



**ODRA-VISTULA FLOOD MANAGEMENT PROJECT – 8524 PL**

**LA&RAP – LAND ACQUISITION AND RESETTLEMENT ACTION  
PLAN**

**COMPONENT 2: Flood Protection of the Nysa Kłodzka Valley**

**Sub-component 2.A: Active protection**

**2A.1/2 Construction of "Roztoki Bystrzyckie" - a dry flood control reservoir on  
Goworówka stream**



**ENVIRONMENTAL CATEGORY B – ACCORDING TO OP 4.01 of WB**

Issue	Date	Author	Checking person	Approval Client	Description
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## 1 List of abbreviations used in the study

ARPA	Agricultural Real Property Agency
AP	<i>Affected Population</i>
2A.1/2	Task 2A.1/2 Construction of a dry flood control reservoir on the Goworówka stream in Roztoki Bystrzyckie
World Bank	International Bank for Reconstruction and Development
PCU	Odra-Vistula Flood Management (OVFMP) Project Coordination Unit
WB	See <i>World Bank</i>
GDEP	General Director for Environment Protection
GIS	Geographic Information System – a terrain information system consisting of a terrain database concerning a given area as well as procedures and techniques of systematic collection, updating and providing access to data.
CSO	Central Statistical Office of Poland
Joint Venture	A joint venture consisting of the following companies: AECOM Ltd, Halcrow Group Ltd, BRL Ingenierie, AECOM Polska sp. z o.o.
PIU	Odra-Vistula Flood Management (OVFMP) Project Implementation Unit in the Regional Water Management Authority in Wrocław
Investor	Regional Water Management Authority in Wrocław
Engineer	See <i>Consultant</i>
Consultant	The Consultant for the Regional Water Management Authority in Wrocław providing services as part of a procurement entitled “ <i>Design and Construction Supervision for works. Project Management, Technical Assistance and Training, Technical Support for the Project and Strengthening of PIU’s Institutional Capacity.</i> ”
CC	The Law of 23 April 1964 – Civil Code (consolidated text: Journal of Laws of 2016, item 380 as amended)
CAP	The Law of 14 June 1960 – Code of Administrative Procedure (consolidated text: Journal of Laws of 2016, item 23 as amended)
LARPF	<i>Land Acquisition and Resettlement Policy Framework</i>
MaxDL	Maximum damming level
NBP	National Bank of Poland
NGO	Non-governmental Organization
SAC	Supreme Administrative Court
OVFMP	Odra-Vistula Flood Management Project
EIA	Environmental Impact Assessment
OP 4.12	The symbol of a document containing the principles of conducting involuntary resettlement required for Task co-financing with a World Bank loan: Operational Policy 4.12 – Involuntary Resettlement

PAP	Project Affected Person
IPIP	Investment project implementation permit in the scope of flood protection facilities
OVFMP	Odra-Vistula Flood Management Project
LA&RAP	Land Acquisition and Resettlement Action Plan
Project	See <i>OVFMP</i>
Valuer/expert	A natural person possessing state professional qualifications in the scope of real property valuation
RDEP	Regional Director for Environment Protection
RZGW WR	Regional Water Management Authority in Wrocław
Road Act	The Law of 10 April 2003 on specific terms of preparing for implementation of projects in the scope of public roads (consolidated text: Journal of Laws of 2015, item 2031 as amended)
Flood Act	The Law of 08 July 2010 on specific terms of preparing for implementation of projects in the scope of flood protection facilities (consolidated text: Journal of Laws of 2015, item 966 as amended)
PL	Permanent limitations in using real properties
EU	European Union
RPM Law	The Law of 21 August 1997 on the real property management (consolidated text: Journal of Laws of 2015, item 1774 as amended)
FGA Law	The Act of 13 December 2013 on Family Garden Allotments (Journal of Laws of 2014, item 40 as amended)
RAC	Regional Administrative Court
Contractor	A company or legal person implementing Contract no. 2A.1/2/2015 Construction of a dry flood control reservoir on the Goworówka stream in Roztoki Bystrzyckie
Task	Construction of a dry flood control reservoir on the Goworówka stream in Roztoki Bystrzyckie
Employer	Regional Water Management Authority in Wrocław
CIRD	Decision on consent for implementation of a road development

## 2 Key definitions

This document uses the following key definitions:

**Real property price** – an amount negotiated with a real property owner and due to that owner for a given real property or its part based on the real property value determined by a qualified valuer.

**Economic resettlement** – loss of benefits, revenues or means of support stemming from land purchases or difficulties in access (to land, water or forest) arising as a result of construction or operation of designed facilities or related structures.

**Groups requiring special assistance** – people whose sex, belonging to an ethnic group, age, being handicapped, difficult financial situation or difficult social position makes them more exposed to negative effects of resettlement than other groups and who may have a limited possibility of submitting claims, receiving resettlement assistance or participating in the benefits related to the investment.

**Resettlement cost** – the scope of compensation for lost goods/real properties which covers the market value of the goods/real properties and the costs of conducting resettlement.

**Compensation** – paid in cash or in the form of a replacement real property for the real properties that were purchased or that the Project affects. Compensation is paid at the time when the real property has to be handed over by the owner to the Investor. Under the Polish law in this scope, compensation may be paid from the moment when, as a rule, the expropriation decision becomes final and, in all cases, before real property acquisition and seizure for construction purposes.

**OP 4.12 Involuntary Resettlement** — an operational policy containing the main principles and procedures which constitute the basis for the IBRD to commence involuntary resettlement related to investment projects.

**Project Affected Person** – every person who, as a result of Project implementation, loses the right of ownership; other benefits related to the owned inhabited (residential, agricultural or breeding) infrastructure; annual or perennial yield and produce; or other related or movable assets – in whole or in part, permanently or temporarily.

**Involuntary resettlement** – the resettlement is involuntary when it is conducted without the resettled person’s consent (against their will) or as a result of granting forced consent (without the possibility of raising an objection to resettlement), e.g. by expropriation.

**Expropriation** – consists in depriving a person of their property right in the designated real property or limiting that right under an individual legal act.

**Purchase/voluntary sale** – a transaction of paid acquisition of the right to the real property from its owner/holder against a price accepted by both parties if the owner has the possibility of refusing the transaction. If the Project resorts to expropriation, the purchase is not considered as voluntary (i.e. willing purchaser/willing seller).

**Replacement value** – compensation for the loss of goods priced according to their market value together with all transaction costs (e.g. taxes, fees). It is aimed at sufficiently effective substitution of lost goods (replacement value). This value does not include depreciation of the asset.

## 3 Introduction

### 3.1 PROJECT DESCRIPTION

This document is a Land Acquisition and Resettlement Action Plan for Task 2A.1/2 Construction of "Roztoki Bystrzyckie" - a dry flood control reservoir on Goworówka stream. The Task is implemented as part of Component 2: Flood protection of the Kłodzko Valley of the Odra-Vistula Flood Management Project. The Odra-Vistula Flood Management Project (OVFMP) is implemented with the help of international financial institutions, including the International Bank for Reconstruction and Development (also referred to as the World Bank) and the Council of Europe Development Bank as well as with the support of the Cohesion Fund and the state budget. OVFMP is aimed at improving flood protection of people living in selected areas of the Odra river basin and the Upper Vistula river basin as well as strengthening the institutional capacity of public administration concerning more effective reduction of flood results. As a result of Project implementation, flood management infrastructure shall be constructed together with related technical centres in three separated areas of Poland: (i) Middle and Lower Odra river basin; (ii) Kłodzko Valley (Nysa Kłodzka river basin); and (iii) Upper Vistula river basin.

The Project formal framework in the scope of real property acquisition is defined by the Land Acquisition and Resettlement Policy Framework available online at the following address:

[http://www.odrapcu.pl/doc/OVFMP/Resettlement\\_Policy\\_Framework.pdf](http://www.odrapcu.pl/doc/OVFMP/Resettlement_Policy_Framework.pdf)

The scope of flood protection of the Kłodzko Valley includes flood protection of its inhabitants (approx. 234 thousand people) and inhabited areas with a total surface area of approx. 497 ha. The investment also anticipates individual protection of approx. 250 farms. Flood risk in the area of the Kłodzko Valley is in the first place associated with insufficient capacity of river beds and streams and transport infrastructure, insufficient number of flood reservoirs and insufficient number and height of flood banks. The existing flood protection infrastructure is in poor technical condition and does not provide flood protection to inhabitants of waterside areas. The scope of works related to flood protection of the Kłodzko Valley includes actions concerning both active (sub-component 2A) and passive protection (sub-component 2B).

The Tasks implemented as part of Component 2: Kłodzko Valley with the greatest potential of impact on the Affected Population (AP) include construction of dry retention reservoirs as well as construction of embankments, modernization of embankments, and demolition of structures. It may prove necessary to physically relocate several households and non-residential buildings. Impacts on the possibility of running the economic (in cities) or agricultural (in rural areas) activity may also occur.

#### **Sub-component 2B – Passive protection**

The scope of passive protection covers flood protection of the areas situated along four main rivers of the Kłodzko Valley: Nysa Kłodzka, Ścinawka, Biała Łądecka with the main left-hand



side tributary, the Morawka River, and Bystrzyca Dusznicka River with the main left-hand side tributary, Kamienny Potok.

Passive protection covers refurbishment and renovations to the existing bank revetments and increasing the capacity of river beds and streams, construction of new or refurbishment of the existing embankments and protection walls, increasing the capacity of the existing weirs and regulation barrages, increasing the capacity of the existing bridge constructions and footbridges as well as individual protective measures for households or relocation of structures that cannot be protected beyond the boundaries of flood areas.

The Task *Investor* is the Regional Water Management Authority in Wrocław, which acts in the name and on behalf of the State Treasury when acquiring the real properties necessary to implement the Task. The real properties acquired as part of Task implementation shall be put under permanent administration of the Regional Water Management Authority in Wrocław.

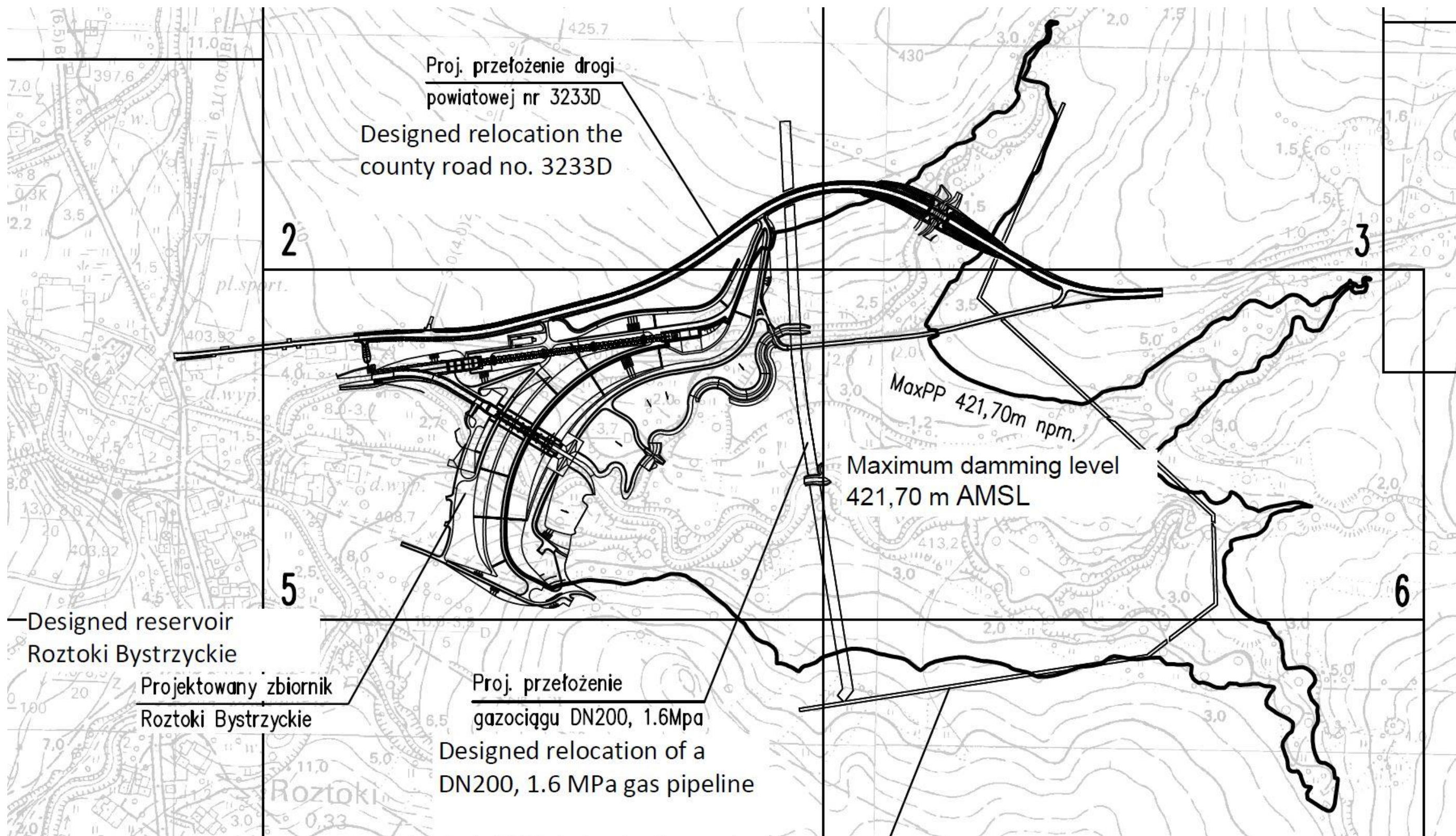
Task 2A.1/2 Construction of "Roztoki Bystrzyckie" - a dry flood control reservoir on Goworówka stream is located in the Międzyzylesie Municipality, at the estuary section of the Goworówka stream, approximately 150.0 m east from the most westward buildings in the Roztoki Bystrzyckie village (above the village).

Taking into account the existing provisions concerning the implementation of projects in the scope of flood protection facilities and the implementation of projects in the scope of public roads, the Task was divided into two parts:

- Construction of a Roztoki Bystrzyckie dry flood control reservoir on the Goworówka stream. The project will be carried out in accordance with the Flood Act. The project involves relocation of a 20 kV MV overhead power cable line and a DN200, 1.6 MPa ground gas pipeline, and disassembly/demolition or relocation of municipality roads that are not public roads.
- Relocation of district road No. 3233D Roztoki-Goworów-Międzyzylesie in the territory of the Roztoki precinct that collides with the construction of the "Roztoki Bystrzyckie" dry flood control reservoir on the Goworówka stream. The project will be carried out in accordance with the Special Road Act. The Project shall be implemented in agreement with the relevant road manager – the District Road Administration in Kłodzko.

The Roztoki Bystrzyckie reservoir is designed as a single-function one. Its primary and only function shall be flood protection. It shall be a dry reservoir. It shall consist of two basic parts: a dam and a basin.

In accordance with the principles of operation of dry flood control reservoirs, the Goworówka stream shall flow freely through the reservoir basin and the relief structures during normal operation. If the flow becomes higher than allowed, a part of the flood wave waters shall be retained in the reservoir basin until the flow in the stream starts to decrease again. Stream's bed in the reservoir basin shall be left in its natural condition and the reservoir basin shall be used as meadows and pastures.



Map 1 – Location of the dry flood control reservoir on the Goworówka stream in Roztoki Bystrzyckie



In connection with reservoir implementation it shall be necessary to acquire 56 real properties with a total surface area of 79.52 ha, 41.82 ha of which are private plots and 0.65 ha are plots belonging to Międzyzylesie Municipality. Thus, real properties belonging to private owners constitute approx. 31 of the real properties planned for permanent acquisition.

Three properties with a surface area of 3.76 ha, located in the Task implementation area, are the property of the State Treasury managed by the RZGW in Wrocław.

No physical or economic resettlement shall take place in connection with the construction of the reservoir, and Task implementation do not have a significant impact on the livelihood of households.

The scope of the designed investment covers:

1. Relocation or disassembly of existing facilities colliding with the investment, in particular:
  - a. Sectional regulation of Nowinka stream bed in reservoir basin: relocation of the existing bed, regulation of the existing bed, and reconstruction of the bed where it collides with the reconstructed DN200, 1.6 MPa gas pipeline.
  - b. Sectional regulation of Goworówka stream bed in reservoir basin: reconstruction of the bed where it collides with the reconstructed DN200, 1.6 MPa gas pipeline
  - c. Relocation of the existing municipality road that is not a public road (plot No. 251/3, map sheet AM1, Roztoki precinct) – disassembly and construction in a new location.
  - d. Disassembly of the existing municipality road that is not a public road (plot No. 238, map sheet AM1, Roztoki precinct) where it collides with the construction of the reservoir. The road shall be included in the designed system of internal roads further up.
  - e. Relocation of a 20 kV MV overhead power cable line – demolition and construction in a new location.
  - f. Relocation of a DN200, 1.6 MPa gas pipeline - disassembly and construction in the same location.
  - g. Disassembly of a non-operational pipeline with a ditch where it collides with the body of the earth-fill dam (plot No. 251/1, map sheet AM1, Roztoki precinct).
  - h. Disassembly of building foundations on plot No. 242/5, map sheet: AM1, Roztoki precinct.
2. Construction of reservoir facilities, in particular:
  - a. Construction of an earth-fill dam and formation of the upstream station (dam foreground) and downstream barrage.
  - b. Construction of discharge structures (discharge and spillway facilities).

- c. Sectional regulation of Goworówka stream bed near the downstream and upstream station of the barrage.
  - d. Formation of reservoir basin with formation of slopes of reservoir basin.
  - e. Construction of service (internal) roads.
  - f. Execution of control and measurement systems and facility automatic controls.
  - g. Construction of a backyard building.
3. Execution of plantings and shaping the greenery elements in the area of the designed investment.
  4. Execution of technical infrastructure systems in the scope of executing new networks for the purposes of the designed facility related to connecting it to electrical and telecommunications networks, power, lighting, control, and sanitary systems.
  5. Execution of technology works, in particular:
    - a. Execution of construction pits (for foundations) for construction of the dam and discharge structures.
    - b. Execution of access roads related to investment project implementation.

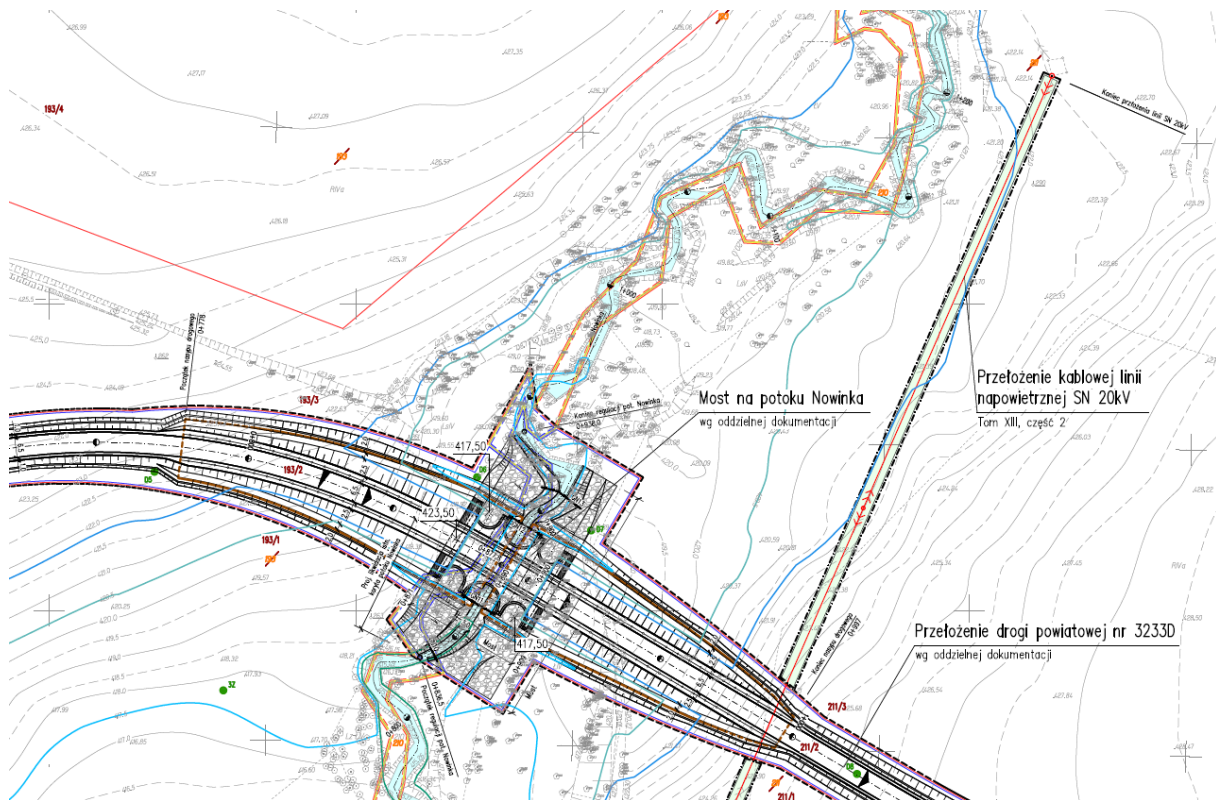
### **3.2 RESERVOIR IMPLEMENTATION AREA**

The task will be carried out in the territory of two villages as per the current administrative division of Poland: part of Reservoir basin with the dam will be located in the Roztoki village, the remaining, small part, in the Michałowice village.

Both villages are located in the northern part of the Międzylesie Municipality. The Międzylesie Municipality is the most southern municipality in the Kłodzko District and the Lower Silesian Province (borders the Czech Republic).

The area of the intended reservoir is used primarily for agricultural purposes; only 9.5 ha is covered in forests and trees.

Reservoir dam will be built (as the crow flies away from the dam crest) about 210.0 m east from the nearest structures in the Roztoki village with built-up area located along national road No. 33; about 1.5 km west from the nearest structures in the Gajnik village with built-up area located along district road Roztoki-Goworów; about 2.3 km west from the nearest structures in the Michałowice village with built-up area located along district road Roztoki Goworów No. 3233D. The area of intended Reservoir basin is intersected by a 20 kV MV power line, DN200 gas pipeline, and district road No. 3233D with a bridge over the Nowinka stream.

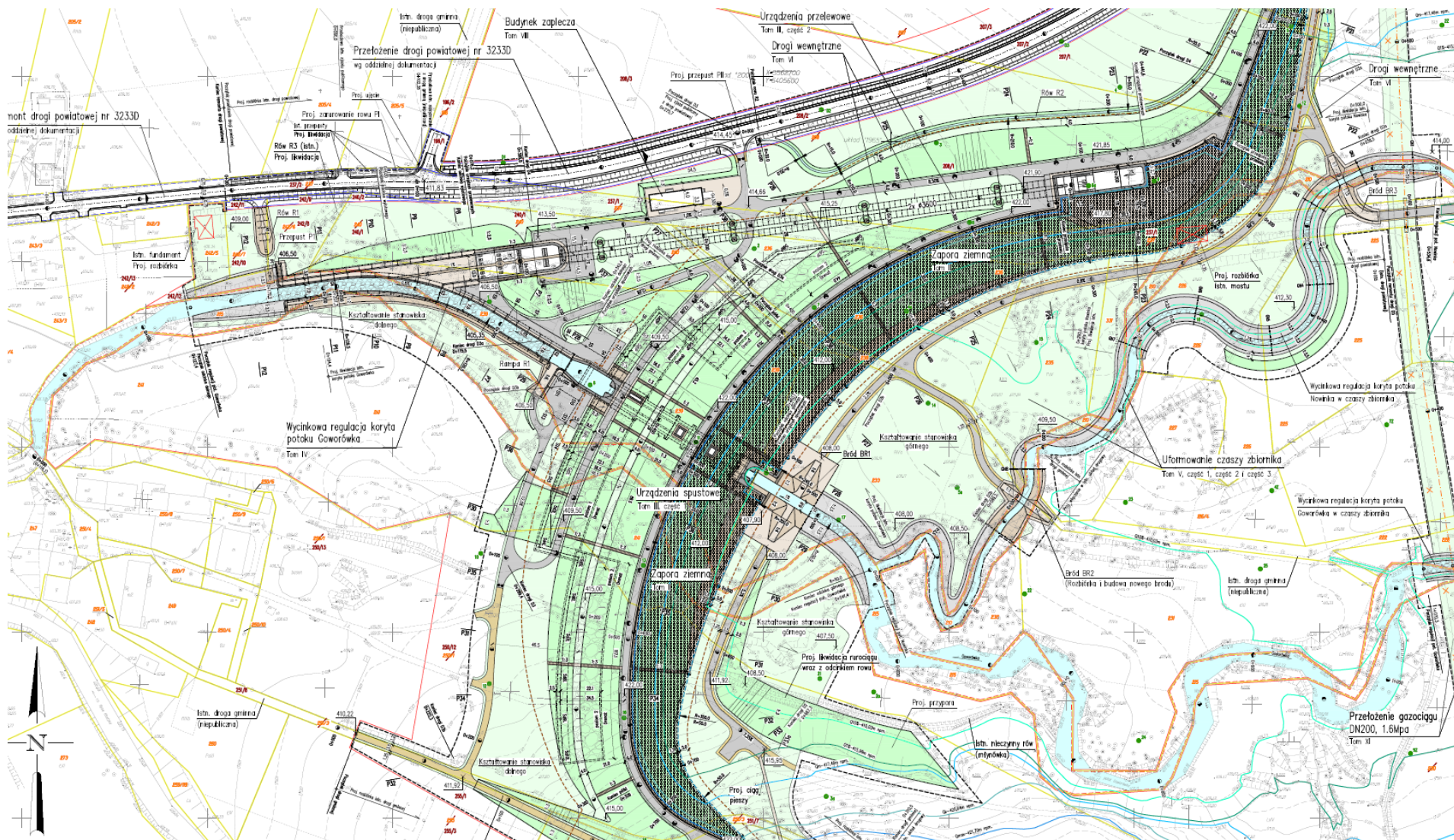


**Map 2 – Location of designed bridge on the Nowinka stream with designed relocation of a 20 kV MV overhead power cable line, and designed relocation of district road 3233D. Northeastern area of the project.**

The use structure of the reservoir implementation area is presented in the table below:

SURFACE AREAS OF THE SPATIAL DEVELOPMENT PARTS	
Description of the facility	Surface area [ha]
Surface area of the designed internal roads with shoulders	1.51
Surface area of the designed district road with shoulders	1.31
Surface area of the designed structures (the backyard building, reservoir structures)	1.69
Surface area of the designed tree stands	21.58
Surface area of the designed lawns	13.66





Map 3 – Location of the earth-fill dam

### 3.3 ISSUED ADMINISTRATIVE DECISIONS

The following administrative decisions have been issued for the Task:

- decision of the Regional Director for Environment Protection in Wrocław of 12/18/2015, ref. no.: WOOŚ.4233.1.2015.AW.23, on the environmental conditions for the project entitled: Construction of a Roztoki Bystrzyckie dry flood control reservoir on the Goworówka stream near Roztoki, Międzyzylesie Municipality, Lower Silesian Province;
- decision of Mayor of Międzyzylesie City and Municipality of 15.01.2016 ITiG.603.2-D.2015.2016 on no need to perform environmental impact assessment for the project entitled: Construction of a Roztoki Bystrzyckie dry flood control reservoir on the Goworówka stream near Roztoki, Międzyzylesie Municipality, Lower Silesian Province as regards reconstruction (disassembly and construction in a new location) of district road No. 3233D Roztoki-Goworów-Międzyzylesie with exit roads necessary for the investment project;
- decision of Marshal of the Lower Silesia of 29.06.2016 DOW-W-I.7322.34.2016.UU granting a Water Law permit for execution of water structures, in particular to use and regulate water under the investment project 'Construction of a Roztoki Bystrzyckie dry flood control reservoir on the Goworówka stream near Roztoki, Międzyzylesie Municipality, Lower Silesian Province'.
- Decision of the Kłodzko District Authority Head of August 25<sup>th</sup>, 2016 ref.: OŚR.6341.93.2016.DW.ŚW2 granting a Water Law permit for the task Relocation of district road No. 3233D colliding with the construction of Roztoki Bystrzyckie – a dry flood control reservoir.

## 4 Primary principles adopted in the LA&RAP

Unless necessary mitigating and preventive measures are planned and implemented, real property acquisition may create and strengthen social inequalities, cause social exclusion and result in permanent environmental damage. Therefore, the principles below have to be followed in the design and implementation of the land acquisition and resettlement process:

1. Permanent real property acquisition shall be minimized or avoided where possible. Where permanent acquisition is unavoidable, one shall follow the procedures and requirements outlined in this LA&RAP which concern mitigating the impact of real property acquisition on the affected parties.
2. The expropriation procedures should not deteriorate the people's living conditions, which should at least be restored to pre-Project levels.
3. All Project Affected Persons shall participate in social consultations on equal terms and the needs of particularly vulnerable groups shall be taken into account. They shall also be offered a possibility of participation in the Project development process and access to grievance redress mechanisms.
4. Project Affected Persons have access to honest, fair and inexpensive proceedings of their appeal to an independent authority or court without intentional delay if enforced.
5. All cases of real property acquisition, either permanent or temporary, shall undergo procedures based on Polish law and OP 4.12. The LA&RAP complies with the LARPF

(see:

[http://www.odrapcu.pl/doc/OVFMP/Ramowy\\_dokument\\_dotyczacy\\_Przesiedleni\\_Pozyskiwania\\_Nieruchomosci.pdf](http://www.odrapcu.pl/doc/OVFMP/Ramowy_dokument_dotyczacy_Przesiedleni_Pozyskiwania_Nieruchomosci.pdf)).

6. The LA&RAP concerns permanent and temporary real property acquisition as well as permanent and temporary limitations in using the real property, in particular those resulting in a (permanent or temporary) loss of revenue sources or in worse standards of living.
7. The implementation of the LA&RAP shall be monitored and reported and, after its completion, evaluated by the World Bank.
8. The process of social participation as well as protective and mitigating measures shall be carried out in accordance with the necessity of fair treatment regardless of age, sex or disability of Project Affected Persons. Particular attention shall be paid to the households of members of particularly vulnerable groups.
9. The LA&RAP is planned and implemented as an integral part of the Project. All costs connected with the necessity of planning and implementing the compensation measures shall be included in the budget as well as the benefits of the Project.
10. Compensation for Project Affected Persons on whom the Project has an economic impact shall be paid prior to starting the construction works on the real property undergoing expropriation.
11. Priority shall be given to the compensation in the form of allocation of an alternative land with an equivalent productive potential (land-for-land). Cash



compensation shall be used in the cases where the acquisition of a real property or its part has no impact on the real property use for its former purposes as well as in the cases where the Project Affected Person on whom the Project has an economic impact expresses their will to receive cash compensation. Cash compensation shall also be used in the cases where there is no appropriate alternative land to allocate.

12. Temporarily acquired real properties shall be restored to their original state after the completion of the works to enable their owners or users to use them in the same manner as before Project implementation.
13. All PAP, without regard to the legal title to the real property, shall receive support of various types, as per the principles set out in the Matrix of Compensation Measures included in this LA&RAP. Lack of a legal title to the real property should not be a bar to receiving compensation and/or a different type of support. Detailed principles of real property acquisition, social participation and mitigating, protective, preventive and compensation measures shall be established in the LA&RAP.

The LA&RAP shall be updated as necessary when the design works progress and new factual or legal circumstances emerge.

## 5 Impact mitigation

### 5.1 SOCIAL IMPACT

Under OP 4.12, social impact related to expropriation includes all direct economic and social losses stemming from real property expropriation as well as from permanent limitation of the former manner of use or of the access to the real property. Thus, the primary criterion of assessing the significance of social impact shall be the percentage ratio of the entire real property to its expropriated part. One shall also take into account the data obtained during a socio-economic survey.

The following criteria compliant with OP 4.12 were adopted to assess the social impact for the purposes of this LA&RAP:

- secondary impact: for farms, this is an impact exerted by an acquisition of less than 10% of the land or resources of that farm without physical relocation. For other real properties, such impact is exerted by a loss of less than 20% of the land or resources of the household without physical relocation;
- significant impact: for farms, this is an impact exerted by a loss of more than 10% of the land or resources of that farm, or by a real property division line running in a manner preventing agricultural/orchard production on that real property. For wastelands and non-agricultural real properties, such impact is exerted by a loss of more than 20% of the land belonging to a given household.

The borderline value of 10% was adopted for the division into the significant and secondary impact because the Project is implemented in rural conditions. Therefore, to a part of inhabitants who run farms, a loss of over 10% of the surface area of a real property with agricultural use shall have an influence on limiting the household's revenues. The impact significance assessment also took into account the data obtained during socio-economic surveys and environmental impact assessments, in particular those related to the possibility of running the former activity in the area planned for temporary acquisition and to the impact on the elements of the environment (water, noise, air etc.). Social vulnerability of the analysed households (defined as exposure to risks and impact significance, vulnerability to those risks and results as well as adaptability) was also considered.

#### 5.1.1 Occurrence of significant impact

Significant impact was identified on the basis of conducted site surveys, public meetings and individual meetings with the PAP conducted within the involvement of the affected parties in the preparation process of this LA&RAP. Such impact was discussed in detail in Annex no. 2 to this LA&RAP. That Annex shall not be published due to personal data protection.

Task implementation shall not exert significant impact; more important impacts are described in the table below

Compensation under "land-for-land" rule is possible in the case of all households provided that an appropriate alternative real property is found.

No.	Household No.	Precinct	Sheet	Plot No. before the division	Plot No. For development, after the division (N - not applicable)	Remarks	Total area of the plot before the division [ha]	Area of permanent occupation [ha] (N - not applicable)	% share of permanent occupation (expropriated) to the total area of the plot before the division	Impact S- severe M - minor	Purpose of use
1	2	3	4	5	6	7	8	9	10	11	12
1	Household No. 1	Roztoki	1	251/1	251/9	Household of 9 people. Varied revenues structure (remunerated works, farm – 45%). Most crops and pastures are outside the Reservoir area. The pasture within the Reservoir area is used as a source of hay.	0.7100	0.4381	61.70%	M	Permanent meadows, Arable lands
2		Roztoki	1	255	255/1		5.3900	0.1644	3.05%	M	Pastures, Arable lands
3		Roztoki	1	255	255/2		5.3900	0.2177	4.04%	M	Pastures, Arable lands
4	Household No. 2	Roztoki	1	224	N	The official owner passed away in 2008. Data in the land register has to be changed (only the owner can do that). Household of 5 people including the elderly and children. Individual farm – about 40% of monthly revenues. Only a part of the activity is carried out within the Reservoir, hay harvesting (no data on annual yield and revenues in the area). Crops are located outside the Reservoir area.	0.7400	0.7400	100.00%	M	Arable lands
5		Roztoki	1	216/3	N		1.3000	1.3000	100.00%	M	Permanent meadows
6		Roztoki	1	223	N		1.2200	1.2200	100.00%	M	Arable lands
7	Household No. 3	Roztoki	1	216/2	N	Household of 4 adults. Main source of revenues: remunerated works, pension, and the farm (20%). There is a meadow in the Reservoir area, a source of hay for sale. Main farming activity is outside the Reservoir.	0.6000	0.6000	100.00%	M	Pastures, Permanent meadows
8		Roztoki	1	231	N		1.4800	1.4800	100.00%	M	Arable lands, Permanent meadows, Wooded and shrub-covered lands - arable lands
9	Household No. 4	Roztoki	1	217/2	N	Household of 3 adults. Revenues: remunerated works, old-age pension, and the farm (about 35% of total revenues). The area under the Reservoir constitutes 20% of all agricultural land of this household, but as much as 45% of crop fields (winter wheat and summer barley). Crops in the areas outside occupation are mustard and potatoes. The representative of the household expresses serious concern in relation to the expropriation procedure regarding loss of a significant share of revenues and decrease in holding value.	1.8000	1.8000	100.00%	M	Arable lands
10	Household No. 5	Roztoki	1	217/1	N	Household of 2 adults. Revenues: old-age pension, pension, farm – about 20%. The area under occupation is used to harvest hay (small annual revenue). Other agricultural activities (farming, poultry farming) are carried out outside the area under occupation.	1.1000	1.1000	100.00%	M	Arable lands
11		Roztoki	1	213	N		2.0300	2.0300	100.00%	M	Arable lands
12		Roztoki	1	216/1	N		1.1500	1.1500	100.00%	M	Pastures, Wooded and shrub-covered lands - Pastures
13	Household No. 6	Roztoki	1	228	N	Assessment impossible due to numerous refusals to respond. The land under occupation for the purpose of the Reservoir is a source of some revenue – no specific data. No data on revenue structure.	0.9800	0.9800	100.00%	no data	Permanent meadows, Wooded and shrub-covered lands – permanent meadows
14		Roztoki	1	221	N		0.6500	0.6500	100.00%	no data	Permanent meadows, Wooded and shrub-covered lands – permanent meadows
15		Roztoki	1	347	N	Household of 2 adults (1 elderly). Revenue structure: old-age pension, agriculture. The dominant part of agricultural activity is located outside the occupied area. In the area destined for the Reservoir, there is a pasture for cattle (4 cows and calves).	1.3600	1.3600	100.00%	M	Wooded and shrub-covered lands - Pastures, Arable lands, Pastures

## 5.2 CONSIDERED ALTERNATIVES

Four design variants of the Roztoki Bystrzyckie dry reservoir were executed within the program-spatial concept; referred to as variant I, II, III, and IV, respectively.

- Variant I – dam crest at the elevation of 420.00 m AMSL Maximum damming level 419.37 m AMSL,
- Variant II – dam crest at the elevation of 422.00 m AMSL Maximum damming level 420.72 m AMSL,
- Variants III and IV – dam crest at the elevation of 421.70 m AMSL Maximum damming level 420.53 m AMSL.

Variants II, III, and IV have dam crest at the level similar to the elevation in the previous analyses for construction of the Roztoki Bystrzyckie reservoir carried out at the stage of study of flood protection of the Kłodzko Valley focusing on protection of the city of Kłodzko. In variant I, the crest is lower. The difference in crest elevation in variant I and the other variants is approximately 2.0 m. Another difference between the variants is location of dam body. In variants I and II the dam is foreseen at km 0+540, while in variants III and IV at km 0+654 of the Goworówka stream.

The assumed crest elevation and location of the dam translated directly into final reservoir volume capacity, which affected the degree of flood wave reduction. According to performed analyses, the above-mentioned facts become significant at flood waves exceeding flows corresponding to design water. In the case of flows the size of design waves, flood wave reduction of about 74% was achieved for all variants. In the case of flows the size of control wave, variants exhibited various levels of reduction of flood waves. Flood wave reduction for variant I was around 35%; for variant II, 72%, and for variants III and IV, 32%.

In all four variants, the dam structure is designed as an earth-fill one with 1:3 slope inclination and 6.0 m crest width. In each variant, at the downstream side, there are designed two levels of shelves: 4.0 m wide in variants I and II and 6.0 m wide in variants III and IV.

Differences between individual variants involve designs of discharge structures, in particular overflow structures. In variants I and II, overflow structures are located outside dam body in the area of the right abutment. In variants III and IV, overflow structures are designed as a frontal arch overflow located in dam axis.

A similar shape of reservoir basin was designed for all four variants. The only difference is that in variants III and IV, there are rock rubble sedimentation tanks within the basins.

In each variant, the district road is relocated. In variants I, II, and III, its route is designed outside of the future reservoir at the side of the right abutment of the dam. In variant IV, the Roztoki-Goworów road is designed in the same place but on an embankment.

In light of water management as the selection criterion, the best solution is variant II. This variant facilitates reduction of waves with flow equal to design water and about 74% reduction of control waves. Assumed sizes of discharge structures in variant II facilitated safe (0.3 m below dam crown) flow of a combination of 2 x  $Q_k$  flood waves with 22% reduction.

Arguments related to water management are even more important as the basic parameter of the flood control reservoir is its ability to reduce freshet waves.

A variant consisting in Project non-implementation was also analysed as it would allow for avoidance of expropriations and resettlement in connection with reservoir construction. As a result of the analysis it was established that if the reservoir is not constructed, it shall influence functionality loss concerning the three remaining dry reservoirs planned for the flood protection of the Kłodzko Valley. This means leaving the existing condition of the flood protection of the Valley unchanged, which results in a particular hazard to Międzylesie and Kłodzko agglomerations.

To conclude, it is necessary to implement the Task from the point of view of achieving the goal of the entire Sub-component 2.

### 5.3 MITIGATING MEASURES

1. The design works are carried out in such a way as to minimize the number of plots necessary to acquire.
2. The amount of compensation for lost real properties (both in cash and in the “land-for-land” form) shall be determined by reaching an agreement, on the basis of appraisal studies developed by independent valuers or under a decision issued by the Lower Silesian Province Governor, also based on appraisal studies. The valuation constituting the basis for determining the amount of compensation shall be reliable, objective and independent to ensure that the former owner of the real property receives a price corresponding to the actual loss and therefore the negative impact of the real property ownership loss on their financial standing is mitigated.
3. Among the compensation measures, priority shall be given to the compensation in the “land-for-land” form with an equivalent productive potential and market value (land-for-land). Cash compensation shall be used in the following cases:
  - i. the acquisition of a real property or its part does not influence the possibility of using the real property for its former purposes;
  - ii. the Project Affected Person on whom the Project has an economic impact expresses their will to receive cash compensation;
  - iii. there are no similar real properties with an equivalent productive potential and market value present on the market, which prevents compensation in the “land-for-land” form.
4. All costs related to protective measures shall be included in the compensation package. No protective measures are currently anticipated, but it may change during Project implementation.
5. In the case of plots on which agricultural activity is conducted, real property shall be released after the current cultivations are harvested in a given vegetation year intended for individual cultivations. If the cultivations are not harvested, a cash equivalent shall be paid.

6. Every expropriated person shall be entitled to use the land free of charge in the former manner till the moment of receiving the compensation or (if no agreement was reached on the amount of compensation) its undisputed part.
7. PAP shall be notified about the commencement of works in advance, which shall allow them to end their management of the real property – no later than 30 days in advance.
8. Temporarily acquired real properties shall be restored to their original state after the completion of works. Real property acquisition for temporary acquisition shall follow the principles defined in this LA&RAP.
9. Prior to the commencement of works, the Investor shall conduct an extensive information campaign concerning the planned Project implementation. An information leaflet shall be prepared and sent to all Project Affected Persons. The leaflet shall contain information on the possibility of submitting complaints (in accordance with LA&RAP provisions) and contact data.
10. Within the information campaign, the Project Affected Persons (PAP) shall also be informed about the possibility of applying for purchase of the remaining part of the real property if the remaining part is not fit for use for its former purposes after real property division and acquisition of its part for the Project (under art. 23 par. 2 of the Special Flood Act).
11. The land in the Reservoir basin shall be partially leased as pastures without the possibility of building any facilities. The former owners shall have the priority right to conclude lease agreements concerning those lands.
12. The construction site shall be located in such a way as to minimize its impact on the residents' quality of life.
13. In cases where the real property parts remaining after expropriation are not fit for use for their former purposes, the Investor shall conduct analyses in this scope and then purchase those real properties under civil-law contracts in accordance with the procedure described in this LA&RAP. Compensations for the purchase of those remaining parts shall be paid under civil-law contracts concluded with real property owners.
14. Access to real properties shall be ensured during the reservoir construction works. The municipality road shall be relocated in such a way as to enable the PAP to travel to and from Bystrzyca Kłodzka, Międzyzylesie, Długopole Górne, and Goworowo on pre-Project conditions.
15. Costs related to the maintenance of the section of the district road No. 3233D provided by the administrator of the road shall be covered by the Investment Project Owner from the day of issue of the final IPIP for the Reservoir until the section is taken out of operation.
16. Temporary acquisition for the purposes of implementation of the Task is possible only upon voluntary consent of property owner and pursuant to a declaration of consent.
17. Temporarily acquired real properties shall be restored to their original state after the completion of the works to enable their owners or users to use them in the same manner as before Project implementation.

18. It may be necessary to temporary acquire real properties in relation to Contract performance (acquisition for construction purposes, storage of soil and other construction materials). The scope and target locations of temporary acquisition will be specified after selection of the Contractor. The Contractor shall – after establishing a schedule of works and their technology – follow principles specified in this LA&RAP when negotiating conditions of temporary acquisition (the process will be voluntary).

## 6 The socio-economic survey

### 6.1 SOURCES AND METHODOLOGY

The socio-economic survey was conducted by the team for legal and social matters, located in the structure of the Consortium-Consultant responsible for developing this LA&RAP.

The basic source of information on the development and use of the real properties to be acquired is the analysis of GIS data and written extracts from the land and buildings register as well as verification on the Task implementation site. The ownership status of the real properties to be acquired was established on the basis of the land and buildings register and the land and mortgage register. The presence of the infrastructure was established on the basis of the analysis of GIS data, written extracts from the land and buildings register and design documentation (including that of detailed designs) as well as verification of those information on the Task implementation site.

In the scope of social impact, the primary preliminary source of information was the data obtained on the basis of available registers (e.g. the Central Registration and Information on Business, the National Court Register). The following were also used as the basis: CSO statistical data, materials published on the Internet (information from the websites of authorities, Internet forums, information provided by local press) and site visit results.

Under Polish law, the cut-off date of the socio-economic survey shall be the date of submitting the application for IPIP issuance.

As a result of a preliminary analysis of the obtained data and the Task scope, it was established as necessary to conduct a site survey among real property owners undergoing the expropriation procedure. The survey was conducted in August 2015 and July and August 2016 using standardized questionnaire interviews. They were detailed: beside answering standard questions, the respondents were able to express their attitude to the Task in the form of open statements, which were also taken down carefully by the survey team members. The data collected this way were also analysed.

#### 6.1.1 Problems

The site survey encountered three types of problems which moderately affected the quality of the gathered data and the survey completion degree, and thus also the scope of information constituting the basis for the present document: the impossibility of reaching the respondent, refusal to participate in the survey and refusal to answer selected questions in the questionnaire.

**The impossibility of reaching the respondent** In case of a part of potential respondents (land owners in the area covered by the acquisition procedure), the survey team members experienced problems making it impossible to reach those respondents and thus to complete the questionnaires. Those problems were caused first and foremost by the respondents' permanent or temporary stay beyond their place of residence.



**Refusal to participate in the survey and provide any information** In the case of representatives of selected households, it was impossible to complete the questionnaire or obtain even a limited portion of information because they absolutely refused to participate in the survey.

**Refusal to answer selected questions in the questionnaire** It happened during the completion of questionnaires that some respondents intentionally refused to answer selected questions due to their reluctance to share certain information with third persons. Those refusals concerned first and foremost the questions directly related to household financing, i.e. its revenue sources, expenditure structure and revenues from land cultivation.

## 6.2 SOCIO-ECONOMIC DATA

### 6.2.1 Primary data on the population

Roztoki is the third largest village in the Międzyzylesie Municipality. According to the National Census of Population, there are 439 residents in Roztoki: 220 men and 219 women. From among all the residents, 22.8% are at the pre-working age. 63.1% are at the working age, while 14.1%, at the post-working age.

### 6.2.2 Employment and revenues

The economic restructuring conducted after 1989 manifested itself in liquidation of dominant economic entities and resulted in long-term structural unemployment. Consequently, poverty increased, leading to negative phenomena such as e.g. social exclusion. The unemployment rate in Międzyzylesie Municipality, measured as the ratio of registered unemployed persons to the working-age population, equals 11.4%. Though the unemployment rate decreases systematically, it is still significantly higher than the average value for Lower Silesia (7.8%) and slightly higher than the average value for the district, which is 12.0%. Unemployment among women is not significantly higher in the municipality (11.6%).

According to CSO data, the average monthly gross salary in the municipality is PLN 3333.36, which equals to 83.30% of the average monthly gross salary in Poland. Actual mean salary is probably lower as CSO's measurement involves only employment contracts in organisations with at least 10 employees.

In light of the above, the economic situation and job market situation in the Międzyzylesie Commune should be deemed relatively difficult.

The percentage of persons receiving welfare in the Międzyzylesie Municipality, 8.3%, exceeds the average value for the Lower Silesia Province (5.8%). Current expenditures of the municipality on welfare and other social policy tasks amount to PLN 4,423,708 a year.

Relatively numerous groups of ethnic minorities in Kłodzko District are found in Kłodzko and Bystrzyca Kłodzka (gypsies). There are no ethnic minorities in the Project implementation area.

### 6.2.3 Land use

Most of the area of the intended Reservoir and its immediate environment is covered with vast agricultural land, semi-wild mountain meadows situated mainly on slopes of hills, and riparian and oak-lime-hornbeam forests in river valleys. There are three villages near this area: Roztoki, buildings situated along national road No. 33 from Kłodzko to road border crossing Boboszków-Dolna Lipka, Gajnik, and Michałowice. There are neither industry facilities nor production and trade facilities in the villages.



Figure 1 – Current land cover in the reservoir basin. East-west view.



Figure 1 – Current land cover in the reservoir basin. West-east view from the existing district road No. 3233D.



Figure 3 –View from the existing district road No. 3233D on the plot No. 242/5 (indented disassembly of existing foundations).



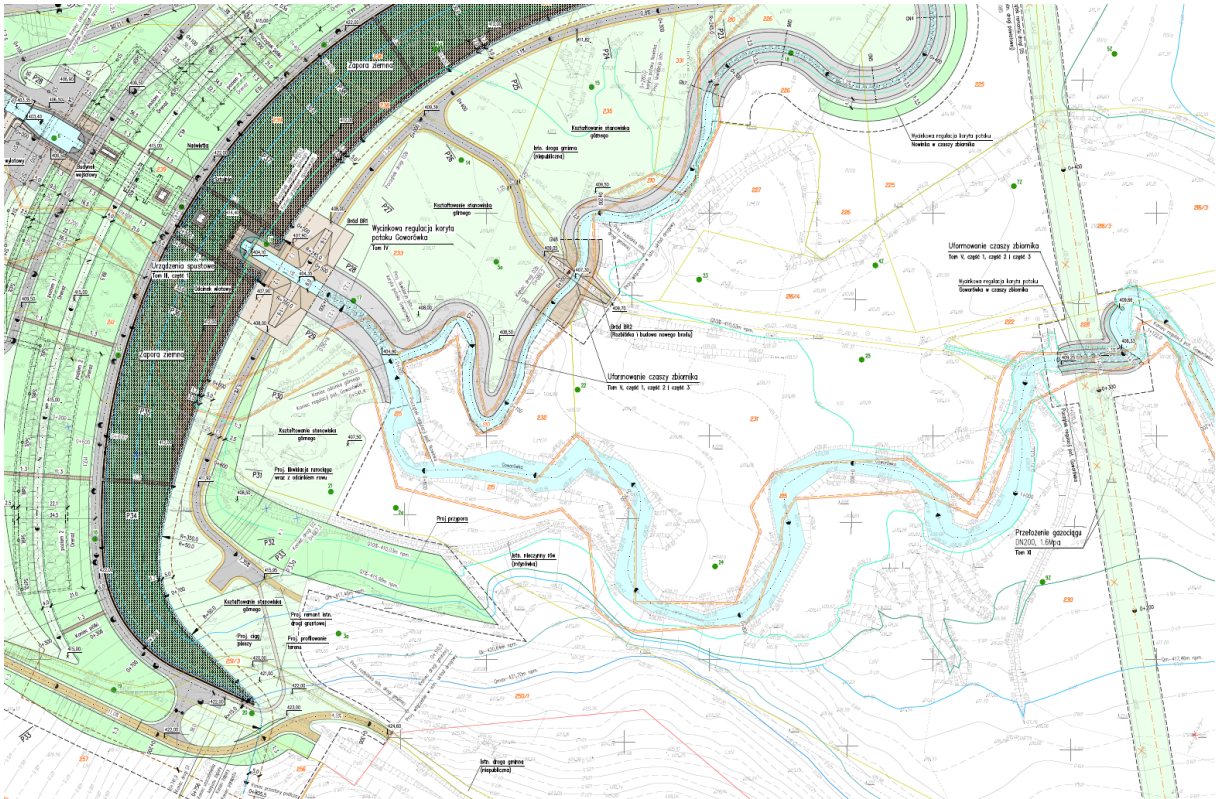
#### 6.2.4 Technical infrastructure

Through the area of designed reservoir basin go a 20 kV MV overhead power cable line (NE-SW), which provides power to nearby villages and a DN200, 1.6 MPa N-S gas pipe line.

There is also a non-operational pipeline with a ditch colliding with planned earth-fill dam body (plot No. 251/1, map sheet AM1, Roztoki precinct).



Figure 4 – N-S gas pipeline in the area of reservoir basin.



Map 4 – Intended relocation of the DN200 gas pipeline



Figure 5 – N-S MV power line in the area of reservoir basin.





Figure 6 –View from the existing district road No. 3233D on the plot No. 240 (indented disassembly of power infrastructure)

### 6.2.5 Access and communications

An asphalt district road No. 3233D Roztoki-Goworów-Młędzylesie is located in the area of intended reservoir basin. The above-mentioned national road No 33 is located about 400 m from the intended dam. About 700 m west from the dam, there is an international rail link No. 276 from Wrocław to state border with the Czech Republic in Lichkov and to Prague.



Figure 7 – Roztoki – access roads and situation.





Figure 8 – Section of district road No. 3233D located in the area of the right bank abutment of the dam, western view.

### 6.2.6 Public services and social organizations

Roztoki is 5 km away from Międzyzlesie (the municipality seat). Access to Międzyzlesie is possible by public or private transport. Roztoki has a railway connection with Kłodzko, Bystrzyca Kłodzka, and Wrocław. This means relatively good access to public services.

In Roztoki, there is a modernised village community centre and a sports and recreation facility. There is a Public Library and a City-Municipality Cultural Centre in Międzyzlesie.

The nearest police station is in Bystrzyca Kłodzka, 13 km away from the surveyed village.

In Roztoki, there is a voluntary fire-fighting brigade and a farmers' wives' association. There is an active sports club LZS 'Zieloni' Roztoki there as well. The place is also a seat of a Roman Catholic parish.



### **6.2.7 Education and healthcare**

There is no education or healthcare infrastructure in Roztoki. The nearest facilities of that type are found in Międzyzlesie and Goworów. Międzyzlesie has a kindergarten, a primary school and a middle school, whereas Goworów has a primary school.

Primary healthcare in the municipality can be received in the non-public healthcare institution (NZOZ) in Międzyzlesie. Specialized medical services and dental services are also provided in a narrow scope within healthcare. There are two pharmacies in the municipality (in Międzyzlesie and Domaszków).

Some residents are registered in the doctors' offices in Bystrzyca Kłodzka within their primary healthcare. The nearest hospitals are located in Bystrzyca Kłodzka (13 km from the surveyed villages), Kłodzko (30 km) and Polanica Zdrój (33 km).

The nearest hospitals in the neighbourhood of the municipality are found in Bystrzyca Kłodzka, Kłodzko and Polanica.

### **6.2.8 Cultural and historical facilities**

There are no cultural or historical facilities in the Project implementation area.

### **6.2.9 Buildings**

There are no buildings in the investment implementation area.

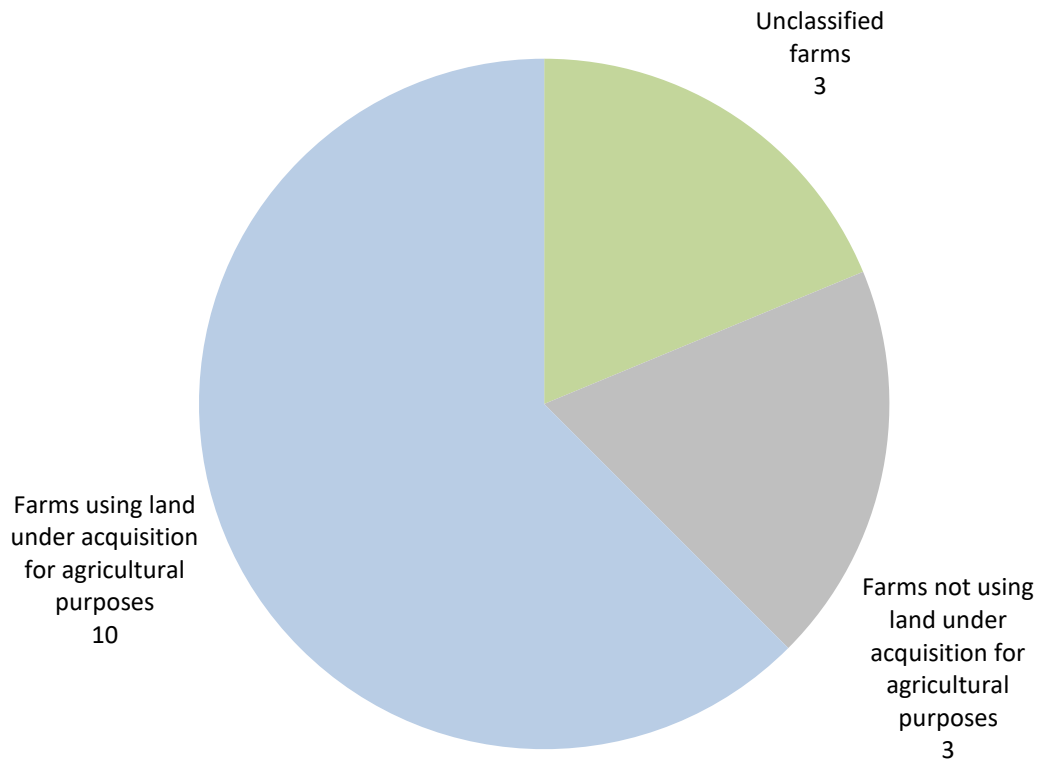
### **6.2.10 Natural resources**

The main sources of water for the residents of Roztoki Bystrzyckie are dug or drilled individual wells which take water mainly from the Cretaceous water-bearing layer. Few households use surface waters, mainly those of Nysa Kłodzka River. The reservoir construction shall not have an impact on the possibility of using water for the purposes of the households.

Domestic wastewater is collected by holding tanks (septic tanks). A part of the wastewater from the inhabited and agricultural areas is discharged in an uncontrolled manner to the soil and the drainage ditches as well as directly to the Nysa Kłodzka River and its tributaries.

## **6.3 CHARACTERIZATION OF THE PAP**

Owing to the fact that all private real properties situated in the area under expropriation are agricultural land or wasteland, only two categories of households affected by the project could be distinguished: households using land included in acquisition for agricultural purposes and households that did not use the land. Diagram 4 shows the share of these categories in the total number of analysed households.



Detailed profile of the PAP in Annex 5 shall not be published owing to personal data protection.

## **6.4 THE NEED FOR UPDATING THE SOCIO-ECONOMIC SURVEY**

The information obtained during surveys concern mainly moderately dynamic issues. In most cases, there is no reason to believe that the information may become invalid upon commencement of the expropriation procedure proper.

However, it is necessary to conduct real property inventory. Under Polish law, this should take place on the date of issuing the investment project implementation permit (IPIP).

## 7 The binding provisions of law and valuation methodologies

This LA&RAP for Task 2A.1/2 Construction of "Roztoki Bystrzyckie" - a dry flood control reservoir on Goworówka stream is based on the provisions of Polish law and, due to financing with a World Bank loan, on the World Bank's Operational Policy: OP 4.12 Involuntary Resettlement.

The Loan agreement between Poland and the World Bank is an act governed by international law and by concluding the agreement, Poland obliges to apply the World Bank's policies.

In case of discrepancies between Polish law and WB policies, the provisions which are more beneficial to the affected population are applied.

### 7.1 OBLIGATIONS STEMMING FROM OP 4.12<sup>1</sup>

OP 4.12 is applied whenever the implementation of the Project requires:

- a) involuntary real property acquisition resulting in:
  - (a) relocation or loss of shelter;
  - (b) loss of assets or access to assets;
  - (c) a loss of revenue sources or worse standards of living.
- b) involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the quality of life of Project Affected Persons.

The following obligations stem from OP 4.12:

- Involuntary resettlement should be avoided where feasible by exploring all viable alternative projects, and if it is not feasible to avoid resettlement, its range and impact should be minimized;
- The resettlement process should be planned and implemented as a development activity providing appropriate means and assets allowing the PAP to participate in the benefits resulting from Project implementation. Support should be offered to social groups affected by resettlements in order to improve their economic status, revenues and quality of life, or at least restore their pre-Project status;
- Before resettlement, the resettled persons should receive full compensation at the Replacement value, assistance in relocation and support in the transition period;
- Lack of a legal title to the land should not be a bar to receiving compensation;
- Particular attention should be paid to vulnerable social groups and individuals (e.g. single mothers, the handicapped, the poor);
- Communities should be given opportunity to participate in planning, implementation and monitoring of the resettlement process;
- The resettled persons should be assisted in the integration with the host community;
- The resettlement process should be closely linked to the Task implementation schedule so that the resettled persons receive compensation before the construction or other activities covered by the Project begin;
- Monitoring of resettlement is required as well as its evaluation;

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<sup>1</sup> A chapter compliant with the LARPF

- As regards rural or farming lands, even when it is possible to apply financial compensation, land-for-land compensation is particularly recommended, if economically feasible. Farms that lost their fixed assets entirely and became entirely unprofitable should receive compensation in the amount equal to the value of the entire farm;
- For losses that are hard to evaluate or compensate for financially, such as access to public services, access to clients or suppliers, fishery areas, or access to pastures and forest areas, an attempt should be made to grant access to equivalent and culturally relevant resources and revenue opportunities.

## 7.2 POLISH LEGAL REQUIREMENTS

The most important normative acts concerning acquisition of rights to real properties necessary for Task implementation are:

- Constitution of the Republic of Poland of 02 April 1997 (Journal of Laws no. 78 item 483 as amended),
- The Law of 23 April 1964 – Civil Code (consolidated text: Journal of Laws of 2016, item 380 as amended), hereinafter referred to as CC,
- The Law of 08 July 2010 on specific terms of preparing for implementation of projects in the scope of flood protection facilities (consolidated text: Journal of Laws of 2015, item 966 as amended), hereinafter referred to as the Special Flood Act,
- The Law of 10 April 2003 on specific terms of preparing for implementation of projects in the scope of public roads (consolidated text: Journal of Laws of 2015, item 2031 as amended), hereinafter referred to as the Special Road Act,
- The Law of 21 August 1997 on the real property management (consolidated text: Journal of Laws of 2015, item 1774 as amended), hereinafter referred to as RPM Law.

The Civil Code governs legal relationships between natural and legal persons, including those concerning conclusion of real property sale agreements. A binding principle here is the freedom of drafting agreement content and deciding if and with whom one wishes to conclude the agreement. Unanimous declarations of the parties determine agreement conclusion. The Civil Code provides for a special form of concluding agreements whose subject is a real property. They should be concluded as a notary deed in order to be valid.

Mechanisms of involuntary acquisition of rights to real properties are contained in the Flood Act, the Road Act and the RPM Law.

### 7.2.1 Real property acquisition under the Flood Act

Under the Flood Act, expropriation of a real property or its part as well as a permanent or temporary limitation of the manner of using a real property or its part has the form of an IPIP issued by the Province Governor. Expropriation takes place the moment the IPIP decision becomes final.

As regards transferring the ownership of the real property to the State Treasury, the owner or the holder of perpetual usufruct rights (i.e. the legal right of using and enjoying the fruits or

profits of state land) is entitled to financial or land-for-land compensation. The Flood Act does not indicate any preference for the “land-for-land” compensation; financial compensation allowing for purchasing a similar real property at a market price is rather assumed.

The amount of compensation is determined separately for each real property by the Investor’s individual negotiations with the current owner or holder of perpetual usufruct rights. The negotiations are based on an independent and objective valuation prepared by a licensed valuer (state professional qualifications for real property valuation).

The amount of compensation is determined for the real property in the condition as of the date of issuing the IPIP, but with reference to real property value as of the date on which the amount of compensation is determined.

In case the Investor and the expropriated party reach an agreement as regards the amount of compensation, a written agreement is concluded, determining the amount of compensation, and time and manner of payment.

However, if the agreement is not reached within 2 months of the date of issuing the final IPIP, the amount of compensation is determined by the Province Governor (a regional authority) in a decision. Before issuing the decision on the amount of compensation, the Province Governor appoints a valuer. The affected party (here: the expropriated entity) is also entitled to present a real property valuation prepared by its valuer during the proceedings before the Province Governor. In such case the Province Governor has to account for the opinion presented by the affected party in the decision determining the amount of compensation. If the affected party files remarks and motions in the proceedings, the Province Governor has to refer to their subject matter during the proceedings and subsequently in the issued compensation decision.

The decision issued by the Province Governor may be challenged by the party by appealing to a superior authority (currently the Minister of Infrastructure and Civil Engineering).

In case of an appeal against the decision establishing the amount of compensation, the expropriated party may file a motion for paying the compensation in the amount stated in the contested decision. In such case the compensation is paid as stated, which does not influence the appeal proceedings.

The decision issued in the appeal proceedings may be further contested to the Regional Administrative Court (RAC) within 30 days of the date of judgement delivery to the complainant. The ruling of the Regional Administrative Court may be further subject to cassation, which has to be filed with the Supreme Administrative Court within 30 days of delivering a copy of the judgement with substantiation to the party.

### **7.2.2 Real property acquisition under the Special Road Act**

Under the Special Road Act, expropriation of a real property or its part as well as a permanent or temporary limitation of the manner of using a real property or its part has the form of a CIRP. For district roads, that decision is issued by a village headman (Polish: starosta). Expropriation takes place the moment the CIRP decision becomes final.

As regards transferring the ownership of the real property to the district, the owner or the holder of perpetual usufruct rights (i.e. the legal right of using and enjoying the fruits or profits

of state land) is entitled to financial or “land-for-land” compensation. The Special Road Act does not indicate any preference for the “land-for-land” compensation; financial compensation allowing for purchasing a similar real property at a market price is rather assumed.

The amount of compensation is determined by the authority that issued the CIRD in the form of a separate decision establishing the compensation. The decision establishing the compensation is issued separately for each real property based on an independent and objective valuation prepared by a licensed valuer (state professional qualifications for real property valuation). One must highlight that the expropriated person is entitled to present a real property valuation prepared by its valuer during the proceedings concerning the determination of the amount of compensation. In such case the competent authority issuing the decision has to account for the opinion presented by the affected party in the decision determining the amount of compensation. Moreover, if the affected party files remarks and motions in the proceedings, the competent authority has to refer to their subject matter during the proceedings and subsequently in the issued decision establishing the amount of compensation.

The amount of compensation is determined for the real property in the condition as of the date of issuing the CIRD, but with reference to real property value as of the date on which the amount of compensation is determined.

The decision establishing the amount of compensation is issued within 30 days of the date the CIRD becomes final. However, if the CIRD contains an order of immediate enforceability, the decision establishing the amount of compensation is issued within 60 days of the date the CIRD received the order of immediate enforceability.

The decision issued by the village headman establishing the amount of compensation may be challenged by the party by appealing to a superior authority (to the Minister of infrastructure and Construction in the case of the CIRD issued by the Province Governor).

If the expropriated person files an appeal against the decision establishing the amount of compensation, the expropriated person receives (on its request) an advance payment equalling 70% of the compensation determined by the authority of first instance in the decision establishing the amount of compensation. The advance payment is paid within 30 days of the date of filing such motion (the entire amount is paid once).

The decision issued in the appeal proceedings may be further contested to the Regional Administrative Court (RAC) within 30 days of the date of judgement delivery to the complainant. The ruling of the Regional Administrative Court may be further subject to cassation, which has to be filed with the Supreme Administrative Court within 30 days of delivering a copy of the judgement with substantiation to the party.

Compensations for the real properties expropriated under the CIRD shall be paid by the Kłodzko District, which shall acquire the ownership of the real properties. Therefore, the Kłodzko District and the Investor should conclude an agreement which shall oblige the District to apply the principles of this LA&RAP and OP 4.12 during the procedure of determining and paying the compensations as well as set the principles of incurring related costs.

### 7.2.3 Determining permanent limitations in managing real properties

Initiation of the proceedings concerning IPIP and CIRD issue requires the Investor's motion. The Investor has to indicate i.a. the real properties or their parts which are a part of the Project and are necessary for Project functioning, but shall not become the State Treasury property and shall only be subject to permanent limitations in use (hereinafter: PL). Such a motion has to be considered and, depending on the administrative authority's arrangements, disclosed in an IPIP or CIRD decision issued by the Province Governor (art. 9 item 5b of the Special Flood Act and art. 11d par. 1 item 3b of the Special Road Act respectively).

Another PL category stemming from the IPIP, but not necessarily from the Investor's motion, covers areas exposed to direct flooding risk and areas exposed to potential flooding risk, or areas exposed to particular flooding risk if designated (art. 9 item 8f of the Special Flood Act). Such real properties shall not be subject to a permanent change of the manner of managing them and, as a rule, shall be able to be used by the owner (the holder of perpetual usufruct rights) like before Project implementation, but after Project implementation always with certain functional limitations.

PL imposed under the Special Flood Act and the inconveniences related to them as well as limitations of the economic and market potential of the real property (e.g. a construction ban, a ban on planting trees, a ban on running the agricultural activity) negatively influence the real property market value and have to be made up for by a due compensation. In an extreme case where the real property ceases to be useful to the owner (the holder of perpetual usufruct rights), the latter may demand its purchase in civil law proceedings by filing a relevant motion with the Investor in accordance with art. 22 par. 2 of the Special Flood Act (the owner of a real property on which public roads are situated, i.e. A local government unit of State Treasury, may not demand purchase). If this procedure is not used, the administrative procedure determining a due compensation is the one which remains.

Neither the Special Flood Act nor the Special Road Act defines PL or indicates the administrative authority competent in the subject matter of determining such compensation in administrative proceedings. Such condition, i.e. the lack of an explicit provision of law indicating the subject matter competence of an authority, is caused by an obvious legal loophole and authorizes one to apply in the administrative proceedings the premises fixed by the CIRD and defined in the Judgement of the Supreme Administrative Court in Warsaw of 9 November 2012 (ref. no.: I OW 142/12). The Court states unambiguously that *"the competent authority to determine the compensation is the authority that issued the decision on consent for implementation of a road development . . . because the legislator cannot separate the competence to determine the compensation for the results of the same decision depending on the subject of that compensation"*.

The necessity of applying art. 30 of the Special Flood Act and art. 23 of the Special Road Act in the conducted proceedings also has to be assumed. Under those provisions, in matters not governed by the two Acts, *"provisions on real property management shall be applied respectively"*. Thus, to carry out that order, one has to base the proceedings on RPM Law provisions.

Therefore, compensations for PL established based on the provisions of both the Special Flood Act and the Special Road Act shall be governed by procedures and valuation principles described in this LA&RAP which concern determination and payment of compensations for expropriation of real properties or their parts.



#### 7.2.4 Special procedures

Under art. 133 of the RPM Law, The Investor shall deposit the amount of compensation on a court escrow account in accordance with the decision issued by the Province Governor which obliges the Investor to pay the compensation in an escrow account. This constitutes compensation payment and takes place only in two cases: where the entitled person refuses to receive the compensation or compensation payment encounters obstacles which are difficult to overcome (e.g. lack of the creditor's capacity to perform acts in law, the creditor's prolonged stay outside Poland without appointing an attorney, natural disasters, wars) as well as where the expropriation compensation concerns a real property with an unsettled legal status (Judgement of the Regional Administrative Court in Lublin of 25 February 2005, ref. no.: II SA/Lu 884/04).

Paying the compensation on a court escrow account has the same effects as compensation payment as obliges the creditor to reimburse the debtor the costs of payment.

If the court dismisses the motion, the fee shall not be returned. Moreover, if the creditor (as a participant in the proceedings) is represented in court by a legal counsel or a lawyer, the court may order the Investor to pay a fee of PLN 120 as a consideration for court representation.

#### 7.2.5 Purchase of the remaining parts of real properties

If a part of a real property is acquired and the remaining part is not fit for use for its former purposes (so called "remnant"), the Investor is obliged to purchase that remaining part of the real property if its owner or holder of perpetual usufruct rights submits a relevant motion (under art. 23 par. 1 of the Special Flood Act and art. 13 par. 3 of the Special Road Act).

The motion concerning the purchase of the remaining part of the real property may be submitted before issuing the IPIP or the CIRD, but the real property purchase may take place only after issuing the IPIP or the CIRD. If an IPIP is issued, the owner of a real property on which a public road is situated may not demand purchase of the remaining part of the real property.

The remaining parts of real properties shall be purchased by concluding civil law contracts after issuing the IPIP or the CIRD for the Task in accordance with the following procedure:

1. The real property owner/holder of perpetual usufruct rights submits a motion to the Investor containing:
  - a. a justification indicating why the remaining part of the real property after the acquisition is not fit for use for its former purposes;
  - b. an attached copy of the land register map with the remaining part of the real property marked on it.
2. The submitted motion is assessed by a commission appointed by the Director of RZGW in Wroclaw consisting of 4 members. The commission should include a representative of the team for LA&RAP monitoring and implementation and specialists for technical and property management issues. A representative of the LA&RAP Consultant may participate in commission meetings as an advisor.

3. A decision about purchase or refusal to purchase is made promptly (but not earlier than before the issuance of IPIP or CIRD and no later than 30 days of the date of receiving a complete motion for purchase of the remaining part of the real property).
4. The motion submitter is notified of the decision about purchase or refusal to purchase.
5. A valuer opinion is obtained on the value of the remaining part of the real property.
6. Negotiations are conducted with the real property owner/holder of perpetual usufruct rights concerning the amount of compensation.
7. A real property purchase contract (a purchase contract concerning the remaining part of the real property) is concluded as a notary deed.
8. The compensation is paid.

Remaining parts of real properties purchased under the Road Act shall be acquired by the Kłodzko District. Therefore, the District and the Investor should conclude an agreement which shall oblige the District to apply the principles of this LA&RAP and OP 4.12 during the procedure of acquiring the remaining parts of real properties and paying the compensations as well as set the principles of incurring related costs.

## 7.3 ADOPTED MECHANISMS OF ACQUISITION OF RIGHTS TO REAL PROPERTIES<sup>2</sup>

The LARPF indicates a number of inconsistencies between OP 4.12 and Polish law: <b>OP 4.12</b>	Polish law	Corrective measures
<p>Lack of a legal title to the land should not be a bar to receiving compensation. Persons without a legal title are eligible for compensation.</p>	<p>The Polish legal system does not account for the right to compensation of land owners/users that do not hold legal title to it (except for persons whose legal title to the real property was lost or who acquired the title by usucaption, i.a. a method by which ownership can be gained by uninterrupted possession of the real property for a period indicated in the act).</p>	<p>Each case of a Project Affected Person without a legal title to the real property shall be analysed individually for the possibility of applying general mechanisms from the Civil Code to achieve the objectives of OP 4.12.</p> <p>As per OP 4.12, Project Affected Persons without a legal title to the real property are not eligible to receive cash compensation for the real property. However, they are eligible for compensation for any facilities, plantings or improvements to the real property that were done before the cut-off date and for receiving adequate solutions in cases where they have to be physically or economically displaced. In those cases, additional mitigating measures shall also be applied.</p>
<p>WB Policy requires compensation for the loss of revenue (e.g. from business or agriculture) resulting from real property acquisition for the purposes of implementation of the planned Task.</p>	<p>Provisions of Polish law do not provide for compensation for the loss of revenue resulting from Task implementation.</p>	<p>Persons who lost the revenue or employment shall receive support (health insurance, professional trainings etc.) from employment offices.</p> <p>In case of entrepreneurs, it is possible to apply general mechanisms from the Civil Code (covering the loss suffered (damnum emergens) and the expected profits which were lost (lucrum cessans)).</p>
<p>Particular attention should be paid to the needs of vulnerable social groups, such as the poor, the elderly, single mothers, children or ethnic minorities.</p>	<p>Polish law does not require planning specific measures aimed at providing additional assistance to vulnerable social groups (the elderly, the handicapped, the poor and other groups which may have special needs).</p>	<p>The expropriated persons shall receive all the necessary help in obtaining assistance provided to citizens by offices and institutions.</p> <p>Additional measures shall also be implemented as needed to ensure that the objectives of OP 4.12 are met.</p>
<p>WB Policy requires additional compensation for the expenses incurred by the PAP as a result of physical relocation (e.g. transport of materials) and assistance in implementing the resettlement.</p>	<p>Assistance regarding incurring the costs of relocation and other similar costs resulting from the necessity to move to a new location by citizens and enterprises is not provided in the law.</p>	<p>In order to cover the costs of relocation and other similar costs, it is possible to apply general mechanisms from the Civil Code in a manner that achieves the objectives of OP 4.12.</p>

<sup>2</sup> The table included in this chapter complies with the LARPF.

The LARPF indicates a number of inconsistencies between OP 4.12 and Polish law: <b>OP 4.12</b>	<b>Polish law</b>	<b>Corrective measures</b>
The compensation should be paid prior to physical acquisition of the land for the purposes of Task implementation.	The Special Flood Act allows for acquiring the land and commencing works before the compensation is paid.	<p>In all cases, no works shall begin until it is confirmed that the Project Affected Person has been informed about the commencement of works in advance, compensation has been paid and permission to enter the land has been granted.</p> <p>The only exceptions are cases where appeal proceedings have been initiated due to negotiation failure, owner absence or the impossibility of determining the owner(s).</p> <p>To minimize the risk of commencing the works before compensating for losses, the Project shall plan and conduct real property acquisition in advance of the commencement of works.</p>
Compensation for the loss of assets is based on their market value plus any transaction costs (e.g. taxes, fees) and the objective is for the compensation to be sufficient to effectively restore the lost assets (replacement value).	The applied methods of valuation may lead to lowering the real property value as compared to prices of similar real properties on the local market.	<p>The valuation of the real property shall be conducted by an independent and experienced expert. The expert's opinion should be verified by the PIU. The expropriated party should be granted a proper amount of time to become familiar with the expert's opinion. Should there be any doubts regarding the sufficiency of the due amount of compensation, the value of the real property should be estimated by an independent expert in the proceedings before the Province Governor.</p> <p>In all cases, the valuation has to indicate the replacement value.</p>
It is required to prepare a socio-economic survey and a LA&RAP as well as to monitor compensation measures, resettlement and life quality level restoration measures and evaluate the efficiency of all the above measures.	Provisions of Polish law do not account for an obligation to prepare a socio-economic survey or a LA&RAP as such. There is no obligation to monitor or evaluate their implementation either.	Socio-economic surveys and the LA&RAP are being prepared based on the LARPF, OP 4.12 and good practices.

Due to the formal and legal requirements for Task 2A.1/2, real property acquisition mechanisms stemming from the Special Flood Act, the Special Road Act and the CC shall be applied (in relation to the remaining parts of real properties).

Under the provisions of the Special Flood Act and the Special Road Act, plots are acquired as part of the expropriation procedure. In each case, it shall be the Investor's priority to reach an agreement with the PAP concerning real property acquisition conditions (compensation form, real property acquisition date, principles of use after issuing the IPIP/CIRD etc.). After issuing the IPIP, negotiations concerning the amount of compensation shall also be



conducted based on an independent valuer's (expert's) opinion. In cases concerning real properties expropriated under the Special Flood Act, if the conducted negotiations do not result in determining the amount of compensation within 2 months of the date the IPIP becomes final, the amount of compensation shall be determined by the Lower Silesian Province Governor in a decision based on a valuation made by a qualified valuer appointed by the Province Governor.

In the case of the IPIP, negotiations shall concern the form of compensation and real property acquisition conditions. The amount of compensation itself shall be determined in a decision of a competent authority, in accordance with the provisions of the Special Road Act. The order of applying this LA&RAP and OP 4.12 in the process of negotiations, real property acquisition and compensation payment should be determined in an agreement between the Kłodzko District and the Investor. This agreement is executed voluntarily following negotiations between the District Authorities and the Investment Project Owner. The agreement should specify the conditions for the transfer from the Investment Project Owner and settlement by the District Authorities of financial means for compensation paid by the District Authorities. The primary condition for the transfer of the financial means for the compensation is adherence to the principles of this LA&RAP and OP 4.12. It should specify the principles of cooperation between the Investment Project Owner and the District as regards implementation, monitoring, and reporting necessary to verify the correct implementation of this LA&RAP by the World Bank. The agreement should be executed prior to submitting a request for CIRP.

Costs related to the maintenance of the section of the district road No. 3233D, which is in collision with the construction of the Reservoir, provided by the administrator of the road shall be covered by the Investment Project Owner from the day of issue of the final IPIP until the section is taken out of operation.

The owner of power, gas and telecommunication lines shall receive compensation in the form of a new transmission structure (transmission grid) implemented in other real properties to replace the demolished structures. In real properties where the new transmission structures shall be implemented, transmission easement on behalf of the transmission entrepreneur being the owner of the demolished and reconstructed grid shall be established. Under art. 305<sup>1</sup> of the CC, transmission easement means burdening the real property with the right to use that real property in the scope determined by the purpose of transmission structures. Such burdening covers access, use (operation on a running basis), inspections, reviews, maintenance, modernization, renovations, breakdown removal and replacement of structures situated in a given real property in the scope necessary to ensure correct and undisturbed functioning of the transmission grid belonging to the enterprise (see the Supreme Court judgement of 18 April 2012, V CSK 190/2011, LexisNexis no. 3971510).

The primary manner of establishing transmission easement is a contract between the real property owner and the entrepreneur. The real property owner may demand appropriate remuneration for establishing transmission easement. If the real property owner refuses to conclude the contract, transmission easement may be established by the court in non-litigious proceedings on the entrepreneur's request, with appropriate remuneration. The same concerns easement of a necessary road. The remuneration is determined by the court, usually with an expert's assistance, on the basis of structure type and related manner of real

property use by the entitled party as well as the influence of those structures on the limitation in exercising the real property ownership right. The real property owner has the same right if the entrepreneur refuses to conclude the contract concerning the establishment of transmission easement necessary to use the abovementioned structures. The act does not state if the remuneration has to be paid one-time or throughout a period, which means the right to choose an equivalent payment for the owner.

All temporarily acquired real properties shall be restored to their original state by the Contractor. The scope and target locations of temporary acquisition will be specified after selection of the Contractor. The Contractor shall follow principles specified in this LA&RAP when negotiating conditions of temporary acquisition (the process will be voluntary).

## 7.4 VALUATION PRINCIPLES<sup>3</sup>

The owner/holder of perpetual usufruct rights of a real property (or its part) which is a part of a flood protection investment and is necessary for investment implementation is entitled to compensation for the transfer of ownership of the real property to the State Treasury or a local government entity.

In all cases, the compensation has to meet the principle of replacement value, which means the real property market value and related assets (e.g. plantings) plus any transactions costs required to replace it, such as taxes and fees. Compensation is determined on the basis of a valuation by a valuer and, if necessary, by a team of valuers (e.g. one including an agricultural expert).

According to OP 4.12, with regard to real properties and facilities, “replacement value” is defined as follows:

a) for agricultural lands, it is the pre-Project or pre-displacement (whichever is higher) market value corresponding to the market value of a land with a comparable productive potential or use located in the vicinity of the land acquired for the Task, plus the cost of preparing the land for the functions similar to those of the land acquired for the Task, plus transaction costs;

b) for real properties in urban areas, it is the pre-displacement market value corresponding to the value of a land with a comparable size and use, with similar or improved access to public infrastructure facilities and services and located in the vicinity of the acquired real property, plus transaction costs;

c) for houses and other facilities, it is the market value of the materials to be built in new houses and facilities replacing the project affected houses and facilities, with the amount and quality similar to or better than those of the expropriated or partially project affected houses and facilities, plus: the costs of transporting the materials to the construction site, construction employee remunerations, transaction costs, fees and taxes related to the implementation of the new facilities.

The real properties expropriated for the purposes of Task implementation shall be governed by the principles indicated above in letter a) and b).

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<sup>3</sup> The chapter content is compliant with the LARPF.

In determining the replacement value, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the Project, deducted from the valuation of a project affected asset. Where Polish law does not provide for the necessity of compensation at a replacement value, compensation is supplemented by additional measures so as to meet the replacement value standard, such as support after displacement throughout a transition period based on a reasonable estimate of the time necessary to restore the quality of life (including means of support), etc. Such a proceeding assures implementation of compensation in a compensation standard according to the replacement value.

The amount of compensation paid by the State Treasury or the local government entity, respectively, is determined by the Investor and the current owner, holder of perpetual usufruct rights or a person with a limited property right through negotiations.

Should the investment project implementation permit concern family garden allotments established pursuant to the Act on Family Garden Allotments, the entity in whose interest the family garden allotment or its part is going to be liquidated shall:

- pay the garden allotment holders compensation for the plantings, structures and facilities belonging to the allotment holders and located in the allotments;
- pay the garden allotment holders' association compensation for structures, buildings and facilities belonging to the association which are located in the family allotment garden for the purpose of shared use by the allotment users and ensure proper functioning of the allotment garden;
- secure free-of-charge replacement real property for the purpose of restoration of the family allotment garden.

The amount of compensation determined on the date of issuing the IPIP/CIRD is subject to indexation as of the payment date according to the principles applicable in the case of expropriated property return.

#### ATTENTION:

The valuation methods are defined by a legal act in the form of a regulation: the Regulation of the Council of Ministers of 21 September 2004 on real property valuation and appraisal study preparation (OJ No. 207, item no. 2109 as amended). This act contains details concerning methods and techniques of estimating the amount of compensation.

#### **7.4.1 Real property valuation<sup>4</sup>**

The amount of compensation is determined on the basis of the real property market value. While ascertaining the real property market value, the following factors in particular are taken into consideration: type, location, manner of use and purpose, existing technical infrastructure, overall condition and current market prices. The real property market value is determined based on its current manner of use if the real property purpose compliant with the Project objective does not increase the real property value. If the data from the local or regional real property market allow the valuer to ascertain the real property market value, they shall apply one of the market approaches, i.e. the sales comparison approach, the

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<sup>4</sup> The chapter content is compliant with the LARPF.

income capitalisation approach or the combined approach. Should the real property purpose in accordance with the expropriation purpose increase the real property value, its market value shall be ascertained according to the alternative use resulting from that new purpose. If the data from the local or regional real property market do not allow the valuer to ascertain the real property market value, they shall ascertain the replacement value of the real property based on the cost approach.

Should the current owner or holder of perpetual usufruct rights of the real property covered by the investment project implementation permit release the real property or release the real property and vacate the premises, respectively, within 30 days of the date the IPIP/CIRD becomes final, the amount of compensation shall be increased by 5% of the real property value or of the perpetual usufruct right value.

#### **7.4.2 Valuation of movable assets**

Movable assets shall also be compensated for in cases where:

- a) they are not fit for use in the new location and/or
- b) the Project Affected Person shall no longer use them as a result of the resettlement (e.g. moving from a rural to an urban dwelling).

No movable assets have been identified which shall not be fit for use in the new location or due to expropriation.

#### **7.4.3 Valuation of plantings and crops<sup>5</sup>**

The valuation of tree stand or tree cover, if the tree stand includes usable resources, shall involve the valuation of timber in the tree stand. If the tree stand includes no usable resources or if the value of obtainable timber is exceeded by the costs of reforestation and maintenance of the tree stand, the valuation concerns the costs of reforestation and maintenance of the tree stand until the date of expropriation.

Valuation of fields of perennial plants involves the estimation of the costs of establishing the field and its maintenance until the first yield as well as lost profit in the period from the date of expropriation until the completion of the full yield. The aggregate of costs and the value of lost profits are reduced by the sum of the yearly depreciation charge resulting from the period of using the field from the first year of yield until the date of expropriation. The valuation of crops, cultivations and other yields of annual plants involves the estimation of the expected yield according to the current market prices, reduced by the value of necessary expenditures related to the collection of the yields.

The valuation of crops, cultivations and other yields of annual plants involves the estimation of the expected yield according to the current market prices, reduced by the value of necessary expenditures related to the collection of the yields.

#### **7.4.4 Valuation of the remaining assets**

The remaining assets related to real property are civil profits, that is, revenue from that real property gained on the basis of a legal relationship. When valuing the rights under contracts

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<sup>5</sup> The chapter content is compliant with the LARPF.

(including the rights of lease, tenancy, lending and life estate) and their impact on the real property, the valuer may in particular consider the following elements:

- type, nature, scope and duration of the contract,
- relevant provisions of the law,
- form of payment,
- type and amount of other payments,
- method and dates of payment of rent and other payments,
- rights and obligations arising from the rights under contracts and from concluded contracts,
- the parties' claims related to the settlement of expenditures on the real property, and
- available information concerning the valued real property and the particular type and section of the market involving the rights under contracts.



## 8 Eligibility criteria and catalogue of beneficiaries

### 8.1 ELIGIBILITY CRITERIA<sup>6</sup>

According to the policy of the World Bank, the following groups of people are eligible for compensation and assistance in connection with real property acquisition resulting in loss of assets and (physical or economic) displacement:

- (a) those who have a formal legal title to the land or other project affected assets (including customary and traditional rights recognized under the laws of the country);
- (b) those who do not have a formal legal title at the time the census begins but have a claim to the land or assets, provided that such claims are recognized under the laws of the country or become recognized during the works on the LA&RAP;
- (c) those who have no legal title or claim to the real property they are acquiring.

Persons included in paragraph (a) or (b) above should receive compensation for the land they lose, as well as other assistance. Persons included in paragraph (c) should be provided with resettlement assistance in lieu of compensation for the land they acquire, as well as other assistance, as necessary, to achieve the objectives of OP 4.12, if they acquire the Project implementation area prior to the cut-off date. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in paragraph (a), (b) and (c) are provided with compensation for loss of assets other than land.

Thus, the lack of a legal title to the real property as such should not preclude the eligibility for compensation or other assistance offered in connection with involuntary acquisition of the real property.

It ought to be noted that this case involves no persons belonging to the group of those who have no legal title to the land. Importantly, however, persons who use real properties without a legal title in Poland are aware of the illegality of their actions and of the fact that the property may return to the rightful owner at any time and without financial compensation.

The manner of estimating the impact on the PAP was described in chapter 4.1. Social impact.

### 8.2 CATALOGUE OF BENEFICIARIES<sup>7</sup>

Eligibility for compensation and assistance shall be determined according to the following principles:

- PAP being legal possessors of real property in the Project area shall receive full compensation with the priority given to the rule of “land for land”;

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<sup>6</sup> The chapter content is compliant with the LARPF.

<sup>7</sup> A chapter compliant with the LARPF

- PAP being lessees, tenants, life estate holders and other dependent possessors of real property in the Project area shall receive full compensation for the loss of these rights;
- PAP being possessors of limited property rights in real property shall receive full compensation for the loss of these rights;
- owners of cultivations, plants, structures and other constructions related to the land shall receive compensation for those cultivations, plants, structures and constructions;
- residents of houses and flats subject to resettlement shall receive compensation according to the rules specified above as well as assistance in the resettlement, adequate access to social infrastructure and, if necessary, a package of specially selected protective measures;
- PAP who lose their revenue, salaries/wages or ability to run business activity in relation to Project implementation shall receive adequate compensation and, if necessary, a package of adequately selected protective measures;
- PAP being illegal possessors of real property in the Project area who have no legal title and no expectancy right to obtain a legal title to the real property shall receive no compensation for the expropriation from the real property, as that is not possible under Polish law. However, those persons shall receive compensation for plants and constructions owned by them and, if necessary, a package of specially selected protective measures to restore or improve their quality of life.

PAP shall be entitled to receive compensation for the following categories of impact/losses:

- **Permanent loss of real property** – where possible and where the PAP express such will, the loss shall be compensated in the form of “land for land” by way of granting a real property of a similar value, location and functions as the expropriated real property. If finding a real property that meets the criteria of adequate compensation is not possible, the PAP do not express their will to receive compensation in the form of “land for land”, or only a small part of the plot is subject to acquisition, the compensation shall be paid in cash and correspond to the market value of the expropriated real property or its part. In addition, for an immediate release of the real property it shall be possible to increase the compensation by an amount corresponding to 5% of the value of the expropriated real property under the terms of the Special Flood Act. PAP not being owners or holders of perpetual usufruct rights, but having a legal title to the property (e.g. lessees, tenants) shall receive compensation corresponding to the value of the expropriated rights. On the request of the PAP, the Investor may take over the entire real property and compensate for the acquisition of that real property according to the abovementioned principles. Any and all transaction costs, including taxes related to the granting of compensation for expropriation, shall be covered by the Investor. PAP being illegal possessors of real property in the Project area (having no legal title) shall receive no compensation for the expropriation from the real property, as that is not possible. However, those persons shall receive compensation for plants, plantings and constructions owned by them and, if necessary, a package of protective measures to restore or improve their quality of life.

- **Permanent limitation in the current use of a real property** shall, as a rule, be compensated in cash, taking into account the loss of the real property market value. Depending on the case, specially selected protective measures shall also be offered. On the request of the PAP, the real property to be affected by a permanent limitation in the current use shall be expropriated and the PAP shall receive compensation under the terms applicable to a permanent loss of the real property.
- **Residential buildings** – compensation shall be carried out on the same basis as for a permanent loss of the real property. In addition, the resettled PAP shall receive an additional payment in the amount of PLN 10,000. Depending on the case, such people shall receive replacement residential accommodation from the Investor. Squatters are not entitled to compensation, but in certain cases, the Investor is obliged to grant them replacement accommodation. Such persons shall also be offered a package of protective measures, including assistance in finding their place of residence, and if they are unemployed or addicted, they shall be offered actions supporting their position in the labour market and shall receive a proposal of appropriate treatment.
- **Non-residential buildings and structures (stables, fences, technical infrastructure etc.)** – as a rule, owners and users of these buildings and structures are compensated on the basis applicable to a permanent loss of the real property. Within the framework of protective measures, the Investor shall propose reconstruction of infrastructure networks (and, where appropriate, of structures and buildings) at the Investor's expense. In addition, in the case of local government entities which have implemented or are implementing the affected buildings or structures with the use of funds coming from the budget of the European Union or other foreign sources, financial compensation shall be increased by the amount of refundable resources coming from co-financing together with accrued interest.
- **Loss of plantings** shall be compensated in cash to legal owners of real properties, taking into account the costs of planting execution and maintenance as well as the value of lost profits in the period from the date of expropriation until the end of the full yield.
- **Loss of tree stand** shall be compensated on the basis applicable to the loss of plantings. Depending on the case, compensation may also be made according to an estimate of the value of timber that could be obtained.
- **Impact on enterprises and employment** shall be compensated in cash by compensation for the damage actually incurred by an enterprise and the profit lost as a result of Task implementation. Billing and accounting documents or corporate income tax returns should be the grounds for the determination of such values. Should employees lose their work, they shall receive unemployment benefits. Both employees and contractors working under civil law contracts, in case of loss of their earning capacity, shall receive free-of-charge health insurance, assistance in search for work and possibly also assistance in the form of vocational training to reskill them so that they can find new employment.
- **Loss or limitation of the access to social infrastructure** (e.g. parks) shall be compensated as much as possible by restoring the infrastructure in a new appropriately located site. If it is impossible or unnecessary to restore the infrastructure in the new site, the PAP shall receive access to the existing social infrastructure.

- **Cost of household relocation** – in order to cover the costs of household relocation, the PAP shall receive the amount of PLN 10,000. They shall also be offered a special package of protective measures including, if necessary, assistance in search for a transport company and coverage of transport costs exceeding the amount of PLN 10,000.
- **Particularly vulnerable groups** shall be covered by a specially selected package of protective measures adjusted to their needs within the compensation (a schedule of measure implementation in this scope shall be determined individually). With reference to children and school teenagers, the assistance shall cover help in finding a new resettlement site which shall enable them to continue education in the current school; the same rule applies to children attending nurseries and kindergartens. The elderly shall be relocated to places which have no architectural barriers hindering movement and offer equal or better access to health care, but at the same time make it possible for the elderly to preserve their existing habits and lifestyle. The poor shall be offered assistance in obtaining additional institutional support from government and local government agencies as well as from non-governmental organizations competent in the scope of their problems.
- **Temporary real property acquisition** shall be compensated in cash through the payment of monthly amounts corresponding to market prices of tenancy or lease of the real property. Moreover, if the PAP incur a loss due to the temporary real property acquisition, the loss shall be compensated separately according to the abovementioned principles. After the completion of construction activities, all real properties shall be restored to their original state.
- **Damage to houses, buildings and structures due to construction works (e.g. vibration, accidents)** shall be compensated according to their nature in order to make the restoration of the full substance of the affected object or the purchase of a new one possible. Depending on the situation, appropriate rules of compensation payment for the above influences shall be applied.

A detailed catalogue of beneficiaries is included in Annex no. 2 to this LA&RAP. However, that Annex shall not be published due to personal data protection.

### 8.3 ELIGIBILITY MATRIX<sup>8</sup>

Impact/losses	P A P determination	C o m p e n s a t i o n
Permanent loss of real property	Owners, holders of perpetual usufruct rights, owner-like possessors of real properties	<ul style="list-style-type: none"> <li>• compensation in the form of “land for land”</li> <li>• if compensation in the form of “land for land” is impossible or unwanted, cash compensation shall be applied</li> <li>• coverage for all transaction costs</li> <li>• after the completion of reservoir construction: a priority right to lease the expropriated lands that were not acquired for the purposes of reservoir construction</li> </ul>
	Illegal holders of real properties	<ul style="list-style-type: none"> <li>• no compensation for real property loss</li> </ul>
	Owners of an easement, a mortgage or a lien on the real property	<ul style="list-style-type: none"> <li>• cash compensation for lost rights</li> <li>• owners of land easements: assistance in finding a solution allowing them to use the real property owned by them (and superior to the expropriated real property), e.g. in the form of a different road necessary to have access to the real property</li> <li>• coverage for transaction costs</li> </ul>
	Illegal owners of easements	<ul style="list-style-type: none"> <li>• illegal owners of easements: assistance in finding a solution allowing them to use the real property owned by them (and superior to the expropriated real property)</li> </ul>
Permanent limitations in using real properties	Owners, holders of perpetual usufruct rights, owner-like possessors of real properties	<ul style="list-style-type: none"> <li>• cash compensation for the losses related to the limitations in using real properties</li> <li>• coverage for transaction costs</li> <li>• offering institutional support and counselling in the scope of the possibilities of using the real property in another manner</li> </ul>
	Illegal holders of real properties	<ul style="list-style-type: none"> <li>• offering institutional support and counselling in the scope of the possibilities of using the real property in another manner</li> </ul>

<sup>8</sup> A chapter compliant with the LARPF



Impact/losses	P A P determination	C o m p e n s a t i o n
	Illegal owners of easements	<ul style="list-style-type: none"> <li>• assistance in finding a solution allowing them to use the real property owned by them (and superior to the expropriated real property)</li> </ul>
Non-residential buildings and structures (stables, fences, technical infrastructure etc.)	Owners, holders of perpetual usufruct rights, owner-like possessors of buildings and structures	<ul style="list-style-type: none"> <li>• cash compensation, amounting to the replacement value of lost assets</li> <li>• Relocation or reconstruction of lost assets</li> </ul>
	Users	<ul style="list-style-type: none"> <li>• cash compensation, amounting to the replacement value of lost assets</li> <li>• Relocation or reconstruction of lost assets</li> </ul>
	Illegal owners of buildings and structures	<ul style="list-style-type: none"> <li>• cash compensation, amounting to the replacement value of lost assets</li> <li>• Relocation or reconstruction of lost assets</li> </ul>
	Lessees and tenants of buildings and structures	<ul style="list-style-type: none"> <li>• cash compensation, amounting to the replacement value of lost assets</li> <li>• Relocation or reconstruction of lost assets</li> </ul>
Loss of plantings	Owners, holders of perpetual usufruct rights, owner-like possessors of real properties	<ul style="list-style-type: none"> <li>• cash compensation, taking into account the costs of planting execution and maintenance as well as lost yield</li> <li>• making it possible to collect the yield</li> </ul>
	Users	<ul style="list-style-type: none"> <li>• cash compensation, taking into account the costs of planting execution and maintenance as well as lost yield</li> <li>• making it possible to collect the yield</li> </ul>
	Lessees and tenants	<ul style="list-style-type: none"> <li>• cash compensation, taking into account the costs of planting execution and maintenance as well as lost yield</li> <li>• making it possible to collect the yield</li> </ul>
	Illegal holders of real properties	<ul style="list-style-type: none"> <li>• making it possible to collect the yield</li> </ul>
Municipality property	Municipality	<ul style="list-style-type: none"> <li>• restoration or replacement of destroyed facilities based on the agreement reached with the municipalities</li> </ul>
Temporary real property acquisition	Owners, holders of perpetual usufruct rights, owner-like possessors of real properties	<ul style="list-style-type: none"> <li>• cash compensation</li> <li>• restoration of the real property to its original state</li> </ul>
	Illegal holders of real properties	<ul style="list-style-type: none"> <li>• restoration of the real property to its original state</li> </ul>

Impact/losses	PAP determination	Compensation
	Lessees and users of the real property	<ul style="list-style-type: none"> <li>• cash compensation</li> <li>• restoration of the real property to its original state</li> </ul>

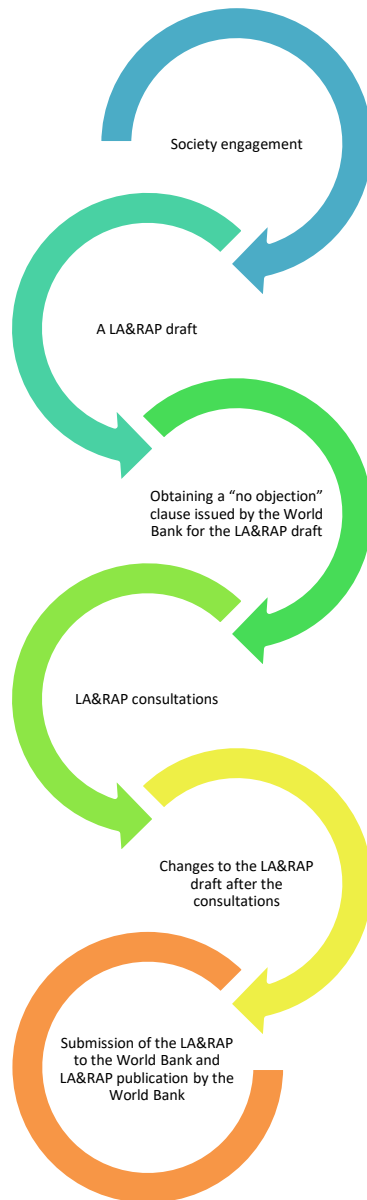
Details concerning the eligibility of beneficiaries are included in Annex no. 2 to this LA&RAP. That Annex shall not be published due to personal data protection.

## 9 Social consultations and public participation

In relation to obtaining a loan from the World Bank's funds and the necessity of implementing the resettlement process principles stemming from the requirements of OP 4.12, the Investor has taken actions aiming at engaging the society in LA&RAP development and implementation. Society engagement is treated as a continuous process whose correct implementation is anticipated to enable mitigation of risks related to a potential social conflict for the Task.

When preparing this LA&RAP, the Investor held an information meeting on 24.08.2016 during which the residents were presented with the requirements stemming from OP 4.12, persons responsible for Project implementation, LA&RAP development and implementation, the planned PIU action order and LA&RAP compensation rules. The schedule of reservoir construction works as well as the possibility of leasing the land in the reservoir basin, obtaining replacement real properties, and planned scope of real property acquisition were also discussed. The Investor stays in touch with the PAP so as to achieve the assumed goals of public participation in the LA&RAP preparation process, i.e. providing an appropriate amount of information and receiving feedback which has to be taken into account in the process of correct LA&RAP preparation and implementation.

An information leaflet (Annex no. 7 to this LA&RAP) was also developed. It describes the aim and scope of the Project, the real property acquisition procedure, compensation payment and the procedure of purchasing the remaining parts of real properties in a manner accessible to the affected community.



**Figure 9 – A diagram of society engagement in LA&RAP preparation**

After concluding the works on the LA&RAP draft and WB's "OK", an open meeting, a public discussion about the LA&RAP draft was held for all interested parties in the Village Community Centre, 34 Roztoki on November 28<sup>th</sup> 2016. After obtaining the "no objection" clause issued by the WB for the draft document, the final document shall be made available to the affected persons until the end of Project implementation.

The society was informed about the public announcement of the LA&RAP, the planned date of a public debate about the LA&RAP draft as well as the possibility of submitting remarks and motions concerning the LA&RAP draft in the following manners:

- placing the information about the consultations on the notice board of the RZGW in Wrocław;
- placing the information about the consultations on the website and notice board of the Międzylesie Municipality;

- publishing an advertisement in *Gazeta Kłodzka*,
- placing the information about the consultations on the municipal notice boards in Roztoki Bystrzyckie and Gajnik;
- sending individual invitations to the Mayor of Międzylesie and persons whose real properties shall be expropriated.

The public consultations lasted 21 days. Over this period, every affected person could familiarize themselves with the LA&RAP draft and submit their comments. It was possible to submit the comments to the LA&RAP draft in writing – directly or by sending them to the following addresses:

Regional Water Management Authority in Wrocław  
ul. C.K. Norwida 34  
50-950 Wrocław

Regional Water Management Authority in Wrocław  
The Inspectorate in Kłodzko  
ul. Kościuszki 1  
57-300 Kłodzko

or by e-mail to the following address: [oppkk@wroclaw.rzgw.gov.pl](mailto:oppkk@wroclaw.rzgw.gov.pl).

During the public debate, the society was able to submit oral and written comments concerning the LA&RAP draft. After the public debate, the remarks submitted by the society during the social consultations shall be introduced to this LA&RAP wherever justified.

The public discussion report will constitute Annex No. 8 to this LA&RAP.



## 10 The complaint management mechanism

This LA&RAP assumes a principle stating that the Investor shall take any and all action aimed at settling the complaints concerning the Task amicably. The complaint management mechanism has to be diversified to integrate it with the administrative procedures binding for various stages of Task preparation.

### 10.1 THE GENERAL COMPLAINT AND MOTION MANAGEMENT MECHANISM

The general complaint and motion management mechanism shall be applied to the following complaints and motions:

- a) those submitted during the social consultations concerning this LA&RAP draft;
- b) those submitted before the Investor applies for an IPIP/CIRD;
- c) those submitted directly to the Investor during the processing of the IPIP/CIRD or the decision determining the amount of compensation;
- d) those submitted after issuing the IPIP/CIRD or the decision determining the amount of compensation for the expropriated real property.

Concerning this mechanism, the primary principle adopted by the Investor is giving everyone the right to submit a complaint or motion concerning the Project regardless of the fact if their real property, rights or assets are situated in the area intended for reservoir implementation or not.

Submitting complaints or motions is not subject to fees. Furthermore, the person filing a complaint or motion may not be exposed to any damage or allegation on account of such submission.

Complaints and motions may be filed in writing, in an electronic or oral form, or by telephone. They may be filed:

- by e-mail to the following address: [oppkk@wroclaw.rzgw.gov.pl](mailto:oppkk@wroclaw.rzgw.gov.pl)
- orally in the minutes or in writing to the following addresses:

Regional Water Management Authority in Wrocław  
ul. C.K. Norwida 34  
50-950 Wrocław

Regional Water Management Authority in Wrocław  
The Inspectorate in Kłodzko  
ul. Kościuszki 1  
57-300 Kłodzko

Complaints and motions shall be archived in a separate register, with the dates of their submission, dates of providing answers and the method of resolving.

If processing of a complaint or motion requires a prior review and clarification of the matter, other materials shall be collected and surveys and analyses shall be performed. In such case, an answer to the complaint or motion shall be provided within 14 days of its submission date to RZGW WR. If it is not necessary to conduct clarification proceedings, an answer to the complaint or motion shall be provided within 7 days of its submission date.

In particularly complex cases as well as in cases where the examination of the complaint or motion requires introducing changes to the LA&RAP, the term allowed for answering a complaint or motion shall be extended to 30 days. If this term is too short, the party shall be notified of the cause for not receiving a subject matter answer to the party’s complaint/motion on time; the term of providing such an answer shall also be stated.

In the case of a refusal to settle a complaint, the person submitting the complaint or motion shall be informed in an exhaustive manner about the causes for the refusal.

A diagram of the general complaint and motion management mechanism is presented below:

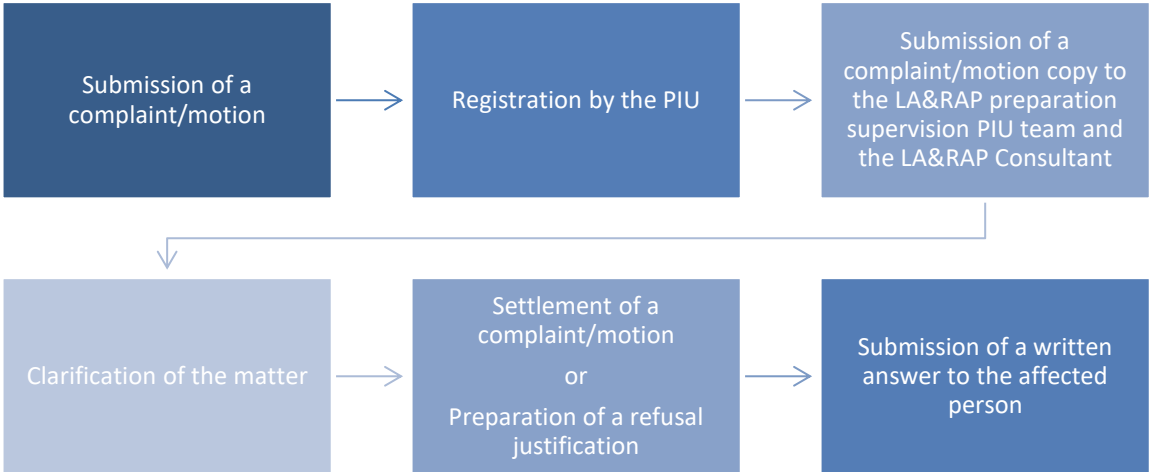


Figure 10 – A diagram of the general complaint and motion management mechanism

**10.2 SPECIAL COMPLAINT AND MOTION MANAGEMENT MECHANISMS**

Special complaint and motion management mechanisms are directly connected with the IPIP/CIRD issue proceedings as well as the determination of compensation for the lost right to the real property and related assets (e.g. civil profits, appurtenance or devices and machines unfit for use in a different location). They shall be applied during the IPIP/CIRD issue proceedings, negotiations concerning determination of compensation conducted after the IPIP/CIRD issue, proceedings concerning issuing the decision determining the amount of compensation by the Lower Silesian Province Governor as well as appeal and court proceedings concerning the IPIP/CIRD and compensation.

Persons whose real properties are situated in the reservoir implementation area are parties to the IPIP/CIRD issue proceedings. They have the right to actively participate in the IPIP/CIRD issue proceedings free of charge, including the right to submit remarks and motions concerning the case directly to the Lower Silesian Province Governor. One should mention that the remarks and motions submitted during the proceedings do not always require the Investor's answer. However, if such an answer is required, the Investor shall promptly take a stand on the case and submit it to the Lower Silesian Province Governor. The Investor's answers shall be delivered to the parties via the Lower Silesian Province Governor.

If the parties are dissatisfied with the decision issued by the Province Governor, they shall have the right to submit an appeal to a minister competent in construction (currently the Minister of Infrastructure and Civil Engineering). All declarations and motions and the evidence submitted in the proceedings before the minister competent in construction shall be admitted by the minister and taken into account when issuing the decision.

If the parties are dissatisfied with the decision issued by the minister, they shall have the right to submit a complaint to the Regional Administrative Court in Warsaw. That court shall examine if the Province Governor and the minister conducted the proceedings correctly and reliably, including their taking into account of the remarks and motions and the evidence submitted by the parties to the proceedings. Under the binding provisions of law, a complaint is subject to a court fee of PLN 500. Moreover, the party who loses the case is obliged to reimburse the other party for court proceedings.

If RAC judgement is unsatisfactory to the party, the party shall have the right to cassation, which has to be filed with the Supreme Administrative Court. That court shall examine not only the correctness and legality of the proceedings conducted by the Province Governor and the minister, but also the RAC judgement. Cassation is subject to a court fee of PLN 250. Moreover, the party who loses the case is obliged to reimburse the other party for court proceedings.

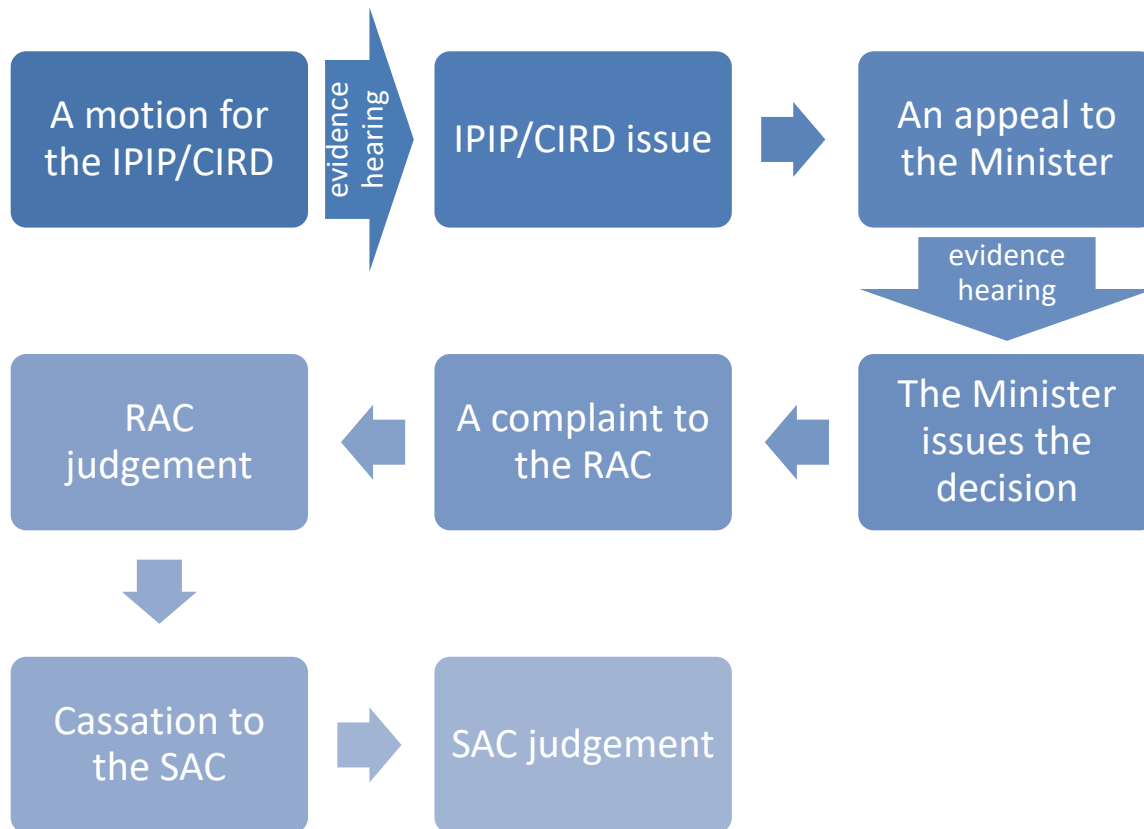


Figure 11 – The complaint management mechanism at the IPIP stage

After obtaining the final IPIP/CIRD, the Investor shall conduct negotiations concerning the amount of compensation with persons who lose their right to the real property or asset (e.g. civil profits, appurtenance or devices and machines unfit for use in a different location); in the case of the CIRD, the negotiations shall concern the form of compensation and real property acquisition. Reservations submitted by the parties at the negotiation stage shall be archived in minutes of the negotiation meetings.

If no agreement on the compensation is reached, minutes and other documents sent by the parties to one another during the negotiations concerning real properties expropriated under the IPIP shall be submitted to the Lower Silesian Province Governor. Those documents, along with the appraisal study, shall constitute the basis for issuing the decision determining the amount of compensation.

PAP rights in the proceedings concerning the issue of the decision determining the amount of compensation are analogous to those in the IPIP/CIRD proceedings. It means that the PAP have the right to actively participate in those proceedings free of charge, submit remarks and motions, appeal against the decision issued by the Province Governor and submit a complaint about the appeal decision issued by the Minister of Infrastructure and Construction to the Regional Administrative Court in Warsaw and then to the SAC. However, unlike in the proceedings concerning the IPIP/CIRD issue, a complaint to the RAC about the decision determining the amount of compensation is subject to a proportional court fee which

depends on the due amount of money covered by the decision which is appealed against and equals:

- 1) up to PLN 10,000 – 4% of the complaint subject value, but no less than PLN 100;
- 2) over PLN 10,000 up to PLN 50,000 – 3% of the complaint subject value, but no less than PLN 400;
- 3) over PLN 50,000 up to PLN 100,000 – 2 % of the complaint subject value, but no less than PLN 1.500;
- 4) over PLN 100,000 – 1% of the complaint subject value, but no less than PLN 2,000 and no more than PLN 100,000.

The court fee for cassation to the SAC equals a half of the court fee for the complaint to the RAC, but no less than PLN 100.

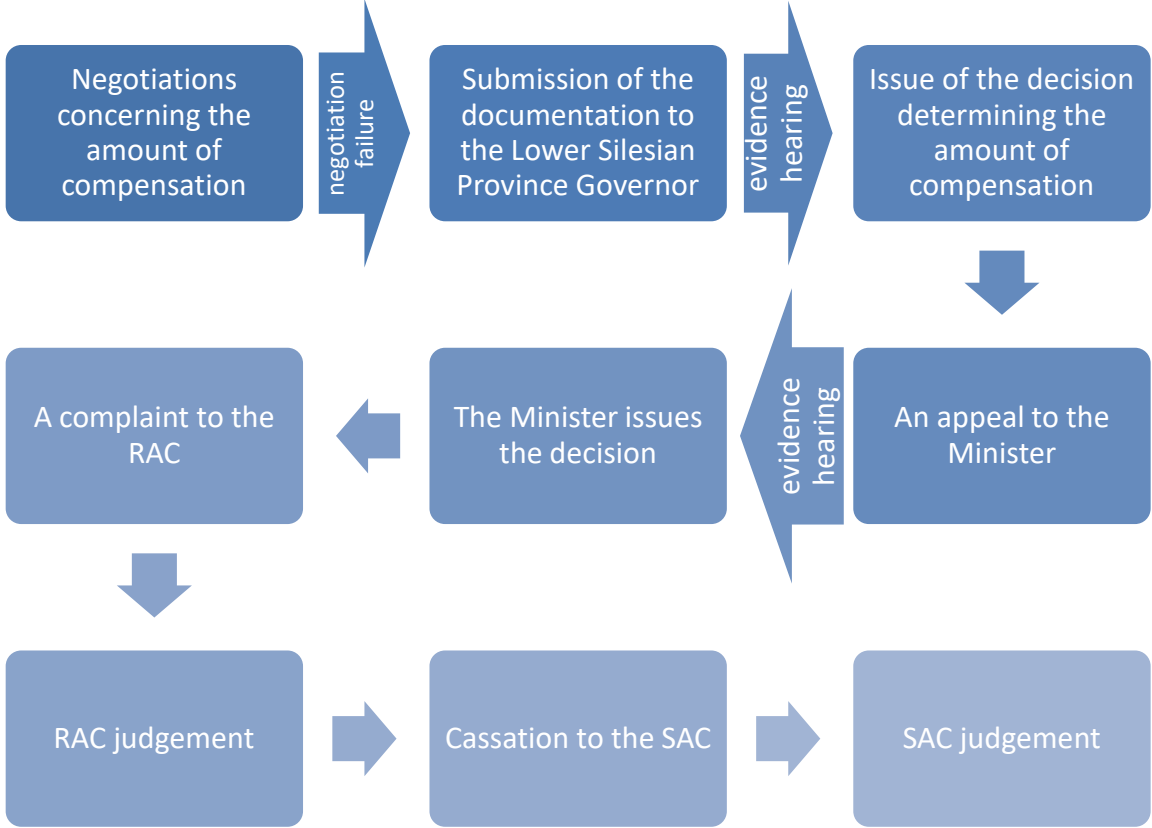


Figure 12 – The complaint management mechanism at the stage of issuing the decision determining the amount of compensation for real properties expropriated under the IPIP



## **10.3 THE SUBMISSION MECHANISM OF COMPLAINTS AND MOTIONS CONCERNING THE IMPLEMENTATION OF THE CONTRACT FOR WORKS**

The mechanism of submitting complaints and motions concerning the construction and assembly works conducted by the Contractor shall be implemented at the beginning of the whole process and shall be binding throughout the entire period of implementation, functioning and closure of the Project.

### **10.3.1 Place and manner of submitting complaints and motions**

A complaint or motion may be submitted by the party in one of the three following places:

1. Directly in the Task main office, which shall fulfil the function of a consultation point:

The Engineer-Consultant's Office (the address shall be provided after the Consultant is selected),

Directly in the Employer's seat:

Regional Water Management Authority in Wrocław  
ul. C.K. Norwida 34  
50-950 Wrocław

Regional Water Management Authority in Wrocław  
The Inspectorate in Kłodzko  
ul. Kościuszki 1  
57-300 Kłodzko

In addition, complaints and motions may be submitted:

By post to the abovementioned addresses or

By e-mail: [oppkk@wroclaw.rzgw.gov.pl](mailto:oppkk@wroclaw.rzgw.gov.pl)

– A telephone helpline shall be launched.

### **10.3.2 Terms of considering complaints and motions**

Terms of considering complaints and motions:

- a written confirmation of receiving the complaint: within 7 days of receiving the complaint;
- Proposed solutions: promptly, till 30 days of receiving the complaint.

The principles referenced in this LA&RAP concerning the consideration of complaints and motions are also binding upon this type of complaints.

The proposed complaint registration form is presented in Annex no. 6 to this LA&RAP.

### **10.3.3 Persons responsible for considering complaints and motions**

The Employer shall create a unit responsible for contact with the society and dealing with social complaints in the organizational structure. That unit shall also include one person from the Engineer-Consultant's team, with competence and experience in this scope.

### **10.3.4 Audits and an independent appeal mechanism**

It is assumed that internal audits of the complaint and motion mechanism operation shall be conducted periodically (once in a half year) in order to assess the efficiency of the implemented system.

## 11 Institutional structure and implementation team

The institutional structure of the LA&RAP developing team is presented in the following diagram:

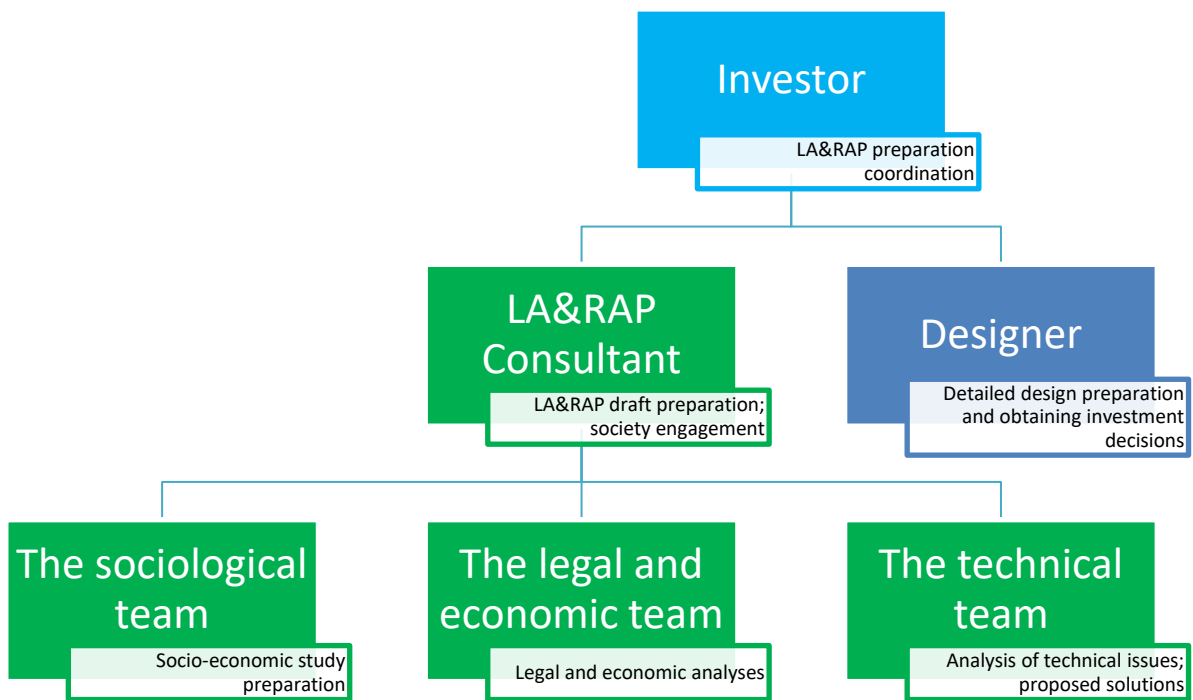


Figure 14 – Institutional structure of the team developing this LA&RAP

The LA&RAP Consultant for the preparation of this LA&RAP is a JV of the following companies: AECOM, Halcrow and BRL INGINIERIE.

The scope of competence of the LA&RAP developing team is as follows:

1. The Investor – LA&RAP preparation coordination:
  - a. facilitation supervision over LA&RAP preparation;
  - b. ensuring information flow between the LA&RAP Consultant and the Designer;
  - c. ensuring the implementation of changes arising during LA&RAP preparation to the detailed design;
  - d. conducting social consultations;
  - e. monitoring the LA&RAP preparation process.
2. The LA&RAP Consultant – LA&RAP draft preparation:
  - a. conducting the socio-economic survey and preparation of a socio-economic study;
  - b. collection and analysis of the data on real property management and use;

- c. coordination of the social consultation process;
  - d. preparation of impact mitigation proposals and their technical analysis; submission of proposed changes to the detailed design to the Investor;
  - e. eligibility analyses;
  - f. preparation of compensation packages;
  - g. LA&RAP draft preparation.
3. Designer
- a. preparation of a detailed design;
  - b. obtaining administrative decisions, including decisions on the environmental conditions, IPIP and CIRD;
  - c. a technical analysis of the proposed changes to the detailed design which are presented by the Investor.

The LA&RAP developing team on the side of the LA&RAP Consultant is not located in the Investor's organizational structure.

The scope of competence of the LA&RAP implementation team is as follows:

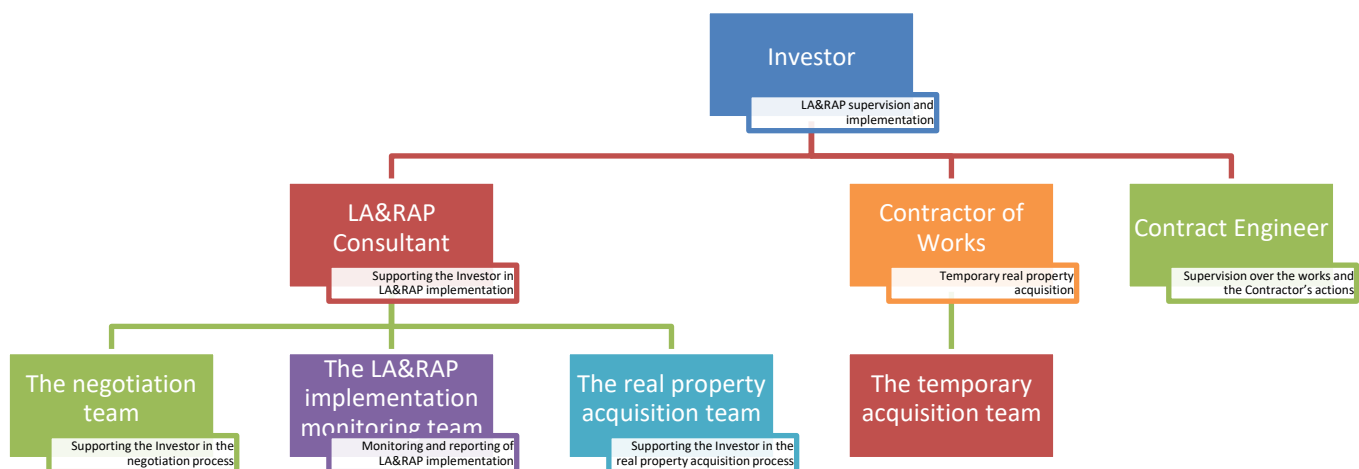


Figure 15 – Scope of competence of the team implementing the LA&RAP

The scope of competence of the LA&RAP implementation team is as follows:

1. Investor
  - a. facilitation supervision over LA&RAP implementation;

- b. concluding the compensation agreements;
  - c. compensation payment;
  - d. ensuring information flow between the LA&RAP Consultant, the Engineer and the Contractor.
2. LA&RAP Consultant
- a. negotiation planning and participation in the negotiations;
  - b. preparation of opinions and valuations by expert valuers for the purposes of negotiations with the PAP;
  - c. monitoring of LA&RAP implementation by the Contractor and the Engineer;
  - d. proposals of mitigation actions in case of problematic situations;
  - e. real property acquisition.
3. Engineer
- a. supervision over the commencement and implementation of works;
  - b. supervision over meeting the obligations by the Contractor.
4. Contractor
- a. real property acquisition for temporary acquisition;
  - b. payment of compensation for real properties acquired for temporary acquisition;
  - c. implementation of works on permanently acquired real properties;
  - d. restoration of real properties acquired for temporary acquisition to their pre-Project state.

## 12 Monitoring and evaluation

LA&RAP implementation monitoring is an integral part of the contract monitoring and management system. Therefore, the tools used for contract implementation monitoring shall be used for the purposes of LA&RAP implementation monitoring. Its task is reporting to financing institutions and providing current information about problems, random incidents and irregularities. This allows for including the LA&RAP implementation process in the investment process as its integral part and obtaining a global picture enabling an immediate reaction in case of problems or irregularities. Ensuring appropriate cooperation between the Consultant, the PIU and the PCU is also of fundamental importance.

General procedures of monitoring and evaluation are described in greater detail in a document entitled Land Acquisition and Resettlement Policy Framework (LARPF) available at the following address:

[http://www.odrapcu.pl/doc/OVFMP/Ramowy\\_dokument\\_dotyczacy\\_Przesiedlen\\_i\\_Pozyskiwania\\_Nieruchomosci.pdf](http://www.odrapcu.pl/doc/OVFMP/Ramowy_dokument_dotyczacy_Przesiedlen_i_Pozyskiwania_Nieruchomosci.pdf).

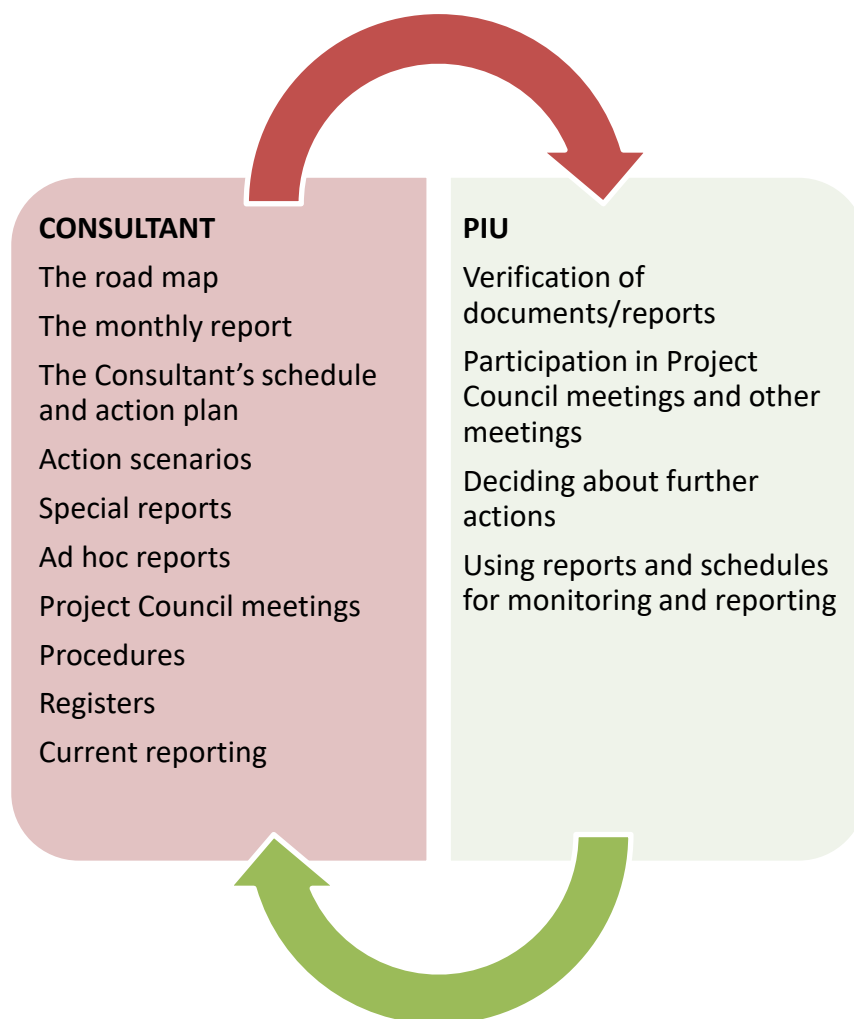


Figure 16 – A diagram of LA&RAP implementation monitoring



It is crucial for LA&RAP implementation monitoring that the Consultant and the PIU register events and facts, in particular via a correspondence register, a register of progress in obtaining titles to use real properties for construction purposes and a compensation payment progress register. The data contained in those registers are used for preparing a set of data on the number of acquired real properties and the amount and type of provided compensation, in accordance with Annex no. 1.

All changes have to be recorded in the registers. The abovementioned registers are the basis for a detailed monitoring of the following parameters:

- a) the number of real properties to be expropriated and those already expropriated,
- b) the number of people requiring resettlement and already resettled,
- c) the number of real properties to be temporarily acquired (planned and achieved),
- d) the sum of all expenses of the resettlement process (planned and achieved),
- e) compensations paid for the loss of legal titles to real properties,
- f) compensations paid for the loss of revenue sources,
- g) acquired and granted replacement real properties,
- h) the implementation degree and status of protective measures,
- i) the number of complaints.

The LA&RAP implementation monitoring system shaped in this manner allows for a quick reaction to problems and efficient reporting within the existing Contract management systems. The document shall be updated once in a quarter of a year.

The main indexes to be monitored in relation to the Contract implemented by RZGW WR are shown in the table below.

Indicator	Source of information	Frequency of monitoring	Progress indicator
<b>Assumed parameters</b>			
The number of real properties subject to expropriation	IPIP/CIRD decision	Once, after issuing the decision	Number (items)
The number of real properties subject to permanent limitations	IPIP/CIRD decision	Once, after issuing the decision	Number (items)
The number of Project Affected Persons (PAP) (expropriated persons)	Land and mortgage registers, written extracts from land and building registers, IPIP/CIRD decision	Once, after issuing the decision  Continuous updating during the period of agreeing on and paying the compensations	Number
The sum of all expenses of the resettlement process including compensations	Registers of RZGW WR/the Consultant	Monthly/Quarterly	PLN

(planned)			
The number of acquired real properties	Registers of RZGW WR/the Consultant	Monthly/Quarterly	Number (items)
<b>Achieved parameters</b>			
The sum of all expenses of the compensations (expenses)	Financial registers of RZGW WR	Monthly/Quarterly	PLN
The number of acquired real properties	Registers of RZGW WR/the Consultant	Monthly/Quarterly	Number (items)
<b>Efficiency indicators</b>			
The number of complaints	Registers of RZGW WR/the Consultant	Monthly/Quarterly	Number (items)
Paid compensations, other	Financial registers of RZGW WR	Monthly/Quarterly	PLN

ATTENTION: Concerning the process of acquiring real properties for temporary acquisition, the Contractor shall be responsible for the entire process, but the Investor is obliged to ensure compliance with LA&RAP requirements.

## 13 Costs and budget

Item	Properties within the Project boundaries	Price PLN per m <sup>2</sup>	Amount [ha]	Sum
1	Building plot	27.85	0.1789	49,823.65
2	Forests and forest lands, Leisure areas	28.50	4.4299	1,262,521.50
3	Arable lands, wooded and shrub-covered lands, pastures, meadows	3.44	75.5750	2,599,780.00
4	Unforeseen costs (20% of the sum of items: 1–3)	not applicable	not applicable	782,425.03
5	Protective measures (20% of the sum of items: 1–3)	not applicable	not applicable	782,425.03
6	Release of the property within 30 days following the final IPIP (+ 5% to the sum of items: 1–3)	not applicable	not applicable	195,606.26
7	Total:			5,672,581.47

The estimated values of the abovementioned costs were determined on the basis of average market prices of real properties in the analysed area, established based on sale prices of agricultural and construction real properties in the analysed area offered on websites dealing with real property sale. Those values were indicated for budgeting purposes and may change after developing the appraisal studies.

## 14 Schedule for obtainment of properties

A detailed schedule for obtainment of properties forms Annex no. 3 to this document.

LA&RAP DEVELOPMENT			
Steps	Action	Responsibility	Verification of performed actions
1	Preliminary social impact estimation	Joint Venture – the team for legal and social matters	RZGW WR – the team for LA&RAP verification
2	Determination of the final scope of expropriation and development of a detailed design	Designer	RZGW WR – the team for LA&RAP verification
3	Determination of coordination framework for LA&RAP implementation with relevant government administration authorities	Joint Venture – the team for legal and social matters	RZGW WR – the team for LA&RAP verification
4	Collection of written and graphic extracts from land and building registers and from spatial management plans	Joint Venture – the team for legal and social matters	RZGW WR – the team for LA&RAP verification
5	Social impact estimation	Joint Venture – the team for legal and social matters	RZGW WR – the team for LA&RAP verification
6	Verification and update of collected materials, impact analyses and economic analyses (Detailed Measurement Survey)	Joint Venture – the team for legal and social matters	RZGW WR – the team for LA&RAP verification
7	LA&RAP draft development	Joint Venture – the team for legal and social matters	RZGW WR – the team for LA&RAP verification
8	LA&RAP social consultations	Joint Venture – the team for legal and social matters	RZGW WR – the team for LA&RAP verification
9	Introduction of changes into the detailed design as a result of social consultations	Designer	RZGW WR – the team for LA&RAP verification
10	In the scope resulting from taking into consideration comments and motions to the LA&RAP – verification and update of collected materials, impact analyses and economic analyses	Joint Venture – the team for legal and social matters	RZGW WR – the team for LA&RAP verification

### LA&RAP DEVELOPMENT

Steps	Action	Responsibility	Verification of performed actions
11	In the scope resulting from taking into consideration comments and motions to the LA&RAP – introduction of changes into the LA&RAP	Joint Venture – the team for legal and social matters	RZGW WR – the team for LA&RAP verification
12	Submission of the LA&RAP to the World Bank	RZGW WR	PCU
13	No remarks of the World Bank	WB	
14	Publication of the LA&RAP (publication is also done on the World Bank's website)		RZGW WR – the team for LA&RAP verification

### LA&RAP IMPLEMENTATION

Steps	Action	Responsibility	Verification of performed actions
1	Determination of a detailed LA&RAP implementation schedule	The Consultant – the real property acquisition team	RZGW WR – the team for LA&RAP monitoring and implementation
2	Submission of motions for the IPIP	Designer	RZGW WR – the team for LA&RAP monitoring and implementation
3	PIU's acquisition of real properties that shall be handed over as replacement real properties	The Consultant – the real property acquisition team	RZGW WR – the team for LA&RAP monitoring and implementation
4	Obtaining the IPIP	Designer	RZGW WR – the team for LA&RAP monitoring and implementation
5	Informing the PAP about obtaining the IPIP, its effects and the Investor's further planned actions	The Consultant – the real property acquisition team	RZGW WR – the team for LA&RAP monitoring and implementation
6	Valuation of real property by valuers, in line with the law in force, and valuation verification	The Consultant – the real property acquisition team	RZGW WR – the team for LA&RAP monitoring and implementation

<b>LA&amp;RAP IMPLEMENTATION</b>			
<b>Steps</b>	<b>Action</b>	<b>Responsibility</b>	<b>Verification of performed actions</b>
7	Delivery of the appraisal studies to the expropriated persons and conducting negotiations	The Consultant – the real property acquisition team	RZGW WR – the team for LA&RAP monitoring and implementation
8	Should negotiations fail – obtaining a decision from the Province Governor on the amount of compensation	The Consultant – the real property acquisition team	RZGW WR – the team for LA&RAP monitoring and implementation
9	Payment of compensation or handover of replacement real properties, commencement of other compensation and protective measures stipulated in the LA&RAP	The Consultant – the real property acquisition team	RZGW WR – the team for LA&RAP monitoring and implementation
10	Physical acquisition of expropriated real properties and commencement of works	Contractor	RZGW WR – the team for LA&RAP monitoring and implementation
11	LA&RAP implementation evaluation	The Consultant – the real property acquisition team	RZGW WR – the team for LA&RAP monitoring and implementation

<b>CYCLIC TASKS</b>			
<b>Step</b>	<b>Action</b>	<b>Responsibility</b>	<b>Verification of performed actions</b>
1	Internal permanent monitoring of LA&RAP implementation	The Consultant – the real property acquisition team	RZGW WR – the team for LA&RAP monitoring and implementation
2	Reporting to the World Bank	RZGW WR – the team for LA&RAP monitoring and implementation	PCU
3	Permanent coordination with the government and local government administration authorities	RZGW WR – the team for LA&RAP monitoring and implementation	PCU
4	Permanent communication with the PAP	The Consultant – the real property acquisition team	RZGW WR – the team for LA&RAP monitoring and implementation



**POST-IMPLEMENTATION TASKS**

<b>Step</b>	<b>Action</b>	<b>Responsibility</b>	<b>Verification of performed actions</b>
1	LA&RAP implementation evaluation	Independent external auditor	World Bank

**15 Annexes**

**15.1 TABLE OF REAL PROPERTY ACQUISITION PROGRESS**

The table is attached in an electronic form.

**15.2 TABLE – A LIST OF REAL PROPERTIES, OWNERS AND IMPACTS**

The table is attached in an electronic form.

**15.3 REAL PROPERTY PURCHASE SCHEDULE**

The schedule is attached in an electronic form.

**15.4 MAPS WITH MARKED LINES SEPARATING THE PROJECT AREA**

The maps are attached in an electronic form.

**15.5 THE SOCIO-ECONOMIC SURVEY**

The survey is attached in an electronic form.

**15.6 FORM OF SUBMITTING COMPLAINTS TO THE CONSULTANT (BASED ON WB GUIDELINES)**

Case no.:	
<b>Name and surname</b>	Name of the applicant
<i>Attention: a complaint may be submitted anonymously or the applicant may demand</i>	_____
	Surname of the applicant

<p><i>that their data be disclosed to third persons only with the applicant's consent</i></p>	<p>_____</p> <div style="border: 1px solid black; padding: 2px; width: fit-content;">I wish to submit a complaint anonymously</div> <p>I demand that my data be disclosed to third persons only with my consent</p>
<p><b>Contact details</b></p> <p>Please indicate the manner in which the applicant should be contacted (by e-mail, phone or post)</p>	<p><b>By post (please enter the correspondence address):</b></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p><b>By</b> _____ <b>phone:</b> _____</p> <p><b>By</b> _____ <b>e-mail:</b> _____</p>
<p><b>Preferred communication language</b></p>	<p>Polish</p> <p>English</p> <p>Other (please specify): _____</p>
<p><b>Description of the subject of the case or complaint</b> Please specify: the subject of the case/complaint, the date of the event, the place affected by the case/complaint, the persons involved in the case and the effects of the situation.</p>	
<p><b>Date of occurrence of the complaint subject/of the case</b></p>	
	<p>A one-time event/complaint (date: _____)</p> <p>It happened more than once (please state how many times: _____)</p>

	<b>Pending (an existing problem)</b>
<b>What actions, in the applicant's opinion, would enable solving the problem?</b>	
Signature: _____	
Date: _____	
<b>Please hand over this [Surname] OHS Inspector [Company name] form to:</b>	
<b>Address:</b> _____ <b>Tel.:</b> _____ <b>or e-mail:</b> _____ _____	

## 15.7 INFORMATION LEAFLET

The leaflet has been enclosed in an electronic version.

## 15.8 REPORT FROM THE ORGANIZED PUBLIC DISCUSSION ABOUT THE LA&RAP DRAFT

The Report has been enclosed in an electronic version