion in works-in-progress and</li> <li>size based on local market prices of materials and</li> <li>labour charges.</li> </ol> <p>Section 52(8) states that value determination for a plant shall include but not limited to the following:</p> <ol style="list-style-type: none"> <li>number of plants in an acre/hectare;</li> <li>age of the plant to optimum production;</li> <li>harvest seasons;</li> <li>production and operating costs;</li> <li>average yield per season;</li> <li>costs or prices of crop from production/collection point;</li> <li>average interest rates for fixed deposit in central bank</li> </ol> <p>Section 53(4) states that in assessing land values consider the following pertinent value determinants and including:-</p> <ol style="list-style-type: none"> <li>location where the subject land is situated;</li> <li>accessibility to the said land;</li> <li>legal and social land use restrictions including zoning;</li> <li>general condition of the site;</li> <li>distance of the subject land in relation to public services, markets, schools, hospitals;</li> <li>land aspects including terrain of subject land;</li> </ol> | <p>All the considerations stipulated by the national regulations fall short of the following</p> <ul style="list-style-type: none"> <li>Costs for land preparation in case of agricultural land and</li> <li>Costs for land registration and taxes</li> </ul> <p>The project valuation formulas will put in consideration the above factors. Details are outlined in Chapter 7 of this report.</p> |

| Theme                    | IFC PS 5   | National Legislation   | Comment  |
|--------------------------|--|--|--|
|                          |  | <ul style="list-style-type: none"> <li>(g) security of tenure;</li> <li>(h) land size and shape;</li> <li>(i) land use;</li> <li>(j) availability of the public utilities to the subject land such as electricity, water, sewage system;</li> <li>(k) productivity of the subject land;</li> <li>(l) third party interests;</li> <li>(m) readiness of the land for use; and</li> <li>(n) Infrastructure already in place.</li> </ul> |  |
| Resettlement instruments | Requires a resettlement instrument in form of a resettlement plan, resettlement policy frame work or process framework   | The Land (Compensation Claims) Regulations, Section 9 recommends the preparation of a compensation schedule.   | MoW developed a Resettlement Management Framework (2015) for the Water Sector Development Program Phase II and it advocates for preparation of Resettlement/ Compensation Plan. A project specific Resettlement Action Plan has been prepared to guide the preparation of the RAP for this project.  |
| Livelihood restoration   | <p>IFC Guidance Note 5, GN 12 recommends the following types of assistance to land-based livelihoods</p> <ul style="list-style-type: none"> <li>(i) assistance in acquiring or accessing replacement land, including access to grazing land, fallow land, forest, fuel and water resources;</li> <li>(ii) physical preparation of farm land (e.g., clearing, levelling, access routes and soil stabilization);</li> <li>(iii) fencing for pasture or cropland;</li> <li>(iv) agricultural inputs (e.g., seeds, seedlings, fertilizer, irrigation); (v) veterinary care;</li> <li>(vi) Small-scale credit, including rice banks, cattle banks and cash loans; and</li> <li>(vii) access to markets (e.g., through transportation means and improved access to information about market opportunities).</li> </ul> | No requirement for livelihood restoration beyond fair compensation, but advocates for compensation for loss of profit.   | <p>To fulfil the requirements, the project will create linkages between the SMART agriculture component and the Water Supply and Sanitation project.</p> <p>However during the transition phase, other LRP measures will be adopted to support the vulnerable and severely impacted households until the SMART Agriculture component is rolled out. Possible alternative measures will be assessed during the RAP preparation.</p> |

| Theme                 | IFC PS 5  | National Legislation  | Comment   |
|-----------------------|---|---|---|
| Vulnerable groups     | IFC Guidance Note 5, GN 44: Additional measures, such as the provision of emergency health care, should be designed for vulnerable groups during physical relocation, particularly pregnant women, children, the elderly, and the handicapped.                                    | The Village Land Act provides for the protection of women, children, persons with disabilities, the landless and pastoralists, protection against landlessness, representation and denial of land ownership.<br><br>The Land Policy also provides other channels through which women can acquire land other than the customary process  | Relocation assistance and income restoration support will be provided to the vulnerable PAPs and households severely impacted.<br><br>The support measures and targeted households will be detailed in the RAP report.  |
| Relocation assistance | IFC Guidance Note 5, GN 44: Relocation assistance should be provided to people who are physically displaced by a project. Assistance may include transportation, food, shelter, and social services that are provided to affected people during the relocation to their new site. | Section 7 of the Land (Assessment of the Value of Land Compensation) Regulations requires the computation of compensation values to put into the following parameters.<br><br>I. Disturbance allowance<br>II. Transport allowance<br>III. Accommodation allowance<br>IV. Loss of profits<br><br>Payment for loss of profit is based on evidence of audited accounts which is not practical for rural communities engaged in subsistence livelihoods and informal trade. | The national legislation provides for assistance during relocation but not after displacement and does not factor in costs related to security of tenure after relocation like land registration, costs for land survey and taxes among others.<br><br>Project will include all costs associated with security of tenure for the physically displaced households. |

## **4 INSTITUTIONAL AND ORGANISATIONAL FRAMEWORK**

### **4.1 Introduction**

The preparation and implementation of the resettlement strategies will require the participation of several institutions at different levels. Coordination of the participating institutions is a critical requirement to a successful resettlement program. It is always preferred to have this addressed early into the project cycle, so that all participating parties are made aware of each other's responsibilities, lines of reporting, communication channels, expectations and authority limits.

### **4.2 Inter-Agency Coordination**

The overall responsibility for the regulation of land acquisition process lies with the Ministry of Lands, Housing and Human Settlements (MLHHS), through the Commissioner of Lands, while the responsibility for acquisition of wayleaves for this particular project lies with MoW as the lead government body applying for the creation of wayleaves or acquisition of land for a public purpose.

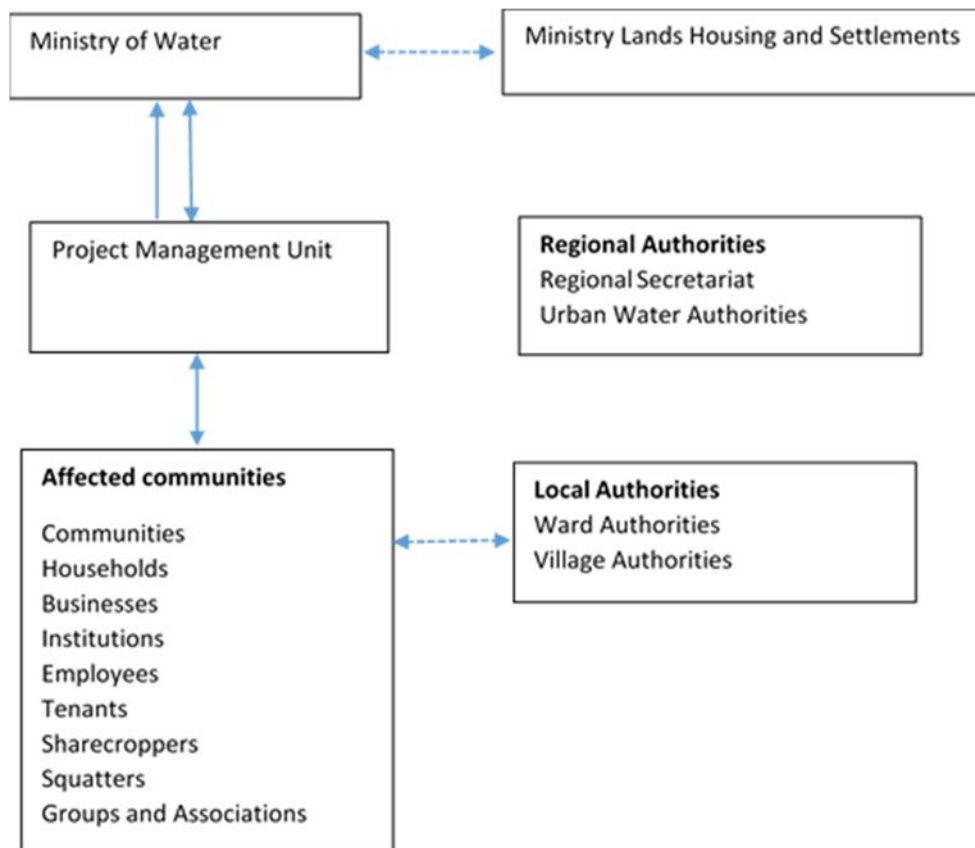
For day to day supervision of the land acquisition process (i.e. property valuation and identification of affected households), it is advisable that the Project Management Unit (PMU) is established as the legal entity responsible for resettlement execution.

During the resettlement planning and implementation, the PMU will work closely with the Regional and Local Authorities and the Urban Water Supply Authorities particularly with the Valuation Officers, Village Councils and the affected households or institutions during the compilation of the compensation schedule and the preparation of the Resettlement Action Plan (RAP).

For purposes of implementing the requirements of the ESIA (including ESMP and Stakeholder Engagement Plan, SEP) and RPF, the PMU will establish an Environmental and Social Management Unit (ESMU) being staffed with competent staff to take on the responsibilities associated with internal monitoring, day to day grievance management and liaison with the communities and contractors.

The PMU is expected to coordinate with the Regional Valuers and the Chief Government Valuer (MLHHS) for the review and approval/endorsement of the valuation report and compensation schedule. The PMU/ESMU will also oversee the process of compensation payments directly to the PAP's personal accounts. However, the responsibility for disbursing the compensation payments lies with the respective District Councils which acts on behalf of MoW.

The figure below illustrates the expected coordination lines.



### 4.3 Expected Responsibilities of the Participating Agencies

#### Ministry of Lands, Housing and Human Settlements (MLHHS)

- I. Regulation of the land acquisition process.
- II. Overseeing of the land acquisition process.
- III. Review and processing of MoW land acquisition application.
- IV. Notifications of all parties along the proposed wayleave of the required land.
- V. Through the office of the Chief Valuer of Government, review and verify the valuation process and compensation schedule.
- VI. Through advisory services, support MoW on matters relating to compensation, land acquisition and expropriation.
- VII. Overseeing the compensation payments and land re-allocation for the likely affected households.
- VIII. Transfer of land.
- IX. Land registration.

#### Ministry of Water (MoW)

- I. Lead agency for the execution of the project
- II. Land acquiring institution
- III. Establishment and staffing of the Project Management Unit (PMU) and bulk water supplier.
- IV. Securing financing for the resettlement, compensation and livelihood restoration activities
- V. Coordination with the Tanzania Building Authority for the construction of the replacement housing if found necessary



### Project Management Unit (PMU)

- I. Responsible for overseeing the construction of the proposed water supply project on behalf of MoW
- II. Establishment and staffing of the Environmental and Social Management Unit (ESMU)
- III. Day to day coordination with the ESIA and RAP Consultant during resettlement planning and implementation
- IV. Notify the affected communities about the proposal for land acquisition
- V. Spearhead sensitisation of communities regarding the land acquisition processes.
- VI. Delineation of required land / wayleave boundaries.
- VII. Coordinate with the regional Property Valuers
- VIII. Together with the MLHHS, implement the compensation plan and deliver compensation packages.
- IX. Together with the village land council and other institutions at higher levels, attend to all grievances as a result of the land acquisition process.
- X. Monitoring and reporting.
- XI. Together with MLHHS, coordinate the land transfer and registration process.
- XII. Coordinate with all other government institutions affected or likely to have an influence on the project activities.
- XIII. Mobilise communities along the secondary and tertiary pipelines for land acquisition.

### Regional and District Authorities including UWSSA

- I. Notification of affected Ward and Village Councils.
- II. Advise the Village Land Councils within their area of jurisdiction on the management of village land.
- III. Through the District Land and Housing Tribunal, attend to all grievances that could not be resolved by the Ward Tribunals particularly those accruing from the compensation payment process.
- IV. Provide updated compensation rates for agricultural products and land within the project area.
- V. Participate in the process of stock referencing with particular emphasis on agricultural products and other developments on land.
- VI. Surveying and mapping of acquired land.
- VII. Participate and or closely supervise the property valuation process
- VIII. Review and approval of the compensation schedules by the Regional and District Commissioners.
- IX. Effecting compensation payments to PAPs.
- X. Advise MLHHS on issues regarding land acquisition and transfer and preparation of residual titles.
- XI. Advise MoW on issues regarding livelihood restoration.

### Municipal/Ward Tribunal

- I. Attend to all grievances of civil nature, in regard to land, that could not be resolved by the Village Land Council and not exceeding a monetary worth of 3 million shillings.
- II. Advisory services to the Village Council.

### Village Land Councils

- I. Participate in all the project information disclosure meetings.
- II. Mobilize affected households.
- III. Give feedback/notification to PAPs on project related issues.
- IV. Participate in the identification of affected households.

- V. Participate and witness the process of land survey and mapping of affected land.
- VI. Participate and witness the property valuation exercise.
- VII. Support displaced households in the process of identifying suitable replacement land to PAPs.
- VIII. Support the PAPs during the preparation and submission of their compensation claims.
- IX. Witness the compensation payment process.
- X. Offer advisory and counselling services to all affected households.
- XI. Attend to all grievances within the village territory in regard to land required by the project.
- XII. Support MoW in the process of land acquisition.
- XIII. Support MoW during the registration of the project land.

Village Assembly (PAPs and institutions)

- I. Participate in all project information meetings.
- II. Participate and witness in all project land acquisition activities.
- III. Participate and witness the land surveying and property valuation activities, wherever necessary.
- IV. Prepare and submit claims for compensation.
- V. Provide all required information/documentation during the execution of the land acquisition process, to the implementing teams.
- VI. Respect all the set up information and consultation channels set up by the project.
- VII. Advise the implementation teams in regard to property ownership, and use.
- VIII. Inform the implementing teams of all the cultural requirements in regard to relocation of culturally sensitive property or assets.
- IX. On a family basis, resolve all the property ownership disputes within the family prior to the land acquisition process, or else, escalate them to the village council for guidance.

## 5 PRINCIPLES AND PROCEDURES

### 5.1 Principles Governing Resettlement Planning and Implementation

In regard to this particular project, the following guiding principles will govern the resettlement preparation and implementation. The principles are based on national legislation and international safeguard policies (IFC 2012). It is expected that the principles below will ensure that the potential risks are well controlled.

- I. Physical displacement will be avoided where feasible, or minimized, by exploring all viable alternatives.
- II. Land for the main pipeline, command reservoir, water treatment plant, pumping stations, balance tanks and reservoir tanks will be permanently acquired by MoW/PMU.
- III. Land required for secondary and tertiary pipelines, and primary reservoirs will be voluntarily donated by the beneficiary communities. MoW will document all voluntary land donations as per the guidance given in Appendix 1 to this report.
- IV. Concerning secondary and tertiary pipelines, there will be no acquisition of wayleaves but rather restrictions on land use rights. Under such circumstances, compensation will be limited to crops and other developments on land but not land.
- V. All households impacted in any of the ways below will be considered eligible for compensation:
  - a. Relocation or loss of shelter
  - b. Loss of assets or access to assets
  - c. Loss of income sources or means of livelihood, whether or not the affected persons must move to another location
  - d. Involuntary restriction of access to resources.
  - e. Damages during construction
  - f. Residual impacts on land and structures
- VI. The policy applies to all affected persons regardless of the total number affected and the severity of the impact.
- VII. All persons with a justified claim to land including, seasonal users, tenants, sharecroppers, squatters will be considered eligible for compensation irrespective of whether they own proof for the land they occupy or not.
- VIII. Particular attention will be paid to the needs of vulnerable groups among those displaced; especially those below the poverty line, the landless, the elderly, women and children, orphans, pastoralists and or other affected disadvantaged persons.
- IX. Land based compensation wherever possible will be preferred to cash compensations for land. However, households with minor land take especially in the rural areas where the total landholding per household is much larger compared to urban centres will be offered cash compensation.
- X. Replacement housing will be prioritised for the physically displaced households wherever possible.
- XI. Relocation of cultural property, including burial grounds, will be handled in accordance to norms and cultural practices of the affected people and in compliance with the national regulations on graves removal.
- XII. All PAPS occupying/utilising the old road reserve (within 22.5m from the centreline) will be eligible for compensation for the improvements on land.
- XIII. All PAPs occupying the new section of the road reserve (22.5-30m from the centreline) will be eligible for compensation for both land and improvements on land.
- XIV. All affected households will be meaningfully consulted (free, prior and informed) on their options and when making decisions that directly affect them.

- XV. All affected households will be supported during the transition period as per the requirements of the national legislation and after as per the international requirements, through a livelihoods restoration program. Livelihood restoration will be restricted to the severely affected households.
- XVI. Vulnerable and severely affected households will be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or levels prevailing prior to the beginning of the project implementation, whichever is higher. Livelihood restoration programs/activities will be executed as sustainable development programs, for whole communities or groups with similar sources of income through the SMART agriculture component.
- XVII. The grievance mechanism will as much as possible utilize the community based approaches. The judiciary system will be adopted as a last resort. Project will bear the costs associated with accessing community based grievance mechanisms.
- XVIII. All transactions will be conducted in a language that people understand. Where this will not be possible, PAPs will have a right to an interpreter.
- XIX. The project will cover all the costs of land registration and any other charges that may be levied on replacement land and housing.
- XX. During valuation, the project will review and update the compensation rates for land and crops developed by the districts to ensure attainment of full replacement cost. The national legislation recommends the use of comparative cost method, however, this does not necessarily reflect full replacement cost, and therefore measures will be instituted to ensure that they reflect the replacement cost of items.
- XXI. Generally, there will be no compensation payment for seasonal crops. Efforts will be made to ensure that PAPs are allowed sufficient time to harvest their crops as this will minimize the impact on food security in the transition period. Except for injurious damages.
- XXII. Voluntary donations of land by communities will be properly documented and such willing communities will not be considered for compensation.
- XXIII. Cultivation of seasonal crops will be permitted in the right of way as agreed with the acquiring authority. However, any damage to crops during repair and maintenance of the pipeline will not be compensated.
- XXIV. Cut-off date will be the date of the completion of the census.
- XXV. All field activities will be witnessed by the Ward and Village land authorities and the affected households.
- XXVI. Wherever possible, both spouses and their neighbours will be present at the time of stock referencing and will be expected to endorse the inspection form as their acknowledgement of the accuracy of the records.

## 5.2 Procedure / Process for Resettlement Planning

Upon approval of the RPF, MoW supported by competent experts will proceed with the preparation of the Resettlement Action Plan (RAP) which will detail the action plans for relocation, compensation and livelihood restoration among others. It is preferable that the process is highly participatory and all concerned stakeholders are meaningfully involved.

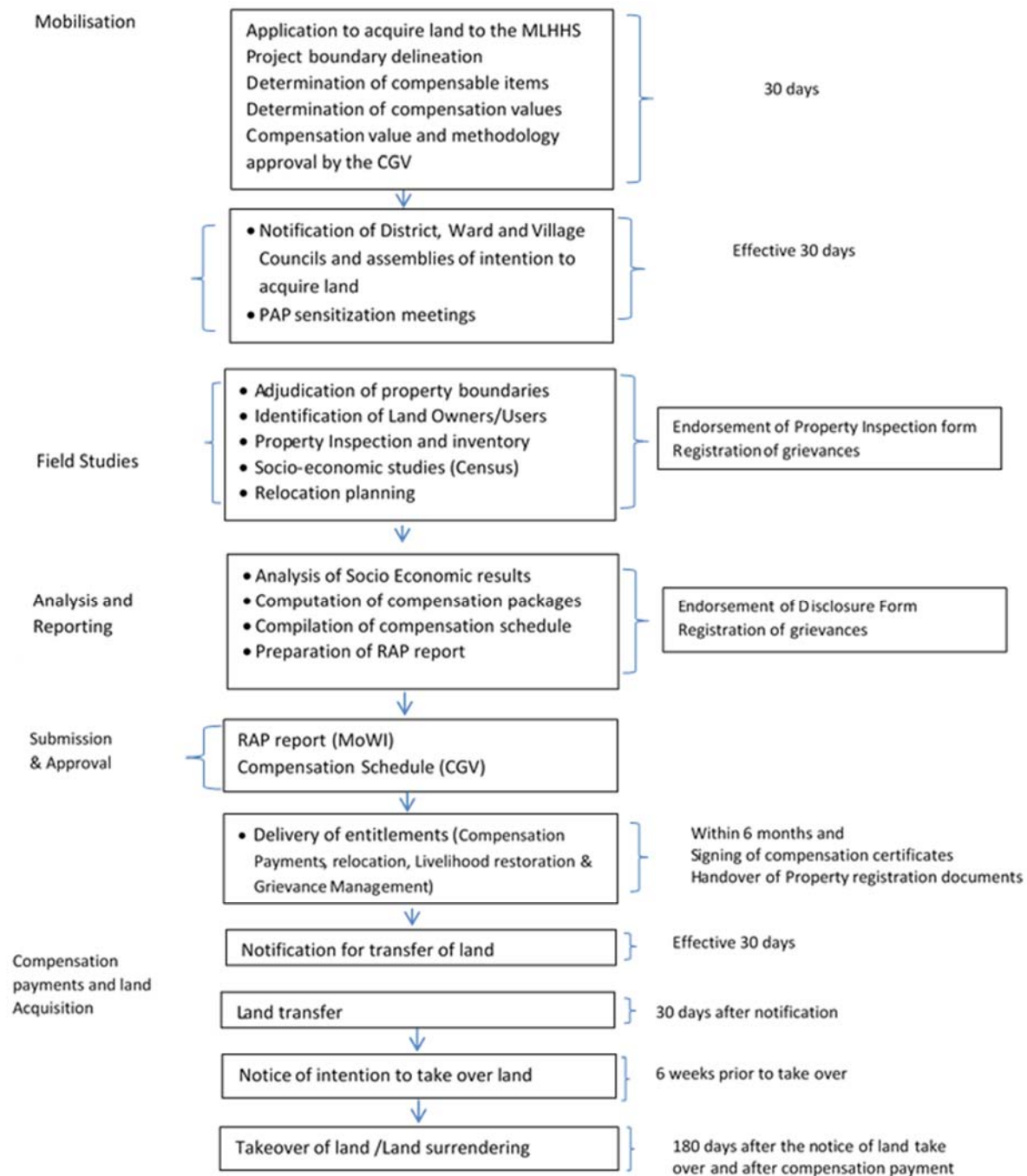
Minimum key study/data requirements for the achievement of a successful and customised resettlement plan as highlighted below:

- Land survey for identification of affected land owners/users and estimation of magnitude of impact and residual effect on total land owned.
- Baseline socio-economic census surveys to recording baseline conditions of all affected households as input into livelihood restoration and relocation planning
- Asset inventory, for recording all affected assets as input into valuation and compensation

- If found necessary, host community consultations.

The results of all the three study components will form the basis of the Resettlement Action Plan (RAP).

Figure 3 gives a step by step procedure to be followed during RAP preparation. Consultation will be an on-going process throughout the RAP preparation phase. The figure below has attempted to ensure compliance with the national legal requirements without compromising the international best practices.



**Figure 3: RAP preparation and implementation process.**

### 5.3 RAP Review and Approval

Upon completion of the valuation field inspection and the preparation of the valuation report, the district authorities (District Valuers / Land Officers) together with the village councils will then embark on the process of getting the results of the valuation report disclosed to the PAPs.

MoW through its valuation and survey team and the village councils will assist the PAPs in the verification of the valuation results and the corresponding compensation packages. This exercise will be conducted with all the directly impacted households. This will be done on a case by case basis.

During this exercise, the identity of the PAP will be cross checked; both parties will together cross check the details of the items to be compensated, the compensation rates, and the total compensation package. Buildings and structures should be geo-referenced and plotted on strip maps for easy future reference. This process eliminates the possibility of payments to false claimants, miscalculations and paying for inaccurate items. In addition, it facilitates the process of receiving consent from the PAP and provides an opportunity to elaborate or clarify issues for the PAP if necessary.

In case of a discrepancy between the PAP's expectations and the contents of the valuation report, the PAPs will be expected to submit it as a formal complaint. In case PAPs agree, then they will be advised to sign a consent form/compensation claim form, which will serve as a no objection to compensation payment.

Upon completion of the disclosure exercise, MoW/PMU will organize and coordinate the review of the valuation report and compensation schedule with all the relevant regional authorities prior to submission of the Chief Government Valuer after the financiers review and comments.

Legally, the Chief Valuer shall approve valuation reports and compensation Schedules after verification by the following in the following order:

- (a) Field Valuer in-charge;
- (b) Valuer in-charge;
- (c) Executive Officers in-charge for the Villages (in rural areas) and Mtaa (in urban areas);
- (d) Executive Officers in-charge of the Wards (in both urban and rural areas);
- (e) Authorized Land Officer and authorized Valuer;
- (f) District Commissioner (DC).

At the District level, the District Land Office (Valuer and/or Authorized Land Officer) will participate in the survey, valuation process and review process and confirm the adequacy of the rates used and proposed compensation packages, the completeness of the identification of affected villages and property owners among others.

At the Ward and village level, the land authorities, the Village Councils, Hamlet leaders, representatives of the affected households and their neighbours will confirm that the report has accurately covered and identified all the affected stakeholders and the respective assets. They will work hand in hand with the valuers. This will be done prior to compensation payments and prior to approval of payments by the regional authorities.

Prior to submission of the valuation report to the Chief Valuer, the RAP report and associated appendices will be submitted to GCF, KfW and MoW for review and comments.

## 6 PROJECT IMPACTS AND ELIGIBILITY CRITERIA

### 6.1 Estimation of Permanent Land Requirement

At this point of project development, the consultant has attempted to estimate the potential land requirement for Phase 1 based on the information available from the design consultant. In summary, the project will require approximately 146 hectares for the construction of the main components. Table 2 shows the land distribution by district and per component.

**Table 2: Land requirements (in hectares) for Phase 1 per project component and per district.**

| District     | Project Component    |                                  |                   |                    |                                    |              | Total  |
|--------------|----------------------|----------------------------------|-------------------|--------------------|------------------------------------|--------------|--------|
|              | Main Water Pipelines | Intake and Water Treatment Plant | Command Reservoir | Primary Reservoirs | Pumping Stations and Balance Tanks | Access Roads |        |
| Busega       | 52                   | 5                                | 1                 | 0.18               | 0.3                                | TBD          | 58.08  |
| Bariadi      | 70                   | 0                                | 0                 | 0.24               | 0.2                                | TBD          | 70.44  |
| Itilima      | 16                   | 0                                | 0                 | 1.0                | 0.1                                | TBD          | 17.1   |
| <b>Total</b> | 138                  | 5                                | 1                 | 1.42               | 0.6                                |              | 146.02 |

TBD: to be determined

### 6.2 Estimation of Affected Structures

The consultant attempted to estimate the number of structures affected for Phase 1 by assuming that the main pipeline will be routed along the existing road reserve specifically within the outer 10 m (i.e. 20-30 m from the centre line of the road). It was further assumed that the pipelines would be routed on the left side of the road coming from the intake at Bukabile towards Bariadi and Lagangabilili. Based on field observations, the composition of structures is known to include commercial and residential facilities as well as public infrastructure like schools, health facilities and churches. The estimated number of affected structures is given in Table 3.

**Table 3: Number of affected structures for Phase 1 per project component and per district.**

| District     | Project Component    |                                  |                   |                    |                                    | Total |
|--------------|----------------------|----------------------------------|-------------------|--------------------|------------------------------------|-------|
|              | Main Water Pipelines | Intake and Water Treatment Plant | Command Reservoir | Primary Reservoirs | Pumping Stations and Balance Tanks |       |
| Busega       | 98*                  | 0                                | 0                 | 0                  | 0                                  | 98    |
| Bariadi      | 349                  | 0                                | 0                 | 0                  | 0                                  | 349   |
| Itilima      | 81                   | 0                                | 0                 | 0                  | 0                                  | 81    |
| <b>Total</b> | 528                  | 0                                | 0                 | 0                  | 0                                  | 528   |

\* The bypass at Ngasamo village has reduce the affected number of structures by about 40 compared to the original estimate

It should be noted however that MoW has advised the design engineer to realign the main transmission pipelines away from the settled areas and outside the road reserve in an attempt to minimise physical displacement. The realignment is likely to result in a significant reduction of the figures depicted in the table above.

### 6.3 Impact on Cultural Property

Burial grounds were the main cultural features observed within the road reserve. Notable was the Chiefs' burial grounds (Wagunda) at Isenge and a cultural prayer site at Ng'wamalagwini. The burial grounds are not expected to be directly impacted by the project despite being located on the same hill



as the Isenge Primary Reservoir. Procedures have been prescribed for ensuring minimal disruption of such significant features as elaborated in the updated ESIA/ESMP.

#### **6.4 Impact on Commercial Structures**

Observations indicated that there are several commercial structures in the main settled areas along the pipeline route. These include large scale ginneries, milling machines, crop storage facilities, and small scale retail shops. Accurate estimation of number of commercial structures, severity and magnitude of impact will be done during resettlement planning. As mentioned earlier, the ongoing realignment of the transmission main is likely to reduce this impact significantly. For now, measures to be adopted for valuation and compensation of such property have been elaborated in Chapter 7 if found necessary.

#### **6.5 Impact on Communal Facilities**

From observation, communal facilities observed within the road reserve included schools, health facilities, water supply facilities (shallow wells and ponds), cattle dips, water troughs, and concrete water reservoir towers. Confirmation of whether these facilities will actually be affected by the project will be undertaken in the next phase of resettlement planning. Procedures to follow during valuation and compensation are as highlighted in Chapter 7.

#### **6.6 Impact on Public Parastatal Infrastructure**

Observations and consultations with TANROADS and other stakeholders, confirmed that there are several other utility companies with installations within the road reserve. These include electricity transmission and distribution lines, underground optical fibre cables, and telecom masts. It is not confirmed yet if these will be directly impacted, but the procedures for handling valuation and compensation have been proposed in Chapter 7. However, the possible realignment of the transmission main further away from the road reserve will reduce this impact significantly.

## 6.7 Eligibility Criteria

In summary, with reference to the national and international guidelines, the following categories of people will be considered eligible for compensation:

Part 2b, Section 17, of the Land Acquisition Act 1967, describes legitimate owners of land as those persons in possession of the title or those who receive rent from such land and all those who have a claim on the same piece of land shortly before the notice to acquire such land. This is in line with the World Bank description of those eligible for compensation as shown below:

- All those with formal rights to land (including customary and statutory rights of occupancy recognized under the laws of the host country).
- Those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets provided that such claims are recognized under the laws or by the community or become recognized through a process identified in the resettlement and compensation plan.
- Those who occupy or use the land prior to the cut-off date. This is in line with the Land Acquisition Act 1967, Part V, Section 23 subsection 6, which states that where a person or family has occupied land in the same location under a residential license for not less than three years, he or they shall be entitled to compensation under the Land Acquisition Act, 1967 where that land is to be acquired for a public purpose ...”

In conclusion, all these categories of affected persons resident or with interest in property within the project direct impact zones will be eligible for compensation.

## 7 VALUATION METHODOLOGY

### 7.1 Valuation of Land

The Land Act, Section 75 suggests that when compensating for land, the following factors should be put into consideration:

- the purpose for which the land is being utilized
- the land market value
- the value of investment in it by those affected and their interest

The Land Acquisition Act 1967, Part 2b, Section 11, Sub-sections 2 implies that the compensation for land (cash or replacement land) will be limited to the same value as the land to be acquired and with similar terms and conditions as the land to be acquired.

The valuation and valuers guidelines 2018, recommend that the market value of any land and unexhausted improvement shall be arrived at by use of comparative method with evidence from actual recent sales of similar properties or by use of the income approach or replacement cost method where the property is of special nature and not saleable.

The Land Act, Part 2b, Section 14 further gives the detailed considerations during the assessment of the value of land. It states that "In assessing compensation for any land acquired under the provisions of the Land Acquisition Act, the Minister or the Court, as the case may be, shall;

- (a) Take into account the value of such land at the time of the publication of notice under section 8 without regard to any improvement or work made or constructed thereon thereafter or to be made or constructed in the implementation of the purpose for which it is acquired;
- (b) When part only of the land belonging to any person is acquired, take into account any probable enhancement of the value of the residue of the land by reason of the proximity of any improvements or works made or constructed to be made or constructed on the part acquired;
- (c) Take into account the damage, if any, sustained by the person having an estate or interest in the land by reason of the severance of such land from any other land or lands belonging to the same person or other injurious effect upon such other land or lands;
- (d) Not take into account any probable enhancement in the value of the land in future;
- (e) Not take into account the value of the land where a grant of public land has been made under the provisions of subsection (2) of section 11;
- (f) Assess such compensation in accordance with such principles, 'in addition to and not inconsistent with the principles specified in this section, as may be prescribed

The Valuation and Valuers (General) Regulations, 2018, Section 53(4) requires that in assessing land values consideration shall be made on all pertinent value determinants and including:-

- (a) location where the subject land is situated;
- (b) accessibility to the said land;
- (c) legal and social land use restrictions including zoning;
- (d) general condition of the site;
- (e) distance of the subject land in relation to public services such as roads, markets, schools, hospitals;
- (f) land aspects including terrain of subject land;
- (g) security of tenure;
- (h) land size and shape;
- (i) land use;
- (j) availability of the public utilities to the subject land such as electricity, water, sewage system;

- (k) productivity of the subject land;
- (l) third party interests;
- (m) readiness of the land for use; and
- (n) Infrastructure already in place.

The expected impact on land will be two fold. That is, permanent acquisition of wayleaves for the main pipeline coupled with restrictions on land use during operation phase. Although, damages to crops cultivated within the wayleaves during maintenance periods will not attract any compensation.

Concerning secondary and tertiary pipelines, there will be no acquisition of wayleaves but rather restrictions on land use rights. Under such circumstances, compensation will be limited to crops and other developments on land but not land.

It is therefore proposed that valuation for land should at the minimum follow the national regulations (market value of land will be estimated by use of recent sales of similar properties in the area) as clearly stated in the Land Act. In addition, costs for of land preparation and registration or transfer taxes should be included wherever applicable. This way, the compensation for land will comply with the World Bank / IFC requirement for compensation of land at replacement cost<sup>6</sup>.

Alternatively, PAPs could be offered a plot of land of comparable quality, extent and use as stipulated by the Land (Compensation Claims) Regulations, 2001, wherever possible and where the land take is significant. Even in such cases MoW should facilitate the costs for land registration.

**Table 4: Valuation for land.**

| Item | Type of land          | Valuation considerations   |
|------|-----------------------|--|
| 1    | Residential land      | Market value rate/m <sup>2</sup> x Area + Disturbance allowance <sup>7</sup> + Transport allowance <sup>8</sup> + Accommodation allowance <sup>9</sup> + Registration costs <sup>10</sup> + Costs for land preparation |
| 2    | Farmland              | Market value/m <sup>2</sup> x Area + Disturbance allowance + Transport allowance + Loss of profit <sup>11</sup> + Estimated lump sum for land preparation <sup>12</sup> + Registration costs                           |
| 3    | Undeveloped land      | Market value/m <sup>2</sup> x Area + Disturbance allowance + Registration costs  |
| 4    | Pastoral land         | Alternative land or cash   |
| 5    | Commercial/Prime land | Market value/m <sup>2</sup> x Area + Disturbance allowance + Transport allowance + Loss of profit <sup>13</sup> + Estimated lump sum for land preparation + Registration costs   |
| 6    | Communal land         | Market value/m <sup>2</sup> x Area + Disturbance allowance + Registration costs  |

<sup>6</sup> For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.

<sup>7</sup> Disturbance allowance: Average percentage rate of interest offered by commercial banks on fixed deposits for twelve months at the time of loss of interest in land.

<sup>8</sup> Transport Allowance: Actual costs of transporting 12 tons either by rail /road (whichever is cheaper) for a distance of 20 kilometers from the point of displacement.

<sup>9</sup> Accommodation Allowance: Market rent over a period of 36 months

<sup>10</sup> Registration costs: Real figures will be established from the Land authorities.

<sup>11</sup> Loss of profits: Computed by taking into consideration the net monthly profit from the business/value of produce multiplied by 36 months to arrive at the loss of profits payable

<sup>12</sup> The value of the labor invested in preparing agricultural land will be computed as the sum of the average costs of clearing, plowing, sowing, weeding twice, and harvesting the crop.

<sup>13</sup> Loss of profit will be paid when the owner presents audited accounts or proof of paying taxes.

## 7.2 Valuation of Structures

Section 55(3) of the Valuation and Valuers (General) Regulations, 2018, requires that in assessing building value rates the following considerations shall be taken into account:

- a) the cost of replacing a building or a structure of similar nature,
- b) quality of construction,
- c) levels of completion in works-in-progress and
- d) size based on local market prices of materials and
- e) labour charges.

In order to comply with the IFC standards, depreciation and costs of salvageable materials will not be considered, and in addition any registration and transfer taxes will be input into the computation. This will facilitate the achievement of compensation based on replacement cost for structures<sup>14</sup>. It is expected that the authorised valuer shall research and prepare building value rates for the Chief Valuers approval prior to commencement of valuation fieldwork.

Wherever possible, options for in kind replacements (building of comparable quality, extent or use) should be offered to PAPs who lose residential premises as stipulated by the Land (Compensation Claims) Regulations, 2001.

**Table 5: Valuation for structures.**

| Item | Type of structure  | Valuation considerations  |
|------|--|---|
| 1    | Residential structure  | Unit cost of construction per m <sup>2</sup> of a similar type of structure x Area + Disturbance allowance + Accommodation allowance + Transport allowance + Registration costs                   |
| 2    | Commercial structure   | Unit cost of construction per m <sup>2</sup> of a similar type of structure x Area + Disturbance allowance + Accommodation allowance + Transport allowance + Loss of profits + Registration costs |
| 3    | Public structure <sup>15</sup><br>(School, Hospital, Church, Administrative buildings) | Unit cost of construction per m <sup>2</sup> of a similar type of structure x Area + Disturbance allowance + Transport allowance + Loss of profits + Registration costs                           |
| 4    | Other auxiliary structures   | Unit cost of construction per m <sup>2</sup> of a similar type of structure x Area + Disturbance allowance  |

## 7.3 Valuation of Crops

The Valuation and Valuers (General) Regulations, 2018, requires that in assessing value of crops and trees for compensation purpose, the Valuer shall use crop compensation schedules as prepared by the Chief Valuer in consultation with the Ministry of Agriculture and the Ministry of Forestry. The valuation and valuers (general) regulations, 2018, indicate that the factors considered in the value determination for crops include but are not limited to the following.

- a) number of plants in an acre/hectare;
- b) age of the plant to optimum production;
- c) harvest seasons;

<sup>14</sup> For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes.

<sup>15</sup> Alternatives to cash compensation will also be considered for public structures for example replacement structures or as may be agreed by the affected community

- d) production and operating costs;
- e) average yield per season;
- f) costs or prices of crop from production/collection point;
- g) average interest rates for fixed deposit in central bank.

Adjustments may be made in accordance to crop or tree growth stage as follows:-

- a) seedlings 15%;
- b) early growth 25%;
- c) young 50%;
- d) early maturity 75%;
- e) full maturity 100%;
- f) Old stage 30%.

It should be noted that the validity of the crop value schedules is limited to 5 years, with a possibility for the Chief Valuers review of the rates prior to the expiry of the five years if found necessary.

To guide and regulate the process of attaching value to crops, the project will adopt the Chief Valuers crop schedule for reference when computing the compensation package for the crops (staple foods, cash crops, floricultural, horticultural, fruit trees and vegetables).

In addition, a standard rate per acre will be developed to cater for the cost of preparing agricultural land. This will take into consideration the costs for preparing the existing land and the replacement land. The value of the labour invested in preparing agricultural land will be computed as the sum of the average costs of clearing, ploughing, sowing, weeding twice, and harvesting the crop. Farmers will also be compensated for the disturbance caused.

In case of cash crops, all affected farmers will be prioritised under the SMART agriculture component to support them replace their farms.

However, it should be noted that seasonal crops are usually food crops and are grown for subsistence purposes and constitute the household food resource. Based on that, the consultant therefore proposes that:

1. PAPs should be given enough time to enable them harvest seasonal crops to avoid the resultant food insecurity for the affected household. In case harvesting has been completed prior to construction works, no payments will be made for seasonal crops.
2. In cases where sufficient time for harvesting is not possible, seasonal crops will be compensated at the prevailing market value of the crops irrespective of their level of maturity at the time of the census.
3. In regard to perennial crops, PAPs will also be compensated for loss of profits over a period of 36 months on top of value of crops as required by the Land (assessment of the value of land compensation) Regulations, 2001.
4. All households that will suffer loss of crops will be assisted in their efforts to restart new plantations, through facilitation for land preparation and provision for seedlings wherever applicable.



**Table 6: Valuation for crops.**

| Asset                      | Valuation Computation  |
|----------------------------|--|
| Seasonal crops             | Allow sufficient time for harvesting<br>Alternatively, prevailing market price x Area/No. of plants + Disturbance allowance + Estimated lump sum for land preparation + Loss of profit <sup>16</sup> |
| Annual and perennial crops | Prevailing market price x Area/No. of plants + Disturbance allowance + Lump sum for land preparation   |

## 7.4 Valuation of Cultural Property

Valuation of cultural property will be guided by the recommendations of the affected households and consistent with the law. The project will as much as possible endeavour to respect the cultural practices, beliefs and rituals of the communities in which it operates. The most observed cultural property in the project area are graves, and these will be compensated as per the guidelines set out in the Graves Removal Act. However, it is strongly recommended that the project endeavours to avoid graves as much as possible.

**Table 7: Valuation for cultural property.**

| Asset             | Valuation Computation   |
|-------------------|---|
| Cultural property | Costs for removal + Costs for transportation + Costs for required materials to reinstatement and re-interment + Costs for ceremonial practices as will be advised by the interested parties + Disturbance allowance |

## 7.5 Valuation of Communal Facilities

It is recommended that where communal infrastructure is directly impacted, it should be physically replaced and cash compensations should be avoided.

## 7.6 Valuation of Losses Suffered by Tenants

In regard to tenants, valuation will follow the same principles as shown above for assets on land, while the loss of profit will also follow the same principles as recommended by the law. However, provisions should be made to estimate lost income without necessarily referring to audited accounts given that most of the affected are likely to be involved in informal trade.

## 7.7 Valuation of Losses Suffered by Leaseholders and Investors

Individuals, private enterprises and public institutions may have long term and short term leases on the proposed land to be acquired. Examples of these are Telecom masts and other commercial enterprises. Valuation will follow the same principles as shown above for assets on land, while the loss of profit will also follow the same principles as recommended by the law. It is worth noting though that more entities will be eligible for compensation in this regard including lessor (for land and lost income), leaseholders and their agents.

## 7.8 Compensation Packages

### 7.8.1 Compensation for Land

The Land Act, Part II, Section I (g) recommends that items below should form the compensation package for land

- (i) Market value of the real property;

<sup>16</sup> Loss of profit will only be applicable if affected PAP shows evidence of gains and gives evidence of annual tax payments.

- (ii) Disturbance allowance;
- (iii) Transport allowance;
- (iv) Loss of profits or accommodation;
- (v) Cost of acquiring or getting the subject land;
- (vi) Any other loss or capital expenditure incurred to the development of the subject land
- (vii) Interest at market rate will be charged.

Most of the land through which the project components will traverse or are located is held either under granted right of occupancy or under the administration of village governments, except for the sections of the road reserve and location of the treatment plant and some existing pumping stations and water storage facilities, which already belong to government. It is recommended that since the dominant livelihood systems are land based, the land for land approach should be adopted instead of cash compensations for any severely affected households, while cash compensation is proposed for all households with minor impacts on land.

#### **7.8.2 Compensation for Structures**

It is recommended that first priority should be given to in kind compensation particularly for the vulnerable households and/or in situations where the residential premises and collective facilities are affected. This will ensure that affected and vulnerable households do not end up homeless after the project. Cash compensation will be offered for all other structures that are not residential premises (auxiliary structures).

#### **7.8.3 Compensation for Crops**

Cash compensation will be offered for all crop losses, except for seasonal crops (usually food crops) as sufficient time would be allowed for harvesting. Severely affected households will be enrolled into a livelihood restoration program which is expected to enable them restart new gardens through provision of seedlings for the replacement gardens. Linkages with the SMART agriculture component will also be prioritised.

#### **7.8.4 Compensation for Cultural Property**

Compensation for cultural property will be dependent on the preference of the land owners or community. Both cash compensation and in kind compensation will be feasible. Households with relocatable cultural property will be advised to start on the relocation processes as soon as they have received the compensation payments and the relocation facilitation.

#### **7.8.5 Compensation for Losses Suffered by Leaseholders, Investors and Lessors**

Compensation to leaseholders and lessors will follow the preference of the affected entities. Discussions with utilities indicated that they prefer MoW taking on the costs and responsibility to relocate their facilities to the next suitable location. This process will possibly add costs and time to the project, and for that reason impact avoidance should be prioritised.

In regard to lessors, it was established that most of the lessors are communities. It is recommended that wherever possible compensation for loss of income from leasehold should be in form of a community project that will have communal benefits. This can be decided upon in negotiations with the village councils.

#### **7.8.6 Compensation for Losses Suffered by Tenants**

Several commercial and residential structures were observed within the proposed main pipeline route. Discussions with the communities in the main settlement areas indicated there are instances where people rent the commercial structures in which they operate their businesses. In instances where such facilities are directly affected, compensation should be made to several parties including structure owner (structure

and loss of income), tenant (loss of profit during transition phase) and employees (disruption to livelihood/loss of income) if applicable. Compensation to all these entities can be by cash unless preferred otherwise especially for the loss of structure.

#### **7.8.7 Compensation for Communal Facilities**

This should be out rightly in kind unless the affected institution demonstrates competent capacity to handle the construction of the replacement structure without major delays.

#### **7.8.8 Livelihood Restoration**

Depending on the severity of impact on the livelihoods of the affected households, livelihood restoration interventions should be considered as part of the strategies for ensuring that the PAPs are not worse off in the long run. The decision to adopt livelihood restoration as part of the resettlement interventions should be taken after the detailed assessment of severity of impact per household. Livelihood restoration initiatives should be planned to target individual households particularly the vulnerable and the severely impacted to ensure that households do not suffer economic losses.

Consideration of the needs of both women and men will be essential during the Livelihood restoration planning. As part of livelihood restoration the following opportunities should be explored

- The possibility to empower displaced households to invest the cash compensations into ventures that will have long term benefits to the household livelihood and economy.
- Avoidance of handouts/in kind donations but rather consideration of empowering strategies
- Priority to restoring and intensifying of existing livelihoods
- Introduction of new livelihood strategies should be limited to only proven methods in the project area.

As part of resettlement planning livelihood baseline surveys should be undertaken as a basis for the planned livelihood restoration interventions. The Livelihood Restoration Plan (LRP) should document and specify the following:

- Baseline livelihood strategies (assets, capabilities, practices, productivity, opportunities, threats and challenges)
- Components of the proposed livelihood restoration plan (Land based, non-land based,
- Mode of implementation of the LRP including potential partners to support MoW in the delivery of the LRP interventions
- Stakeholder engagement and commitment procedures
- Implementation schedule
- Costs and budgets
- Monitoring and evaluation

MoW could consider the following as measures for livelihood restoration:

- Linkage to the SMART agriculture component.
- Agricultural advice in relation to better agricultural practices including value addition, market access and improved crop varieties.
- Ensuring access to water for livestock for the livestock keeping communities and better pasture management strategies
- Veterinary extension services in relation to value addition for the livestock products and better marketing.

## 7.9 Proposed Compensation Options

The table below shows the compensation options for each asset item. It should be noted that a blend of both in kind and cash compensation will be possible if a PAP wishes to have it that way. In terms of budgetary requirements, it has been assumed that the monetary compensation value of a structure/land is equivalent to the cost of replacing it in kind. Therefore, the in kind option will not create any budgetary differences.

| Item  | Compensation Option |         |
|---|---------------------|---------|
|   | Cash                | In kind |
| Land  | ✓                   | ✓       |
| Structures (residential premises)                   |                     | ✓       |
| Structures (auxiliary structures)                   | ✓                   |         |
| Structures (commercial)                             | ✓                   | ✓       |
| Seasonal crops                                      | ✓                   |         |
| Annual and perennial crops (including trees)        | ✓                   |         |
| Cultural property                                   | ✓                   | ✓       |
| Communal facilities                                 |                     | ✓       |
| Private property (Telecom masts, power lines, etc.) | ✓                   | ✓       |

## 7.10 Voluntary Land Donations for Secondary System

A framework for voluntary land donation as part of the secondary systems is provided here. Where minor amounts of land are needed, e.g. for the water pipeline connection to the villages in the project areas, the MoW will discuss with the land users and the community whether the land users are willing to give the land as a voluntary contribution to the project. Each individual land user has the right to refuse to make a voluntary contribution. The project may not take any contribution of land and other assets unless the land user has signed or provided a thumb-print to show that he or she agrees to make the contribution.

It will be ensured that due diligence will be conducted on each donation under discussion for each secondary system project.

The due diligence process to be undertaken for each secondary system will incorporate at a minimum the following aspects:

- Verification and documentation that land required for the project is given voluntarily and the land to be donated is free from any dispute on ownership or any other encumbrances;
- Verification that no individual household will be impoverished by the land donation (i.e. no more than 10% of total agricultural land holding donated);
- Verification that land donation will not displace tenants or agricultural labourers, if any, from the land;
- Verification that land donated is not land used by indigenous peoples either traditionally or customarily;
- Verification that meaningful consultation has been conducted in good faith with all potential land donors;
- Documented verification that land donors are in agreement with the project and project benefits. Separate discussions to be held with women and minority groups as required to facilitate meaningful participation;

- Assurance that a transparent, accessible, culturally appropriate and free of cost grievance redress mechanism is in place for each sub-project, as well as a system for project monitoring and reporting;
- Documentation: Field technical teams will document the voluntary land donation due diligence in each subproject preparation report where donation of private land is under discussion. They will ensure completion of the written consent form for land donation (to be developed). The donation will be verified by two witnesses who are community leaders/members, to ensure that the land was voluntarily donated without any form of duress. The voluntary land donation due diligence information will be verified during project detailed design and updated as necessary;
- Voluntary Land Donation Monitoring: The voluntary land donation issues will be monitored (monitoring program to be established as part of RAP).

The RAP will determine a maximum amount of land that can be accepted as a voluntary contribution from any individual land user (as percentage of the individual's total land holding) as well as the maximum value of assets that may be contributed by any individual (as cash equivalent). These limits will then apply to voluntary land contributions under the Programme.

The guidance for voluntary land donations and sample voluntary land donation agreement are attached to this document as Appendix 1. MoW is expected to refer to this guidance and to document the process as per the attached land donation agreements for all land under the secondary and tertiary pipelines as well as the primary reservoirs.

### **7.11 Entitlement Matrix**

An entitlement matrix is presented on the next page summarizing the following information:

- all categories of affected people
- all types of loss associated with each category
- all types of compensation and assistance to which each category is entitled

| PAP Category                                     | Compensable Units                              | Entitlements (Legal)   | Top Up   |
|--|--|--|--|
| Loss of Land                                     | Households                                     | Land for land /cash compensation<br>Disturbance allowance<br>Loss of profit<br>Transport allowance<br>Accommodation allowance  | Land preparation,<br>Land registration costs and<br>associated taxes<br>Livelihood restoration |
|  | Communities                                    |  |  |
|  | Institutions                                   |  |  |
|  | Groups   |  |  |
| Loss of undeveloped land                         | Households                                     | Land for land /cash compensation<br>Disturbance allowance  | Land registration costs and<br>associated taxes  |
|  | Communities                                    |  |  |
|  | Institutions                                   |  |  |
|  | Groups   |  |  |
| Loss of undeveloped but<br>grazing land          | Households/communities                         | Land for land /cash compensation<br>Disturbance allowance  | Land registration costs and<br>associated taxes<br>Livelihood restoration                      |
| Temporary disruptions/<br>occupation of land     | Households/communities                         | Disturbance allowance  | Land preparation   |
| Loss of residential building                     | Households                                     | House for house/Cash compensation<br>Disturbance allowance<br>Loss of profit<br>Transport allowance<br>Accommodation allowance | Land preparation,<br>Land registration costs and<br>associated taxes<br>Livelihood restoration |
|  | Communities                                    |  |  |
|  | Institutions                                   |  |  |
|  | Groups   |  |  |
| Loss of auxiliary facilities                     | Households                                     | Cash compensation<br>Disturbance allowance<br>Loss of profit<br>Transport allowance  |  |
|  | Communities                                    |  |  |
|  | Institutions                                   |  |  |
|  | Groups   |  |  |
| Loss of a commercial<br>building                 | Households                                     | In Kind/Cash compensation Disturbance<br>allowance<br>Loss of profit<br>Transport allowance                                    | Land preparation,<br>Land registration costs and<br>associated taxes<br>Livelihood restoration |
|  | Communities                                    |  |  |
|  | Institutions                                   |  |  |
|  | Groups   |  |  |
| Loss of land use right                           | Sharecroppers                                  | Loss of profit<br>Transport allowance<br>Accommodation allowance   | Livelihood restoration   |
|  | Seasonal land users                            |  |  |
|  | Caretakers                                     |  |  |
|  | Illegal squatters                              |  |  |
|  | Institutions                                   |  |  |
| Loss of bi annual and<br>perennial crops on land | Individuals/households/<br>groups /communities | Crop compensation in cash<br>Loss of profit<br>Transport allowance   | Land preparation,<br>Livelihood restoration  |
| Loss of seasonal crops                           | Individuals/households/<br>groups /communities | Crop compensation in case of injurious<br>damages<br>Loss of profit  | Sufficient notice for harvest  |
| Loss of income                                   | Business entities                              | Loss of profit<br>Transport allowance<br>Accommodation allowance   | Livelihood restoration   |
|  | Lessor   |  |  |
|  | Investors                                      |  |  |
| Loss of employment<br>opportunity                | Employees in displaced<br>businesses           |  | Loss of profit<br>Transport allowance<br>Livelihood restoration                                |
| Disruption to housing<br>arrangements            | Tenants  |  | Transport allowance<br>Accommodation allowance<br>Livelihood restoration                       |
|  | Caretakers                                     |  |  |
|  | Farm seasonal workers                          |  |  |
| Disrupted access to social<br>services           | Homes  |  | Disturbance allowance  |
|  | Schools  |  |  |
|  | Hospitals                                      |  |  |
|  | Businesses                                     |  |  |
| Disrupted access to<br>livelihood resources      | Communities                                    |  | Livelihood restoration   |
|  | Livestock keepers                              |  |  |
|  | Vulnerable households                          |  |  |
| Impact on cultural<br>property                   | Households/communities                         | Removal costs<br>Transport allowance<br>Construction costs<br>Disturbance allowance  | Ceremonial costs   |



## 8 ORGANISATION AND DELIVERY OF ENTITLEMENTS

### 8.1 Organisational Elements

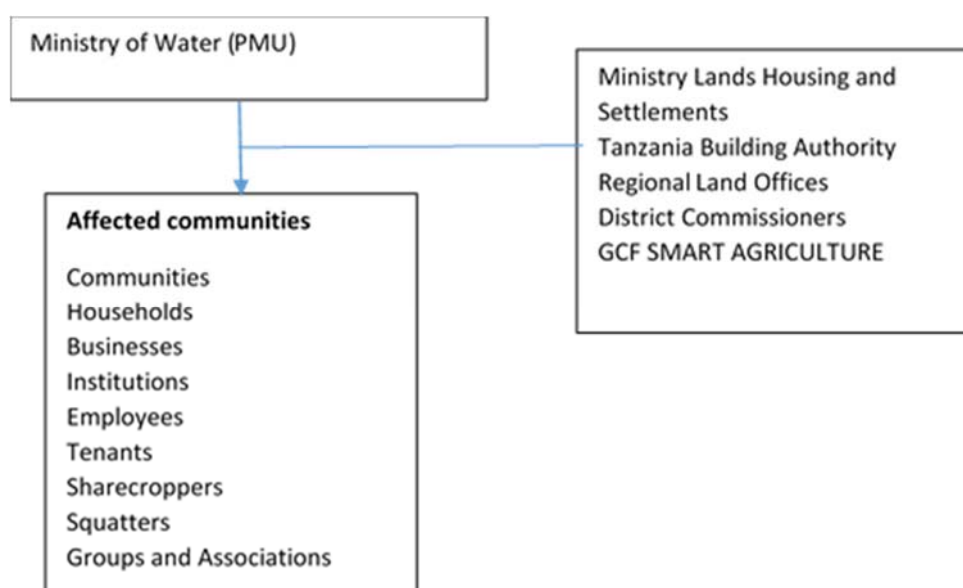
MoW will be responsible for the overall delivery of entitlements to the affected households. Cash payments to the PAPs will be through the District Councils, while MoW will work closely with the Tanzania Building Authority (TBA) to deliver replacement housing to all physically displaced households that will opt for the replacement housing compensation option. Electronic money transfers will be preferred for the monetary compensation.

Regarding the security of tenure documents, MoW will work closely with the MLHSS and the District Land Offices to process the documentation necessary for attaining security of tenure for the physically displaced households.

The process of delivery of entitlements will be witnessed by the community based authorities at the Village, Ward and District level. At the time of receiving their compensation packages, PAPs will be required to endorse the compensation certificates together with witnesses from the family (spouse and children above 18).

The implementation of the livelihood restoration initiatives will be through the Climate Smart Agriculture Project.

The figure below illustrates the organisational arrangements for the delivery of entitlements.



**Figure 4 Organisation for the delivery of entitlements.**

### 8.2 Procedures for Delivery of Entitlements

The procedures to be followed during the delivery of entitlements are as follows:

- Notification of communities: For an effective and smooth process, mobilization of the target communities will be essential. The implementing agency through the authorized officer will notify PAPs on the schedule for compensation payments. The notification will give detailed information on where the procedures, information requirements, identification requirements, and any other information as might be found necessary.

- **Public announcements:** It is suggested that on top of the official legal notifications by the Authorized Officer, press releases in the media could also be adopted for purposes of alerting even those who might own property in the project area but do not necessarily reside in the area. The press releases will contain all the vital details required to receive the compensation packages. Public announcements could be made in the local newspapers, local in a language understandable by all affected.
- **Compensation payments:** Upon receipt of instruction to proceed with the compensation payments the DC will processing compensation payments directly to the PAPs bank accounts. The arrangement will protect PAPs from being exploited by middlemen and it will safeguard their security and eliminate conflicts, personal grudges and opportunities for corruption.
- **Compensation in kind (replacement land and housing if applicable)** will also be allocated after PAP consent during disclosure. The MoW in collaboration with TBA will proceed with the construction of the replacement housing.
- After handover of the replacement housing to the PAP, MoW in collaboration with the District Land Office and The MLHS will process all the required property registration and pay all charges that will accrue from the acquisition of replacement land and housing. Registration documents will be handed over to the PAPs as a confirmation of ownership/security of tenure. Replacement housing and land is expected to be handed over prior to land take over.
- MoW together with the District land Office and the MLHS will process or support the processing of residual titles for all PAPs with registered land. These are expected to be handed over prior to land take over or as might be agreed among the concerned parties.
- **Notice to take over land:** Upon payment of compensation packages, MoW will publish a notice to take over land in a public gazette. The same notice will be served to PAPs upon receipt of their compensation package. In this notification, they will be informed of the dates when the land should be available and how much time they have before they can hand over that affected piece of land to the project. The Land Acquisition Act, 1967 requires a period of 6 weeks from the date of publishing the notification.
- All PAPs who will opt for the in kind option of compensation will only be required to move after they have been allocated replacement land. It is at that point that they will receive their notices to vacate.

## **9 IMPLEMENTATION SCHEDULE**

### **9.1 Timeframes for the Implementation of the RAP**

The tentative project timelines indicate that detailed resettlement planning and implementation will be undertaken between July 2019 and July 2020 prior to the commencement of the construction activities. Livelihood restoration activities are likely to start after the commencement of the construction activities for at least 5 years. Stakeholder engagement and grievance handling will be a continuous process throughout all the project development phases.

Construction of replacement housing and the identification of replacement land will have to be undertaken timely, in consultation with PAPs (and hosts if applicable).

It is advisable that MoW/PMU and TBA commences on the relocation planning consultations as soon as the physically displaced households are identified to understand their needs, priorities and preferences in regard to location and use of space.

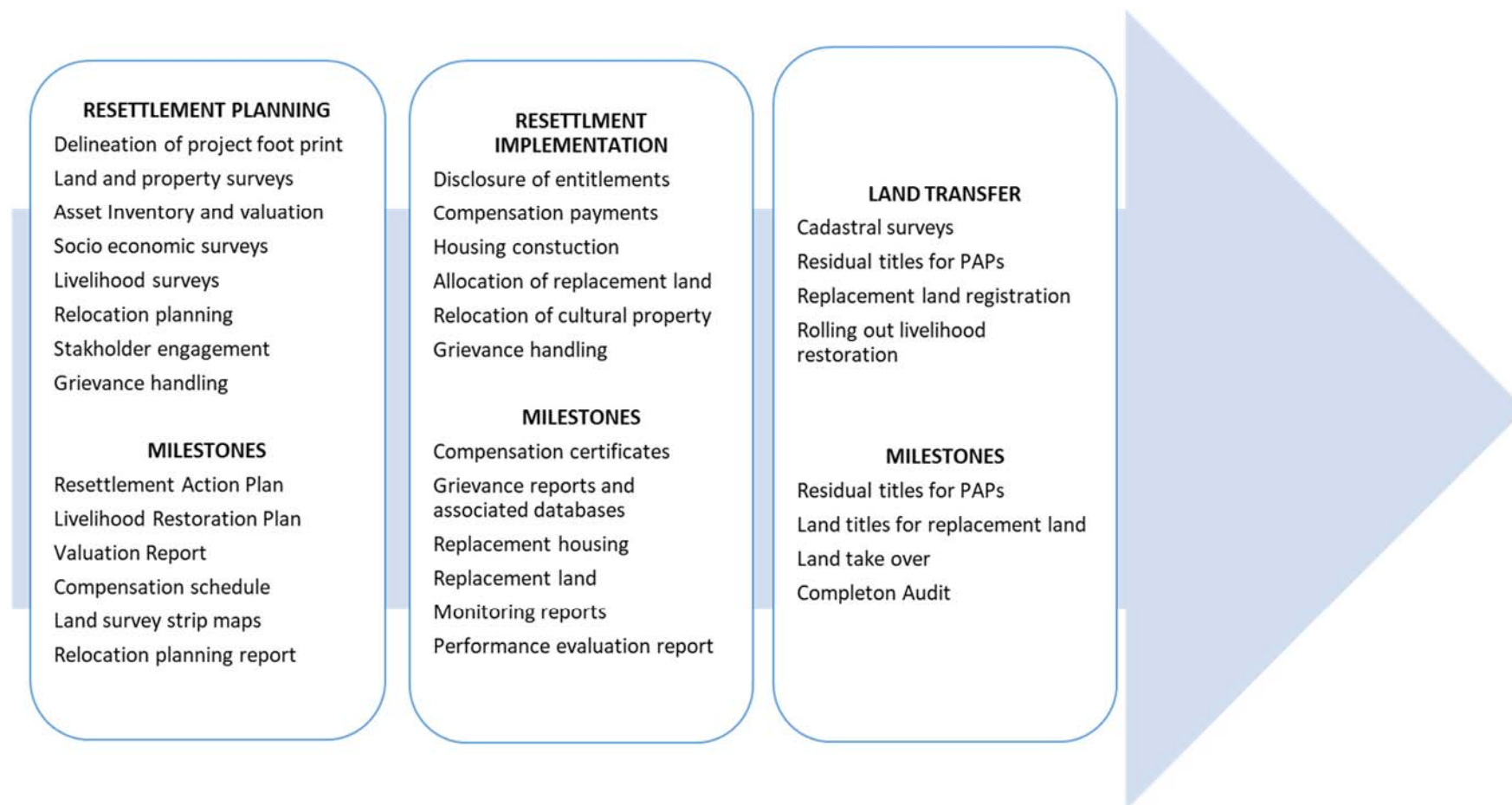
MoW/PMU should also commence on the engagement of the Village councils and the economically displaced households to commence on the process of identifying replacement land and the modalities for regularising land tenure as soon as the draft RAP report is approved.

### **9.2 Linking Resettlement Implementation to Civil Works**

A detailed implementation schedule for the resettlement implementation activities should be prepared as part of the RAP. The detailed schedule will then be linked to the overall project schedule for the construction activities. The figure below illustrates the resettlement process from resettlement planning to completion.

Given the linear nature of this project and the planned phased implementation, resettlement planning activities should be well coordinated with the construction plan to ensure that sufficient time is allowed for land acquisition without delaying the construction schedule.

Caution should be taken to ensure that displaced households are not forced to hand over land and structures before their allocated replacement land and housing are available. It will be essential for the technical team to share the construction priority areas with the RAP team to facilitate proper coordination between land acquisition and construction activities.



*Figure 5 Outline of resettlement process.*

## 10 GRIEVANCE REDRESS MECHANISMS

It is inevitable that some groups of people will become negatively impacted in the pre-construction, construction and operation phase. The impact, however, needs to be controlled promptly to avoid unnecessary tensions and conflicts. The strategy to be adopted will promote involvement of the lowest level authorities since they are easily accessible to the people. The strategy will also be a combination of the legal requirements and socially/customarily acceptable practices. Handling of grievances will be the responsibility of MoW and its Project Management Unit (PMU).

MoW will set up an internal system for receiving and handling grievances from third parties. It is recommended that an internal committee is instituted with representation from the PMU, the Technical department, the Contractor EHS representative, the Regional Land Valuer and representatives of each of the beneficiary districts. The responsibility for the coordination of the activities of this committee will lie with the PMU.

The day to day handling of grievances will be through the Community Liaison Officer that will closely coordinate with the community based grievance management systems.

### 10.1 Objectives of Grievance Redress

The objectives of the grievance resolution mechanism will be:

- To create a mechanism through which PAPs can communicate their dissatisfaction or grievances
- To create a mechanism through which the project will be able to pick all the complaints
- To create a mechanism through which the project will systematically, promptly and exhaustively respond to peoples' complaints
- To create an avenue through which the PAPs and the project can together solve problems and handle issues arising
- To create a mechanism in which the project will ensure that all complaints are promptly and adequately attended
- To create a mechanism where the project will receive feedback on what is not going as planned in regard to compensation and resettlement

### 10.2 Grievance Redress and Appeal System

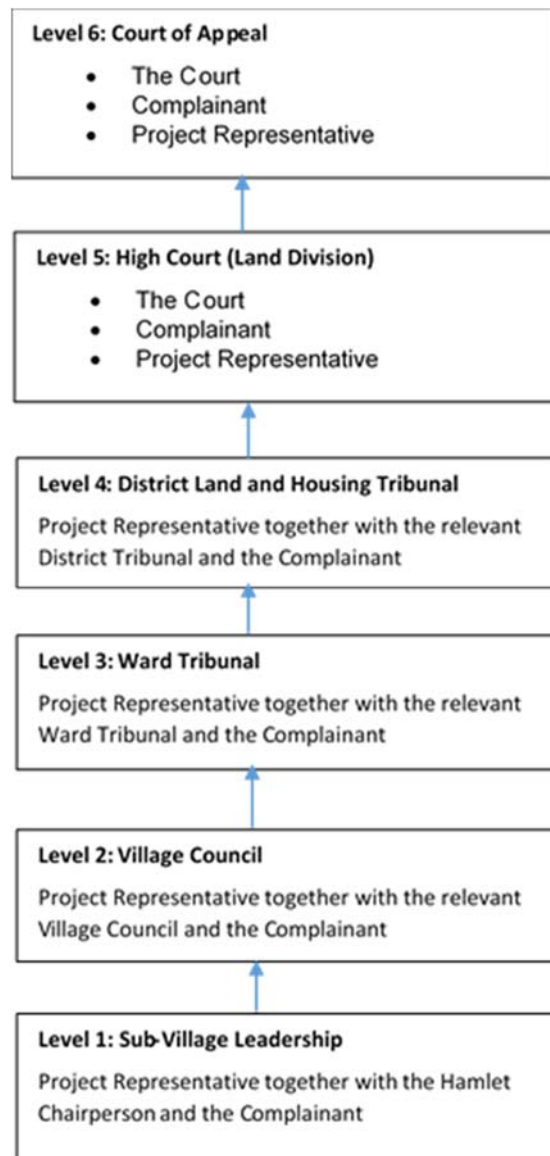
#### Grievance Redress System

Consultations with the affected communities revealed that they already have their own community based systems for grievance redress. The consultant was informed that these structures are within the sub-village (hamlet) structure, through the sub-village leadership and council of elders. The justification for the involvement of the sub-village leadership was the vast knowledge they have in regard to land ownership and their closeness to the affected households.

However, not all cases will be resolved within the traditional system, so other higher authorities have been proposed to follow up on the unresolved cases. It is worth noting that priority will be given to all the community based approaches and efforts will be made to ensure that all complaints are resolved at that level. The judicial system will be used as a last resort.

The proposed grievance redress system will only target cases involving the project and the community. The guiding principles to be followed during grievance resolution will include but not limited to the following: fairness, respect of human rights, compliance with national regulations, consistency with standards, equality, transparency honesty and respect for each other among others.

Based on the above, a five level procedure has been proposed as illustrated in Figure 6.



**Figure 6: Grievance redress system.**

#### *Level 1: Sub-Village Leadership*

PAPs will be expected to submit their complaints in writing on standard forms to the Community Liaison Officer directly or through their sub-village leader. At this level, received complaints will be registered, investigated and resolved by the project team, together with the sub-village leader and the complainant. A final decision on the way forward will be communicated to the complainant directly. In situations where both parties agree, the case will be closed at this level. Complaints at this level will mainly revolve around identification of rightful owners of property and confirmation of boundaries between households.

### *Level 2: Village Council*

All cases that cannot be resolved at the first level will be referred to the Village Council. In situations where both parties agree, the case will be closed at this level. Complaints at this level will mainly revolve around identification of rightful owners of property and confirmation of boundaries between households.

### *Level 3: Ward Tribunal*

All cases that will not be satisfactorily resolved by the village council will be forwarded to the Ward Tribunal. It should however be noted that the ward tribunal can only resolve cases of up to 3 million shillings worth. Cases with higher value will be forwarded directly from the village councils to the district tribunals. Village authorities will be encouraged to witness the process.

### *Level 4: District Land and Housing Tribunal*

All cases that may not have been satisfactorily resolved by the Ward Tribunal or cases beyond the Ward Tribunals capacity to handle will be forwarded to the District Land and Housing Tribunal if they are land related, and not exceeding 50 million shillings. All complaints accruing out of the compensation value, payment process will be resolved at this level

### *Level 5: High Court (Land Division)*

All cases that will not be satisfactorily resolved by the District Land and housing Tribunal will be referred to the high court.

### *Level 6: Court of Appeal*

PAPs who will be dissatisfied by the resolution of the high court will have a right to appeal in the court of appeal.

### Complaints Handling Process

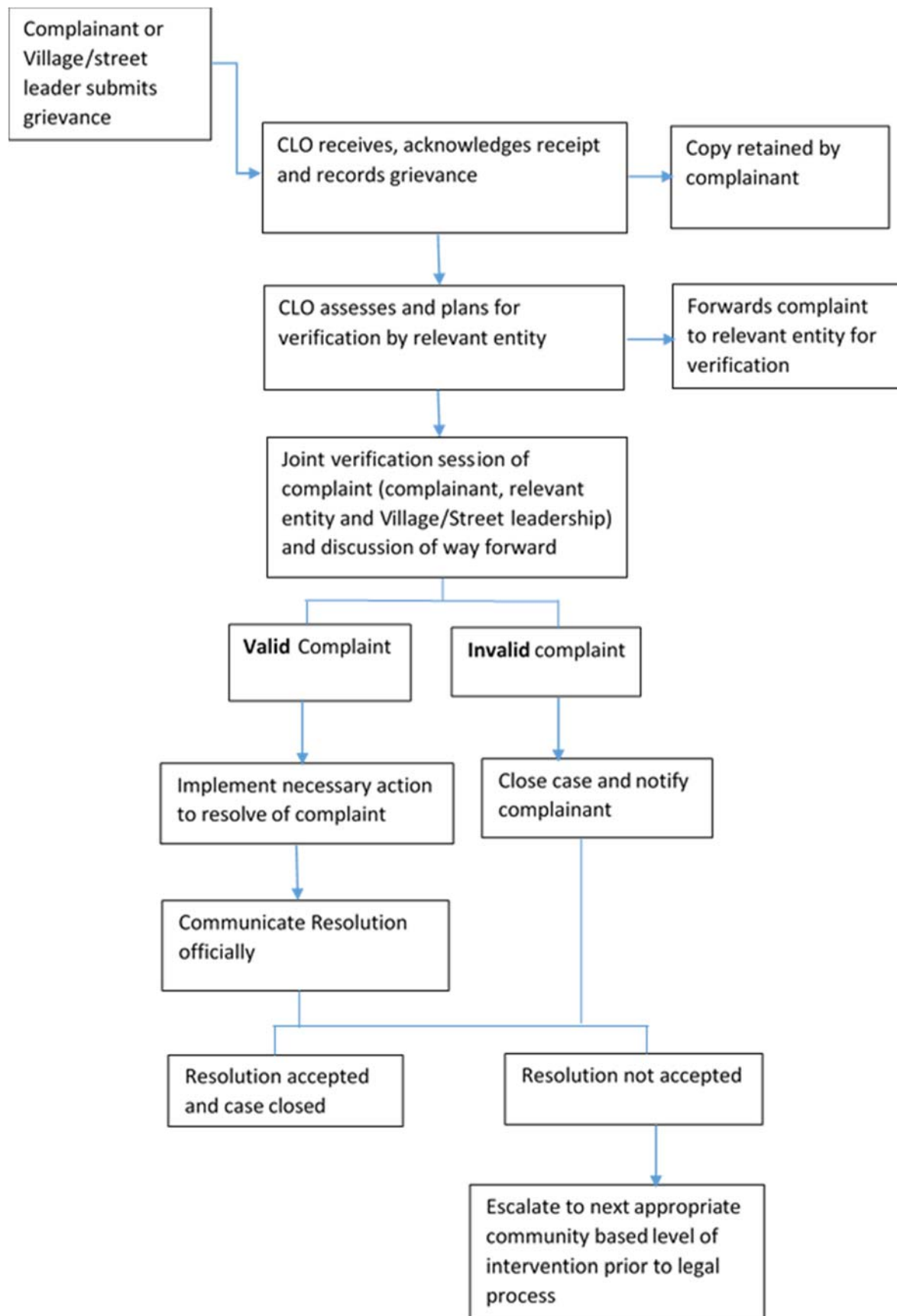
All affected stakeholders will be expected to submit their complaints in writing to either of the following collection points (corresponding to level 1 above):

- Sub-village leader
- Community Liaison Officer (MoW/PMU)

All received written grievances will be registered in the project developer's database. After registration, the grievance will be assessed and forwarded to the relevant office. The concerned officers will then investigate the validity of the grievance and plan the way forward. A fact-finding mission will be conducted together with the complainant, sub-village leader. Proposals on how the grievance can be resolved will be discussed and the complainant will be advised accordingly.

Upon acceptance by the complainant and the actual implementation of the remedy actions, the complaint will be signed off as resolved. In situations where it will be difficult to reach a consensus the case will be forwarded to higher authorities for further mediation. Figure 7 below illustrates the process of complaints handling.





**Figure 7: Process of complaints handling.**

## **11 PUBLIC CONSULTATION AND PARTICIPATION**

The project will adopt a participatory approach to community consultation and participation. Wherever possible, the project will endeavour to have direct contact with the affected communities or households. This strategy will mainly address information sharing arrangements among stakeholders for purposes of ensuring meaningful participation of stakeholders in decision making. All potential stakeholders will be identified early in the process of RAP preparation and the project will maintain a stakeholder database/analysis tool that will be updated from time to time as the project evolves. Information sharing and public consultation will be a continuous process throughout the project lifespan.

In addition, all efforts will be made to comply with the national requirements regarding the stakeholder involvement and authorisations during the land survey and asset inventory process as stipulated in the Valuation and Valuers general regulations 2018.

### **11.1 Public Consultation Mechanisms**

During the execution of the resettlement activities (both preparation and implementation), it is vital that all stakeholders are updated on the project procedures and principles. Therefore, the project will endeavour to share information promptly with all the different categories of stakeholders at the various levels.

Information sharing will be done through the following avenues:

- As part of the mobilization activities for resettlement planning, information dissemination strategies detailing the procedures and principles that will be followed during the surveying, preparation of the asset inventory, valuation, grievance handling and compensation payments. These should be conducted for all the directly affected communities, prior to commencement of the field activities associated with resettlement planning.
- At the community level, these will be presented through community meetings, while at the district and lower local government level these will be presented through a half day information sharing/capacity building session, with all the institutions likely to participate in the processes of resettlement, compensation and land acquisition.
- At local government level, continued information sharing will be in the form of monthly meetings/in-depth discussions which will mainly cover aspects of project progress, planning, strategizing, monitoring and sharing opinions.
- Since the project is not in position to maintain direct contact with all the affected communities at all times, the project will maintain close contact with the village councils and sub village leadership. The role of the village and sub-village committees is to actively participate in grievance handling and to act as a mediator between the project and the affected households in their sub-villages.
- The project will also endeavour to submit summarized quarterly updates to the community leaders for use in their forums where they might be required to share information about the project.
- At household level, interviews and discussions will be held with the household representatives. This will be vital during the process of identification of land owners within the corridor, stock referencing, disclosure, delivery of entitlements, relocation planning, livelihood restoration and grievance resolution.

### **11.2 Notification Procedures**

As a requirement from both the national legislation and the international safeguard policies and guidelines, the project will publish notification about the project plans for land acquisition publically. This will be done through the media, at both national and local level. Public notices will also be posted in all the communal places where the public can easily access them and announcements will be made in all the local languages.

MoW or its authorized representative and the Ministry of Lands, Housing and Human Settlements Development will spearhead this process of notification.

#### Notification for wayleaves acquisition

MoW will submit an application for wayleave to the Commissioner, Ministry of Lands, Housing and Human Settlements Development. In case of an approval, the Commissioner will proceed to inform the district authorities and the local governments of the intention to acquire wayleave within their jurisdiction and the purpose of the wayleave acquisition. The local governments are in turn expected to inform the village council, which will inform the village assembly of the intention to acquire land. This process is expected to last for 30 days from the date of publication of notice.

#### Notification to access land for surveying or other studies

48 hours prior to the cadastral surveys and studies for RAP preparation, all the leaders of the affected villages and likely affected households will be notified about the intention to carry out preliminary investigations/inspections in their land. The inspections should be carried out at reasonable times between 6:00am and 6:00pm. The notification will detail the nature of the planned activities and the dates or period within which the activities will be undertaken.

A Valuer shall seek and obtain prior permission to enter a property in order to undertake valuation. Verbal or written communication, for non-statutory valuations may be served to property owner or authorized representative specifying date and time of proposed entry.

#### Sensitisation

Valuation for compensation purpose shall be preceded by sensitisation meetings. Sensitisation meeting shall:

- a) be attended by a Valuer
- b) convey the purpose of valuation
- c) define compensable items
- d) explain procedures involved including a description of the valuation methodology
- e) explain duration of the exercise
- f) define the rates applicable in valuation
- g) explain legal rights/statutory entitlements and obligations
- h) share value rates to be applied
- i) disseminate the cut-off date

#### Certification of completion of property inspection

There shall be a formal certification for the completion of inspection work endorsed by the property owner, local government officials and the field Valuer for each property inspected.

#### Notice for grievance handling/feedback

Special days will be allocated to the wards for receiving feedback on the grievances submitted. The frequency will depend on the volume of complaints but initially a weekly grievance handling session per ward will be planned. These dates will be agreed upon together with the community based grievance handling structures in advance and communicated to all the PAPs.

#### Notice for disclosure

The notification will give detailed information on the venue for the disclosures, the detailed documentation required from the PAPs and the duration of the disclosures. Information to be disclosed will include the results of field inspection will be recorded on the valuation inspection sheet, which will be disclosed to PAPs

for their consent. In addition, the compensation value derived from the compensation schedule will also be disclosed to the PAPs prior to the compensation payment.

#### Notice for compensation payments

Upon receipt of all the compensation claims, MoW will notify all the affected households on the planned dates, venues and requirements for the payments at least two weeks prior to payment.

#### Notice for transfer of village land

The Village Land Act, 1999 requires that in circumstances where village land is to be transferred to reserved land, a notification has to be published in the gazette notifying all the land users that village land will be transferred to reserved land. The transfer will come into effect 30 days after the date of publication of the notice.

#### Notice for land take over

Upon receipt of their compensation packages, all PAPs will be served with the notice to take over land. In this notification they will be informed of the dates when the land should be available and how much time they have before they can hand over that affected piece of land to the project. The Land Acquisition Act, 1967 requires a period of 6 weeks from the date of publishing the notification.

This same notice will be serve the purpose of notifying all households with graves within the project footprint to transfer the remains prior to the land takeover.

## **12 MONITORING AND EVALUATION ARRANGEMENTS**

### **12.1 Process/Performance Monitoring**

This will focus on the actual progress of the implementation of the planned resettlement activities. This will be an internal function conducted by the implementing agency and the results will be reported on a monthly basis. This will be the responsibility of MoW/PMU and its field teams. Focus will be on the following indicators:

- Total number of eligible PAPs
- Number of PAPs to whom the compensation packages have been disclosed
- Number of households that have consented to their compensation packages
- Number of households that have received their compensation packages
- Number of households allocated replacement land
- Number of households allocated replacement houses if applicable
- Number of households that have received facilitation for the relocation of graves
- Number of graves removed from the project site per month
- Number of households physically resettled
- Number of replacement houses handed over to PAPs
- Number of households enrolled for the livelihood restoration program
- Status on ongoing income restoration activities
- Number of vulnerable households supported during the transition period
- Type of support given to vulnerable households
- Number of grievances received
- Number of grievances resolved
- Number of grievances pending resolution
- Number of grievances forwarded to the District Land and Housing Tribunal
- Number of project grievances forwarded to the High Court (Land Division)
- Number of project grievances resolved at the District Land and Housing Tribunal
- Number of new plots of land legally transferred and registered
- Number of residual titles processed and handed over to owners
- Expenses towards compensation, income restoration, relocation/transition allowance

### **12.2 External Performance Evaluation**

MoW/PMU will engage an independent party for external monitoring and evaluation. The purpose will be to determine the following:

- Compliance of project activities with the stated commitments, objectives, policy and procedures.
- Effectiveness of planned mitigation measures, particularly with regards to resettlement impacts, and development measures in restoring or enhancing resettlement-affected people's quality of life and livelihoods.
- Documenting recommendations for improvement and adjustments whenever necessary.

### **12.3 Completion Audit/Impact Monitoring**

Upon completion of the resettlement activities, a completion audit should be conducted. This will focus on the adequacy of the resettlement and livelihood restoration initiatives, their impact on the affected households among others. The audit will identify gaps, if any, and make recommendations on the way forward. The completion audit should be conducted by an independent party or external agency. The findings and recommendations of the completion audit will be undertaken as the concluding activities of the resettlement and livelihood restoration activities.

Parameters for impact monitoring are as shown in the table below.

| Parameter         | Indicator   |
|-------------------|---|
| Land availability | <ul style="list-style-type: none"> <li>• Average size of land owned</li> <li>• No. of households that acquired/started new agricultural plots</li> <li>• No. of households with sufficient land resource to support their livelihoods</li> <li>• No. of households with restored production levels</li> </ul> |
| Household income  | <ul style="list-style-type: none"> <li>• No. of business premises restored</li> <li>• No. of households with more than one source of income</li> <li>• No. of new business outlets</li> <li>• Average seasonal income</li> </ul>  |
| Food security     | <ul style="list-style-type: none"> <li>• No. of households with sufficient food reserves throughout the year</li> <li>• Household number of meals per day</li> <li>• Household food composition</li> <li>• Household ease of access to food</li> </ul>  |
| Home restoration  | <ul style="list-style-type: none"> <li>• No. of households with new homes</li> <li>• No. of households without restored homes</li> <li>• Nature of structures</li> </ul>  |

## **13 FUNDING ARRANGEMENTS FOR RESETTLEMENT**

### **13.1 Flow of Funds**

The resettlement and compensation activities will be wholly funded by the Ministry of Water (MoW).

### **13.2 Estimated Budget**

The resettlement budget will be prepared as part of the RAP as the magnitude of the resettlement impact can only be determined based on the detailed project design combined with a census and asset inventory. Preliminary calculations of resettlement costs show that the main cost item is compensation for structures. The total number of affected structures has been estimated at 528 for the proposed alignment along the main roads (including the bypass at Ngasamo village). However, significant savings and reduced impacts can be achieved by re-routing the pipeline corridor in high population areas, especially in Bariadi town (including Mahaha and Kilulu villages along the Bariadi-Lagangabilili road), Dutwa (Majengo and Igaganulwa villages) and Nyang'hanga (Bulima village) where many residential and commercial buildings are located adjacent to the main road and within the road reserve. A total of 127, 60 and 29 structures were counted in Bariadi town, Dutwa and Nyang'hanga, respectively. Assuming that it will be technically feasible to realign the water main around these high population centres (without traversing additional structures along the alternative route), the resettlement cost can be reduced by an estimated 35-40%.

Thus, it is clear that relying on the road reserve in these sections does not offer the best alternative in terms of resettlement impact, unless the water pipes can be fitted closer to the actual road (i.e. within the 22.5 m distance from the centre line) where TANROADS have already acquired the land and relocated all structures. MoW and the design consultant are currently updating the detailed design by re-considering the use of the road reserve.

In conclusion, the following steps should be taken in order to minimise displacement and to ensure fair and just compensation:

- The design consultant should explore the possibilities of re-routing the corridor for the water main in order to bypass the highly populated areas in Dutwa and Nyang'hanga and the urban centre in Bariadi town.
- A Resettlement Action Plan (RAP) should be prepared and implemented prior to the start of the construction works. The planning and implementation of the RAP shall be guided by the World Bank safeguard policies on involuntary resettlement (OP/BP 4.12 and IFC Performance Standard 5) and by the national requirements.



## APPENDIX: GUIDELINES FOR VOLUNTARY LAND DONATIONS

Voluntary land donations are only acceptable provided that the Borrower verifies and demonstrates that all voluntary land transactions meet the following criteria:

| Criteria   | Yes + explanation | No + explanation |
|--|-------------------|------------------|
| 1. The land in question is free of squatters and no people with customary rights or no legal title are using it;   |                   |                  |
| 2. The land in question is free from any dispute on ownership or any other encumbrances;   |                   |                  |
| 3. No household relocation is involved;  |                   |                  |
| 4. The amount of land being donated is minor and will not reduce the donor's remaining land area below that required (i.e., no more than 10% of total agricultural land holding donated) to maintain the donor's livelihood at current levels; |                   |                  |
| 5. The donor is expected to benefit directly from the project;   |                   |                  |
| 6. The donor is aware that refusal is an option;   |                   |                  |
| 7. The donor has been appropriately informed and consulted about the project and the choices available to him/her;   |                   |                  |
| 8. A grievance redress mechanism is in place to hear complaints regarding land acquisition;  |                   |                  |
| 9. Land transfer will be completed through registration after the donor has confirmed in writing his/her willingness to proceed with the donation;   |                   |                  |
| 10. For community or collective land, donation has occurred with the consent of individuals using or occupying the land.   |                   |                  |

The Borrower, through field technical teams, will verify the fulfillment of these criteria and provide further explanations on each criteria. If all criteria are fulfilled, the Borrower will ensure completion of the voluntary land transaction in written consent form (see sample waiver below). The donation will be verified by two witnesses who are community leaders but not beneficiaries of the subproject, to ensure that the land was voluntarily donated without any form of duress. The signed waivers will be submitted to KfW and verified by the Bank in order to ensure that the voluntary land donation has been conducted in accordance with the above criteria.

## A SAMPLE VOLUNTARY DONATION OF LAND AGREEMENT

The following agreement has been made on ..... day of ..... between Mr./Ms. ...., aged ....., resident of ..... zone, district ..... (the Owner) and ..... (the Recipient/Subproject Proponent).

1. That the land with certificate no..... is a part of ....., is surrounded from eastern side by ....., western side by ....., northern side by ....., and southern side by .....
2. That the Owner holds the transferable rights of land ..... (area in square meters), with plot no..... at the above location (include a copy of the certified map, if available) .
3. That the Owner testifies that the land/structure is free of squatters, no people with customary rights or no legal title are using it, no household relocation will be needed and that there is no dispute on ownership or any other encumbrances in regards to the land.
4. That the Owner ensures that the amount of land being donated is minor and will not reduce the Owner's remaining land area below that required (i.e., no more than 10% of total agricultural land holding donated) to maintain the Owner's livelihood at current levels.
5. That the Owner has been appropriately informed and consulted about the project and the choices available (including refusal) as well as possible ways to address grievances.
6. That the Owner hereby grants to the..... (name of the Recipient) this asset for the construction and development of the .....for the benefit of the community and that the Owner's property rights will be handed over to and registered in the name of ..... (name of the Recipient).
7. That the Owner will not claim any compensation against the grant of this asset nor obstruct the construction process on the land in case of which he/she would be subject to sanctions according to law and regulations.
8. That the .....(name of the Project Proponent) agrees to accept this grant of asset for the purposes mentioned.

**Name and Signature of the Owner**

.....  
(Signature, name and address)

**Signature of Subproject Proponent/Representative**

.....  
(Signature, name and address)

**Witnesses 1:**

1.....  
(Signature, name and address)

**Witnesses 2:**

2.....  
(Signature, name and address)



## **CONTRACT/AGREEMENT**

**BETWEEN**

**Sir/Madam.....**

**AND**

**LOCAL GOVERNMENT AUTHORITY**

-----

**FOR THE PURPOSE**

**VOLUNTARY LAND DONATION**

**MONTH/YEAR**

**...../.....**

**VOLUNRATY LAND DONATION AGREEMENT  
SIMIYU CLIMATE RESILENT PROJECT**

**This Agreement/Contract** has been signed the day of.....this

Month of..... Year.....

**BETWEEN**

I ..... of the Postal Box ..... Village of  
.....District..... Region..... (Who will  
be known as the "Landowner" Speech that will include his heirs on the one hand);

**AND**

**DISTRICT EXECUTIVE DIRECTOR** of the Postal Box..... (who will be  
known as the "Land Receiver") will include a list that will include his heirs on the  
other hand).

**THE LAND DONATOR** is the legal owner of the plot/field  
.....(m<sup>2</sup>) existing in Village of .....County of  
.....,Region of.....District of .....In his  
own voluntary and rational decision he has decided to provide a portion of the  
area/land mentioned in this Agreement to the District of ..... for  
implementing the Simiyu Climate Resilient Project.

**PREAMBLE**

The Government of Tanzania in collaboration with KfW through GCF financing  
implementing the Climate Resilient Project in Simiyu Region, specifically supporting  
the targets under Components of Water Supply and Sanitation, Irrigation and Climate  
Smart Agriculture.

Citizens of all areas that will be hosted by the water project jointly and voluntarily  
and aimed at facilitating the implementation of the project for public benefit, have  
agreed to provide their Land for the relevant Councils for implementation of Water  
Supply and Sanitation project, where the community will voluntary offer the land as  
in kind contribution to the project.

**THERE ARE** both parties witnessing and agreeing as follows: -

1. **WHEREAS** The Land Owner is pleased to provide the area / field / plot mentioned in this agreement for facilitating the implementation Simyu Climate Resilient to the region.....
2. **WHEREAS** For the Land Receiver will use the area provided for the use for water infrastructures and not for other purposes.
3. **WHEREAS** the landowner is not allowed to perform any permanent transactions that will endanger the presence of the pipeline and the project as a whole in the entire area covered by the project such as building a house and growing trees.
4. **WHEREAS** a Landowner whose area has a permanent infrastructure which will be damaged in one way or another and the construction of the project will be paid in a manner that will be directed to the value of the undertaking.
5. **WHEREAS** the Landowner makes sure that the land he has provided for the project is his own property and no one else owns the property and if anybody else claims that ownership of the area and has been proven to be the legal owner of the area, then the landlord will have the responsibility to pay compensation to that person.
6. **WHEREAS** this agreement will be governed by Law of United Republic of Tanzania.

This is the WITNESS that the land donator and land recipient have agreed with the terms of this Agreement voluntarily have signed this agreement this day of..... this Month.....Year..... as shown below:

**ON BEHALF OF LAND DONATOR:**

**WITNESSED BY:**

NAME ..... NAME: .....

SIGNATURE: ..... SIGNATURE: .....

DESIGNATION:.....DESIGNATION: .....

DATE ..... DATE: .....

**WITNESSED BY :**

NAME.....

SIGNATURE.....

DESINATION.....

DATE:.....

**ON BEHALF OF THE LGA:**

**WITNESSED BY:**

NAME ..... NAME: .....

SIGNATURE: ..... SIGNATURE: .....

DESIGNATION:.....DESIGNATION: .....

DATE ..... DATE: .....

**WITNESSED BY MINISRTY OF WATER REPREENATIVE:**

NAME.....

SIGNATURE.....

DESINATION.....

DATE:.....



## **MAKUBALIANO**

### **KATI YA**

**Bwa/Bibi.....**

**NA**

**MAMLAKA YA SERIKALI ZA MTAA**

-----

**KWA LENGU LA**

**KUTOA ARDHI KWA HIARI**

**MWEZI/MWAKA**

**...../.....**

**MKATABA WA KUTOA ARDHI KWA HIARI**

**MRADI WA KUKABILIANA NA MABADILIKO YA  
TABIANCHI-SIMIYU**



**MKATABA HUU** umesainiwa leo tarehe.....ya mwezi  
.....Mwaka .....

## **BAINA YA**

**NDUGU**.....wa Sanduku la  
Posta....., Kijiji cha .....,  
Wilaya ya ..... Mkoa wa Simiyu (ambaye atajulikana kama  
“**Mtoa Ardhi**” msembo ambao utajumuisha warithi wake kwa upande  
mmoja);

## **NA**

**MKURUGENZI WA HALMASHAURI YA WILAYA**..... wa  
Sanduku la Posta ..... Nzega, Tabora (atakaejulikana kwa jina  
“**Mpokeaji Ardhi**”) msembo ambao utajumuisha warithi wake kwa  
upande mwingine).

**KWA KUWA MTOA ARDHI** ni mmiliki halali wa  
eneo/ardhi/kiwanja/shamba lenye ukubwa wa  
mita....., upana wa mita kumi (mita 5 kila upande),  
urefu....., lililopo katika Kijiji cha ....., Kata ya  
....., Tarafa....., Wilaya ya  
....., Mkoa wa Simiyu. Kwa hiari yake  
mwenyewe bila kulamizimishwa akiwa na akili timamu ameamua  
kutoa sehemu ya eneo tajwa katika Mkataba huu kwa  
**HALMASHAURI YA WILAYA YA** ..... kwa ajili ya  
kupitisha Bomba kubwa la Maji la Mradi wa kutoa maji Ziwa Viktoria  
kwenda Miji ya Busega, Bariadi na Itilima.

## **MAELEZO YA AWALI:**

Serikali kwa kushirikiana na Serikali ya Ujerumani kupitia Benki ya  
Maendeleo ya Ujerumanui (KfW) inatekeleza mradi mkubwa  
kukabiliana na mabadiliko ya tabianchi kwa lengo la kuhakisha kuwa  
wananchi wa mkoa wa Simiyu wanaweza kukabiliana na mabadiliko  
yanayosababishwa na athari ya mabadiliko ya tabianchi.

Wananchi wa maeneo yote yatakayopitiwa na Mradi huo wa maji kwa  
pamoja na kwa hiari yao na kwa lengo la kuwezesha utekelezaji wa  
mradi huo kwa manufaa ya umma, wamekubali kutoa Ardhi zao kwa

Halmashauri husika itakayotumika kwa ajili ya utekelezaji wa mradi huo.

**HIVYO BASI** pande zote mbili zinashuhudia na kukubaliana kama ifuatavyo:-

1. **KWAMBA** Mtoa Ardhi kwa hiari yake mwenyewe anaridhia kutoa eneo/shamba/kiwanja tajwa katika mkataba huu kwa ajili ya kuwezesha mradi wa kutoa maji kutoka Ziwa Victoria kwenda kwenye miji ya Busega, Bariadi na Itilima.
2. **KWAMBA** Mpokea Ardhi atatumia eneo analopewa kwa matumizi ya kupitisha bomba la maji chini ya ardhi na si kwa matumizi mengine.
3. **KWAMBA** Mtoaji Ardhi hatoruhusiwa kufanya shughuli yoyote ya kudumu ambayo itahatarisha uwepo wa bomba na mradi kwa ujumla katika eneo lote litakalopitiwa na bomba kama vile kujenga Nyumba na kupanda miti mikubwa.
4. **KWAMBA** Mtoa Ardhi ambaye eneo lake lina miundombinu ya kudumu ambayo itaharibiwa kwa namna moja ama nyingine na ujenzi wa mradi atalipwa kwa utaratibu utakaoelekezwa kutokana na uthamini uliofanyika.
5. **KWAMBA** Mtoaji Ardhi anahakikisha kuwa ardhi aliyotoa kwa ajili ya mradi ni mali yake mwenyewe na hakuna mtu mwingine mwenye umiliki na eneo hilo na endapo atatokea mwingine kudai umiliki wa eneo hilo na ikathibitika kuwa ndiye mmiliki halali wa eneo hilo, basi mtoa ardhi atakuwa na jukumu la kulipa fidia kwa mtu huyo.
6. **KWAMBA** mkataba huu utasimamiwa na Sheria ya Mkataba ya Jamuhuri ya Muungano wa Tanzania.

**KAMA USHUHUDA** kuwa **MTOA ARDHI** na **MPOKEA ARDHI** wamekubaliana na masharti ya Mkataba huu kwa hiari yao wenyewe wamesaini mkataba huu Tarehe.....Mwezi ..... Mwaka.....kama inavyoonekana hapa chini:

**KWA NIABA YA MTOA ARDHI:**

JINA: .....

SAHIHI: .....

CHEO: .....

TAREHE: .....

**MBELE YA:**

JINA: .....

SAHIHI: .....

CHEO: .....

TAREHE: .....

**MBELE YA:**

JINA.....

SAHIHI.....

CHEO.....

TAREHE:.....

**KWA NIABA YA HALMASHAURI:**

JINA: .....

SAHIHI: .....

CHEO: .....

TAREHE: .....

**MBELE YA:**

JINA: .....

SAHIHI: .....

CHEO: .....

TAREHE: .....

**MBELE YA MWAKILISHI WA WIZARA YA MAJI NA UMWAGILIAJI:**

JINA.....

SAHIHI.....

CHEO.....

TAREHE:.....