

## Reviewing & Updating of Resettlement Action Plan (RAP) for The Proposed Dualling of Mombasa -



Original

## Revised Final RAP Report - Main Report (Vol A)

February 2017

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**PROJECT SUMMARY**

<b>Consulting Services for:</b>	Consultancy Services for the Reviewing & Updating of RAP for the Proposed Dualling of Mombasa - Mariakani A109 Road Project
<b>Objectives:</b>	The main objective of the study is reviewing & updating the Resettlement Action Plan (RAP)
<b>Client:</b>	Kenya National Highways Authority (KeNHA)
<b>Consultants:</b>	PANAFCON Ltd (Kenya)
<b>Report Title:</b>	Revised Final RAP Report - Main Report (Vol. A)
<b>Submission Date:</b>	February 2017

**LIST OF ACRONYMS**

ACC	Assistant County Commissioner
AfDB	African Development Bank
ARP	Abbreviated Resettlement Action Plan
CAP	Corrective Action Plan
CC	County Commissioner
CDE	County Director of Environment
CDP	County Development Plan
CSO	Civil Society Organisations
CSR	Corporate Social Responsibility
DCC	Deputy County Commissioner
DG	Director General
DP	Displaced Persons
DPCT	District Project Coordination Team
DSDO	District Social Development Officer
DRC	District Resettlement Committee
EC	European Commission
EIA	Environmental Impact Assessment
EIS	Environmental Impact Study
EIB	European Investment Bank
EMCA	National Environment Management and Coordination Act
EMP	Environmental Management Plan
EPs	Entitled Persons
ERM	Environmental Resources Management
ESIA	Environmental and Social Impact Assessment
EU	European Union
GO	Grievance Officer
GoK	Government of Kenya
IEC	Information Education and Communication
IFI	International Financial Institution
IMA	Independent Monitoring Agency
IMU	Independent Monitoring Unit
ISS	Integrated Safeguards System
KfW	German Government-owned Development Bank
M&E	Monitoring and Evaluation
MDGs	Millennium Development Goals
NGO	Non-Governmental Organisations
NLC	National Land Commission
PAHs	Project Affected Households
PAPs	Project Affected Persons
PAPC	Project Affected Persons Committee
PIT	Project Implementation Team
PMU	Project Management Unit
PRC	Provincial Resettlement Committee
RF	Resettlement Framework
RAP	Resettlement Action Plan
RIC	RAP Implementation Committee
RIU	RAP Implementation Unit
ROW	Right of Way
SIA	Social Impact Assessment
TOR	Terms of Reference
WB	World Bank

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## EXECUTIVE SUMMARY

### INTRODUCTION

The Kenya National Highways Authority (KeNHA) is an established institution under Part II (A) of the Kenya Roads Act, 2007 whose mandate is the management, development, rehabilitation and maintenance of national roads. The Government of Kenya, through the Kenya National Highways Authority (KeNHA) is dualling Mombasa – Mariakani Road in two (2) Lots:-

- Lot 1: Mombasa –Kwa Jomvu 11.4km which has secured funding from the African Development Bank and
- Lot 2: Kwa Jomvu – Mariakani 30.3km with ongoing preparatory for funding arrangement from KfW/EIB.

The dualling of Mombasa – Mariakani project road is part of the A109 International Trunk Road, which functions as a major transit route for traffic to and from Uganda, Rwanda, Burundi and Southern Sudan. The prime objective of the project is to improve transport of import and export goods; and passenger traffic along the Northern Corridor by decongesting the traffic to and from the Port of Mombasa. It is envisaged that the Project will also improve the level of service and reduce travel times; improve road safety and increase accessibility to Mombasa, its port and international airport.

The project road is approximately 42km and starts at the Junction of Kenyatta Avenue (A109) and Digo road (A14) within Mombasa City; runs in a northerly direction through Makupa Causeway, Changamwe, Mikindani, Kwa Jomvu, Miritini, Mazeras, Mariakani town and ends just after the Mariakani Weighbridge. The improvement of this road will inevitably necessitate land acquisition and relocation of affected persons.

In 2014, KeNHA prepared a Resettlement Action Plan (RAP) for the Proposed Dualling of Mombasa - Mariakani A109 Road under the African Development Bank (AfDB) and Republic of Kenya social safeguard principles. The RAP was approved by AfDB and disclosed in 2014 as part of preparatory initiatives to secure project financing for Lot 1; Mombasa- Kwa Jomvu (approx. 11 km) under AfDB. Following the project approval by AfDB's Board, KeNHA held further consultations with the affected persons and updated the RAP in December 2015 to reflect the improvement made and include progress on RAP implementation in compliance to the conditions for first disbursement of the AfDB funding for the project. Lot 2 Kwa Jomvu – Mariakani (Approx 31 km) is earmarked for co-financing between EIB and KfW. This RAP mirrors the fact that Lots 1 and 2 comprise one single project and hence the need to review the RAP to also incorporate the requirements of the EIB and KfW.

### OBJECTIVE OF THE STUDY

The objectives of the RAP review and update are as follows:-

- a) To review and update the policy framework that informed the project's existing/ Initial RAP in order to enhance compliance with the Government of Kenya applicable laws, the AfDB's Integrated Safeguard System and its Operational Safeguard 2 on involuntary resettlement, land acquisition, population displacement and compensation and EIB's Standard 6 on Involuntary Resettlement, Standard 7 on the Rights and Interests of Vulnerable Populations and Standard 10 on Stakeholder Engagement.
- b) To verify compliance with the Lenders' Involuntary Resettlement Policies and any other national relocation and resettlement regulations that govern the infrastructural development sector.

- c) The RAP Study process has taken into consideration all the aspects of the above standards and policies from the onset of the study and seeks to fulfil them throughout the resettlement project cycles.
- d) To verify, review, and where appropriate, update the census survey undertaken earlier to ensure that all potential PAPs eligible as per the cut-off date of 30th July, 2014 and as per the gazette notice of 18 December 2015 for PAPs whose land is being acquired
- e) To verify, review and ensure that the involuntary resettlement impacts of the proposed project are identified and appropriate measures to remedy resettlement effects and safeguard livelihoods are recommended.
- f) To undertake socio-economic survey of the PAP and ensure that baseline data is generated for the purposes of monitoring and evaluation during the project implementation period.
- g) To verify and update the asset inventory survey and ensure that all potential assets that will be affected by the proposed project are enumerated and documented.
- h) To map out the affected properties (structures, crops, trees, fences) using GPS with an accuracy of 1 metre in UTM Coordinate System.
- i) To provide guidelines/strategies to enhance stakeholders and PAPs participation in identification, implementation and monitoring of processes to minimize resettlement impacts of the project. The guidelines will include stakeholder analysis and a matrix for management of stakeholder activities through the project cycle. .
- j) To recommend cost effective and sustainable measures to be implemented to safeguard and restored the livelihoods of affected persons.
- k) To prepare a revised Resettlement Action Plan (RAP) Study Report compliant with the Government of Kenya (GoK) regulations, the AfDB's, KfW's and EIB's policies, standards and guidelines.

#### **REASONS FOR REQUIRING A RAP REVIEW**

The original Resettlement Action Plan for this road was prepared in line with GoK and AfDB safeguard policies, disclosed and approved for AfDB financing in 2014. However, this RAP Study Report required review and updating before implementation due to the following:

- Design of Interchanges had not been firmed up when the Initial RAP of 2014 was prepared.
- Evictions at Kwa Jomvu took place after the Initial RAP of 2014 had been carried out.
- The need to reevaluate and confirm the current value of assets inventoried and valued in the 2014 RAP since the lapse of two years is long enough for the value of assets to have escalated
- The need to address and manage resettlement across both Lots in an equivalent manner, reflecting related standards and requirements of both the AfDB and the EIB.

#### **SCOPE OF THE RAP STUDY**

The RAP outlines the guiding principles to be applied when there is involuntary resettlement and land acquisition in order to reduce to a minimum any adverse impacts to PAPs and enhance the positive impacts. RAP applies to all displaced persons regardless of the total number of persons affected, the severity of the impact and whether or not they have legal title to the land. The RAP also sets out the framework for legal framework and institutional arrangements that govern involuntary resettlement process. These include the government of Kenya legislation and the lenders guidelines. A gap analysis between the legislations and guidelines has been carried out to establish the gaps that exist and how these have been and will be bridged in the resettlement process. Schedules and other indicative budgets to facilitate any resettlement process that will be necessitated because of the project.

An Entitlement matrix has been provided in the RAP to guide the identification of losses and impacts, the various categories of persons suffering the losses and impacts and the available restorative compensation to be provided for the losses and impacts suffered.

The RAP study identified those persons within the project area who may be physically or economically affected and/or displaced as a result of the project and those persons who may have to relinquish their land to the project. It also provides a socio-economic profile on the Project Affected People (PAP), and gives the cost of resettlement.

The RAP study considered the framework for institutional arrangements, legal framework covering the identification of agencies responsible for resettlement activities schedules, and other indicative budgets to facilitate any resettlement process that will be necessitated by this project. Grievance redress mechanism were considered and documented in the RAP Report. This included non-judicial, affordable and accessible procedures for third-party settlement of disputes arising from resettlement; such grievance redress mechanisms should take into account the availability of judicial recourse, community and traditional settlement mechanisms. Judicial recourse will be a last resort for disputes whose resolution will be beyond the established local grievance redress channels. However, the non-judicial community and traditional grievance settlement mechanisms will be perused and highly encouraged.

#### **POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK**

The RAP study update and review has been conducted in accordance with all the relevant legislations in Kenya pertaining to road construction and traffic regulations, land ownership and acquisition, relocation and resettlement. The Project was assessed and considerations were made on how the legislations and policies are triggered. These include

1. Constitution of Kenya, 2010
2. Land Act, 2012
3. National Land Commission Act , 2102
4. Valuers Act (Cap 532)
5. Land Registration Act, 2012
6. Trust Lands Act, Cap 288
7. Land Control Act, Cap 302
8. The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012
9. Urban Areas and Cities Act, 2011
10. Kenya Road Act, 2007
11. Traffic Act Cap 403
12. Public Roads and Roads of Access Act, Cap 339
13. Physical Planning Act Cap 286
14. Lenders policies relating to Relocation and resettlement

#### **FIELD CENSUS SURVEY**

The Original RAP was developed through a comprehensive process including documentary review, field visits and observation, census survey of the Project Affected Persons (PAPs), consultative meetings with PAPs and in-depth discussions with other stakeholders and was undertaken from 14<sup>th</sup> to 19<sup>th</sup>. July 2014. Data was collected through observation and interviews with the PAPs household heads/proxies and Government personnel.

The RAP review census survey and asset inventory of the Proposed Dualling of Mombasa - Mariakani A109 Road Project was done concurrently using road design data provided by KeNHA. This was carried out from 29 March 2016 to 14 May 2016.

The census survey and asset inventory was undertaken to ensure that all potential PAPs eligible as per the cut-off date of 30th July, 2014 and as per the gazette notice of 18 December 2015 are included in the RAP study.

Valuation methodology for the reviewing and updating of the RAP involved field surveys and computation of compensation figures of the various affected assets at replacement cost at the current market rate.

### **Affected Properties**

The Affected Properties along the Proposed Dualling of Mombasa - Mariakani A109 Road corridor include the following:

- Permanent and semi-permanent commercial buildings
- Temporary business structures
- Large to small industrial buildings
- Paved parking areas
- Permanent and semi-permanent residential buildings
- Fences, gates and security offices adjacent to some of the gates
- Variety of trees and crops

### **COMMUNITY CONSULTATION**

Community Consultations (consultations with project affected persons, County Governments Officials, local administration and NGOs dealing with livelihood of local populations) was done at two levels.

- The Consultant together with KeNHA held Public Sensitization meetings/ forums
- There were oral interviews with individual PAPs, collection of household information and filling in of questionnaires during the census survey and asset inventory exercise.

The Original RAP adopted various approaches to enhance stakeholders and PAPs consultation and participation. The process of consultation with the PAPs and other stakeholders was done at the county and grass root level. 751 participants attended the consultation meetings

The Kenya National Highways Authority undertook additional PAPs sensitization forum in Kilifi and Mombasa County from 10<sup>th</sup> to 13<sup>th</sup> August 2015. 1,056 participants attended the forum. The participants were mainly PAPs, representatives from agencies and companies that will be affected by the project, civil society agencies and local administration. Mobilisation for participants to this forum was mainly through invitation letters, public notices advertised in two (2) Local Daily Newspapers on different days, and through local FM radio station within Kilifi and Mombasa County.

Six (6) Community meetings were held at the various venues along the existing Mombasa - Mariakani road. Community consultation meetings were carried out before field census and asset inventory survey and carrying out household interviews. Stakeholders in the project area were also identified, consulted and attended the public meetings with the objective of establishing the existing socio-economic conditions and community needs within the proposed project area and the immediate surroundings. 1,084 participants attended the consultation meetings

### **Issues Raised During Public Consultation Meetings**

The issues raised during all the meetings were crosscutting. They include the following:

- There was dissatisfaction with the project citing lack of adequate consultation prior to design, slow pace of project implementation

- Concern over disturbance where people will be required to relocate;
- Concern over loss of business and livelihood;
- Fear of unjust valuation of affected land and property for compensation;
- Possibility of the business community being resettled in areas away from their current customer who are mainly the road users
- Concern over those who have obviously continued to put up new developments and encroached on the delineated road reserve
- Concern over how KeNHA will manage environmental impacts of the project such as increased dust and noise
- The community expect that KeNHA will replant the trees and landscape the roadside after project completion
- The PAP community felt that they were some genuine PAPs who were not enumerated during the last census study in 2014
- The business tenants claimed that they observed that during the previous census survey only their landlords were enumerated and considered for compensation and not them
- The PAP business community suggested that KeNHA could consider certain CSR initiatives such as construction of a public toilets and modern commercial stalls for use by the traders relocated from the road reserve
- The PAPs wanted to know the compensation rates for land and other developments

#### **ELIGIBILITY CRITERIA**

This RAP considers any person whose property is affected by the project is eligible for compensation of loss incurred and/or other resettlement assistance if they were on the project corridor by the cut-off date. The eligibility is for people with formal land title, land use rights, customary or traditional rights to the land as well as those who occupy/use the land but have no formal title for objective reasons.

The reviewed RAP also considers squatters, who shall be provided compensation for assets on the land and resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives of the resettlement standards, if they occupied the project area prior to a cut-off date established in the original RAP. Such affected persons shall not be compensated for land but for their land improvements or structures, such as buildings (houses and business structures) and trees/crops and may qualify for other resettlement and rehabilitation assistance to enhance restoration of livelihoods, as relevant.

Livelihood restoration shall consist of timely cash compensation, training on financial and business management skills, consideration for job opportunities within the road construction project, relocation to market & business stalls and vocational training of affected youths and equipping them with technical skills in road construction and maintenance works. Speculators and persons who encroach on the road corridor after the cut-off date are not entitled to compensation or any form of resettlement assistance.

The established cut-off date of 30 July 2014 as per the original RAP was maintained. This was for both the people who have no legal entitlement to land they occupy on the road reserve as per the design used to prepare the original RAP as well for the PAPs who have legal entitlements to their land being affected by the project. The cut-off date of 18 December 2015 will apply for PAPs whose land is will acquired as per the gazette notice of this date and for the new PAPs entrants (with or with no legal entitlements to the land they occupy) a result of incorporation of additional road design features including the interchanges that had not been concluded on during preparation of the original RAP.

#### **LIVELIHOOD RESTORATION**



KeNHA and the Consultant have engaged the County governments of Mombasa and Kilifi in identifying suitable resettlement sites for the informal small scale business located within the road reserve. The County of Mombasa have earmarked a land parcel within Miritini for construction of a lorry park.

KeNHA shall continue to engage the County Governments and National Transport Safety Authority during the RAP implementation to secure the Lorry park site at Miritini for its speedy development for safe parking of Lorries as they await ports' Entry approval. The lorry parking space will also be developed in such a way that space is provided for relocation of some of the informal small scale traders that will be displaced along the project road.

The County of Government of Mombasa is also currently developing a bus park located within the city centre and which will give room for relocation of the parking for long distance bus companies. The County have plans for also incorporation of business spaces for the small scale traders and this will ease off the encroachment on the road reserve.

The updated RAP aims to enhance restoration of the PAPs' livelihoods and income streams and seeks to ensure that livelihoods are improved or restored to pre-displacement levels.

The project has incorporated other activities beyond normal compensation to minimise shock and enhance recovery of losses and eventual stability of incomes and livelihoods.

Refer to **Table 19** for a detailed Livelihood Restoration Action Plan.

- Some of the activities incorporated in the project are as follows: The project has carried out PAP sensitization and provided adequate information regarding acquisition, compensation and resettlement including the associated timelines.
- Further engagement of the PAPs and stakeholders prior and during the actual resettlement exercise
- Identification and confirmation of resettlement sites for those PAPs receiving compensation of KES 100,000 where business stalls will be developed for them.
- Design and construction of replacement market/ business stalls
- Relocation of small informal businesses that occupy the road reserve to existing markets spaces within the project area
- The project has provided integrated social facilities and infrastructures at the resettlement site,
- Provision of professional financial and business management training of the PAPs to enhance utilisation of compensation money in a bid to improve their livelihood
- Training of Youth in the project area and equipping them with skills in various road construction skills
- Provision of Employment (Job Opportunities) on the project to the PAPs depending on available skills among them giving priority to the vulnerable people
- Provision of additional water points to Project Area Community Members

### **GRIEVANCES REDRESS MECHANISM**

As stipulated in the original RAP, the updated RAP considers the Grievance redress mechanism as an essential tool for facilitating PAPs to voice their concerns about land acquisition, compensation and relocation as they arise, through non-judicial channels and if necessary for corrective action to be taken promptly. The mechanism will be fundamental towards achieving transparency during RAP implementation processes.

Grievance redress mechanism describes the procedure and mechanism through which community members and PAPs will be able to report or express a grievance against the project, its staff or contractors as part of the RAP implementation of the Project. It also describes the roles and responsibilities for different structures in resolving grievances.

A grievance is any dissatisfaction or sense of injustice, or unfairness felt by a person – in this respect a PAP or his/her representative or other community members in connection with his/her compensation entitlements, the RAP implementation process, the project developer, contractor and other scenarios related to project implementation.

The grievance will be reported through the community PAPs committee who will review and address the issue. The grievances will then be brought to the attention of the Community Liaison Officer, who is the one to act as the Grievance Officer (GO) and Secretary to the grievance committee and who will be part of the RAP Implementation Unit (RIU). Other grievances will be received from the office of the assistant chief or the chief who will forward them to the DCC who will in turn present these grievances to the RIU that he chairs. The lowest level of grievance redress will be the PAP Committees followed by RIU while NLC/ Court of law will be the highest tier in grievance redress mechanism.

### CENSUS AND VALUATION RESULTS

The number of property holders affected by the project and the RAP Budget have increased in the RAP review due to the inclusion of the design of the interchanges thereby bringing on board persons and their property that were not considered during the Initial RAP. The value of the affected property has also increased over the 2 year period that has lapsed since the initial RAP was conducted.

Taking into account all factors, it is our opinion that compensation for land, structures, loss of business and trees to be affected during the Proposed Dualling of Mombasa - Mariakani A109 Road Project and free from all encumbrances is **KShs 6,525,815,953** broken down as given in **Table A**.

**Table A: Summary of Estimated Compensation Valuation (KShs)**

No.	Property	No. of Affected Property Holders	Size Affected (Ha)	Total No. of Affected Units	Total Amount (KShs)
1	Land		70		3,807,719,200
2	Structures	914		1,476	1,389,981,680
3	Loss of Business	692		746	135,126,023 **
4	Trees	146		7,431	22,337,054
5	Crops	34		48	762,588
6	Livelihood Restoration Programme				316,616,023
		<b>947*</b>	<b>70</b>		
Total (Ksh)					<b>5,672,542,568</b>
Provision for Vulnerable PAPs					<b>2,080,000</b>
<b>Gross Total</b>					<b>5,674,622,568</b>
Contingency (15% of Gross Total)					<b>851,193,385</b>
<b>Grand Total (KShs)</b>					<b>6,525,815,953</b>

*\*The 947 affected property holders is not the cumulative of those listed along each category of affected property. It includes some who have a combination of various categories of assets affected by the project; e.g one owner having being affected on structure, business and trees/ crops or structure and business or structure, trees etc.*

*\*\*The totals for the loss of business is equivalent to 3 months' business income for every affected business. This will cushion the business PAPs from the loss suffered during the for the transition period*

**Table B: Summary of Cost of Affected Structures, Businesses & Trees per Location**

No.	Sub-County	Location Name	Number of Property Holders	Number of Affected structures	Number of Affected Trees	Affected Crop Units	Number of Affected Businesses	Total (KShs)	Adults	Children	Total PAPS
1	Mombasa	Mwembe Tayari	1	1	0	0	0	85,905	1	0	1
2	Mombasa	Tononoka	3	4	161	0	2	649,975	1	0	1
3	Mombasa	Tudor	3	3	0	0	2	514,925	3	0	3
4	Mombasa	Majengo	6	6	0	0	6	311,830	6	0	6
5	Changamwe	Changamwe	95	102	2092	1	89	42,333,298	87	0	87
6	Changamwe	Miritini	60	90	48	1	53	55,715,665	59	1	60
7	Changamwe	Mikindani	184	315	320	11	138	609,524,513	216	62	278
8	Changamwe	Jomvu	168	236	342	2	156	169,133,514	157	16	173
9	Rabai	Rabai	220	394	3,921	27	131	410,477,676	268	75	343
10	Kaloleni	Mariakani	207	325	547	6	169	259,460,045	194	11	205
11	Affected Land							3,807,719,200			
12	Livelihood Restoration Programme							316,616,023			
	<b>Total</b>		<b>947</b>	<b>1,476</b>	<b>7,431</b>	<b>48</b>	<b>746</b>	<b>5,672,542,569</b>	<b>992</b>	<b>165</b>	<b>1,157</b>
<b>Provision for Vulnerable PAPs (Ksh)</b>								<b>2,080,000</b>			
<b>Gross Total (Ksh)</b>								<b>5,674,622,569</b>			
<b>Contingency (15% of Gross Total) (Ksh)</b>								<b>851,193,385</b>			
<b>Grand Total (KShs)</b>								<b>6,525,815,954</b>			

## SUMMARY OF KEY FINDINGS

The proposed road project is in Mombasa and Kilifi Counties in the Kenyan coastal region. The road traverses mainly through an existing ROW which however, has been encroached. The total estimate of land being acquired is about 70Ha. This has been increased from about 22Ha even with the deliberate efforts put in place to minimise the impacts since the interchanges will require additional land than was in the original design. The following are a summary of the findings:-

1. Displacement of persons will mainly occur at various town centres along the road as per Table B; with the most affected location being Rabai and Mariakani with 220 and 207 affected property holders respectively and the least affected location being Mwembe Tayari and Tononoka with 1 and 3 affected property holder respectively.
2. The local community, stakeholders and PAPs showed significant support of the project
3. Project affected persons expressed the need for transparent valuation and compensation process for the affected impacts.
4. The community awareness of the proposed project is rated very high with many people expectant of the gains that will accompany its implementation. The PAPs are a mix of locals and immigrant from other counties who have settled in the project area for business purposes.
5. All PAPs are willing to be relocate however, full compensation and resettlement assistance must be guaranteed
6. Majority of the PAPs who will be relocated would wish that the relocation be close to their present business area to ensure continued access to clients, customers and suppliers.
7. The informal small scale traders welcomed the idea of relocation as it will enhance their security of tenure thereby enhancing their livelihoods in the long run.
8. A total of 947 property holders will be affected by the project. This will include 914 losing structures, 692 losing business, 146 losing trees and 34 losing crops,. The 947 affected property holders will lose both structures and businesses or structures and either trees/crops

## CONCLUSIONS

The Proposed Dualling of Mombasa - Mariakani A109 Road is a viable project that will benefit the community by improving movement of people transportation and goods, through enhanced access to the to and from the coastal region of Kenya and increase in trade and economic activities in the region. Even though the proposed project will contribute to displacement of persons, loss of business and some disruptions during construction, there are however, numerous benefits that will arise and coupled with the implementation of the provision of the RAP, safeguard of the affected will be enhanced.

Where displacement or impact is unavoidable, appropriate mitigation measures will be put in place to reduce to a minimum or eliminate any undesirable effects of the project.

There was prior awareness and knowledge of the project from the initial 2014 RAP community sensitization and consultation exercise. After this study, all the project affected persons shall continuously be informed of the project progress and the timelines of the major activities like compensation offer presentation and negotiation, compensation payment, relocation and resettlement.

The Mombasa and Kilifi County governments and local communities in the proposed project area fully support the project but requested to be fully informed on the resettlement plans. The communities also requested to be engaged in the planning and implementation at all levels so that they can be sure to get first-hand information and details regarding compensation and resettlement including timelines.

There is also need to involve the chiefs of the areas where the road has affected households and pieces of land in order to verify the legal owners before compensation to avoid family feuds and mistrust.

### **NEXT STEPS**

1. The Proposed Dualling of Mombasa - Mariakani A109 Road project is viable, important for the local community and to the country in general as it will ease the heavy traffic currently experienced from and to Mombasa City and the port of Mombasa. However the study has established that there will be significant displacement of persons requiring compensation and resettlement.
2. KeNHA will undertake more awareness and disclosure of the updated RAP to enhance knowledge on the provisions to safeguard those that shall be affected by the project.
3. KeNHA will ensure that all affected persons are continuously consulted through the RAP implementation process. The PAPs should be fully compensated in a timely manner. The identification and acquisition of land for resettlement should be done with due consideration of the wishes of the affected persons and support given after resettlement to ensure that the project does not leave them worse off.
4. The entire project affected persons who will be displaced or relocated, will be informed in good time (given approximately 3 month to prepare them for relocation) and modalities of conducting resettlement counselling put in place.
5. KeNHA will negotiates for compensation for any land that may be affected by the project even without legal land documents.
6. KeNHA will engage further in the process of formulation of livelihood restoration plan to include the following:-
  - a. Based on the approach described in Section 10 of this report, KeNHA will prepare a livelihood restoration plan upon approval of the updated RAP report.
  - b. The livelihood restoration plan will comprise of a set of activities to be undertaken during the detailed design and road construction phase. The livelihood restoration plan shall include proposed livelihood restoration measures for project affected persons as well as necessary administrative procedures, institutional responsibilities, provisions for continued consultation with the PAPs & other stakeholders and measures for monitoring & evaluation.
  - c. The Plan will also contain provisions to ensure that PAPs will be able to make informed decisions regarding their participation in certain livelihood restoration measures.
  - d. The overall concept of measures will reflect a vulnerability analysis and related findings pointing to the specific needs of vulnerable groups. The needs for these groups will either be through provision of additional support mechanism or through the targeted design of program measures.
  - e. The livelihood restoration plan will be publicly disclosed at the level of the stakeholders and on KeNHA's website.

## 1 INTRODUCTION

The Government of Kenya, through the Kenya National Highways Authority (KeNHA) is undertaking rehabilitation and expansion of the Mombasa-Mariakani Road that is being done in two (2) Lots:-

- Lot 1: Mombasa –Kwa Jomvu 11.4km which has secured funding from the African Development Bank and
- Lot 2: Kwa Jomvu – Mariakani 30.3km with ongoing preparatory for funding arrangement from KfW/EIB.

The dualling of Mombasa – Mariakani road project is part of the A109 International Trunk Road, which functions as a major transit route for traffic to and from Uganda, Rwanda, Burundi and Southern Sudan. The primary objective of the project is to improve transport of import and export goods; and passenger traffic along the Northern Corridor by decongesting the traffic to and from the Port of Mombasa. It is envisaged that the Project will also improve the level of service and reduce travel times; improve road safety and increase accessibility to Mombasa, its port and international airport.

The project road is approximately 42km and starts at the Junction of Kenyatta Avenue (A109) and Digo road (A14) within Mombasa City; runs in a north westerly direction through Makupa Causeway, Changamwe, Mikindani, Kwa Jomvu, Miritini, Mazeras, Mariakani town and ends just after the Mariakani Weighbridge. The improvement of this road will inevitably necessitate land acquisition and relocation of affected persons.

KeNHA procured consultancy services of AECOM for a Feasibility Study; Preliminary and Detailed Design; Environment & Social Impact Assessment studies; and preparation of Resettlement Action Plan for the proposed project road in compliance to the AfDB's safeguard policies in 2014 and subsequently engaged Panafcon to update the RAP in 20.

### 1.1 Project Resettlement Impacts

Impacts that are going to arise from the road rehabilitation and expansion include;

- Land acquisition, relocation and resettlement of affected persons, loss of assets and loss or temporary disruption of business income on the acquired land,
- Relocation of affected persons that have encroached on the road reserve and have put up both temporary and permanent residential and/or business structures and carrying out businesses on the road reserve
- Interruption of traffic movement during road construction phase and the anticipated traffic jams on an already congested road
- Environmental concerns will be dealt with under the EIA/ EMP for the project

### 1.2 Reasons for Requiring a RAP Review

The original Resettlement Action Plan for this road was prepared in line with GoK and AfDB safeguard policies, disclosed and approved for financing in 2014. However, this RAP Study Report required review and updating before implementation due to the following:

- Design of Interchanges had not been firmed up when the Initial RAP of 2014 was prepared.
- Evictions at Kwa Jomvu took place after the Initial RAP of 2014 had been carried out.
- The need to reevaluate and confirm the current value of assets inventoried and valued in the 2014 RAP since the lapse of two years is long enough for the value of assets to have escalated



- The need to address and manage resettlement across both Lots in an equivalent manner, reflecting related standards and requirements of both the AfDB and the EIB.

### **Design of Interchanges**

The Preliminary Designs of the Mombasa-Mariakani Road were prepared in September 2014. The Initial RAP Report was compiled following the Preliminary Designs and disclosed by AfDB in October 2014. At the time of preparing the Preliminary Designs, the interchanges had not been firmed up hence the Initial RAP did not take into consideration impacts at the interchanges. The Detailed Engineering Designs for Dualling of the Mombasa - Mariakani road that include the interchanges were finalised in June 2015. The RAP review study was conducted following the Detailed Engineering Designs.

### **Forced evictions at Kwa Jomvu**

In the process of securing the road reserve in May 2015, KeNHA carried out demolition of structures that had been constructed on the road corridor between Km 10+700 to Km 11+450 of the project road.

## **1.3 Kwa Jomvu demolitions, Audit Reports and subsequent Corrective Action Plan**

In 2015, before the updating of the RAP, there were demolitions at the project site which resulted to forced evictions at Kwa Jomvu area chainage 10+700 to 11+450. The demolitions targeted structures on existing road reserve (as per Kenya Roads Act -2007). The RAP updating process has verified that KeNHA with the support of the Lenders have undertaken an Audit Report of the eviction and elaborated a Corrective Action Plan envisaged to remedy the effects of the demolitions.

A total of 326 people were affected by the forced evictions out of which 83 persons have so far been compensated for the loss of structures amounting to Kshs. 31,724, 595, following verification undertaken from the schedule of payment prepared for 93 persons that had lost structures. The total compensation value for all the 93 structures lost is Kshs 34,459,795.

There are 243 people who include owners of additional 33 structures, 116 tenants and 93 employees who are being considered for compensation of their losses incurred through the corrective action plan. Their losses have been audited and valued and their compensation is in the process of finalisation as per the entitlement matrix agreed upon.

**Table 1: A summary of the audit and the CAP findings**

<b>Particulars</b>	<b>Details</b>
Road section affected	750 metres (from chainage Km10+700 to Km 11+450)
No. of structure owners	117
No of tenants	116
No of employees	93
<b>Total no of people affected and verified</b>	<b>326</b>

Alongside the compensation anticipated, livelihood restoration measures have been incorporated for the evictees as part of the correction action plan which shall be undertaken in the RAP implementation.

## **1.4 RAP Review Study**

### **1.4.1 Methodology applied in the Original RAP Study**

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The information for formulation of the original Resettlement Action Plan was based on primary and secondary data sources. The secondary data came from official records available at different public offices in the three Counties. The primary data was generated through field interviews with the community living along the project road. The information collected through the different methods was analysed to generate social and economic data of the community members. The following activities were undertaken along the project road:

- Analysing the secondary data information contained in official reports;
- Conducting surveys on the socio-economic status of the project affected people along the road corridor. A structured questionnaire on socio-economic aspects of the PAPs was conducted by trained assistants; and
- Observations along the road corridors for empirical evidence on characteristics of the communities to be potentially affected by the road improvement.

All the three methods were used initially during reconnaissance of the project road sections for socio-economic surveys. This information was used as a control during the detailed surveys with use of questionnaires and further enhanced in the RAP updating process.

#### **1.4.2 Methodology adopted in the RAP Review Study of 2016**

##### **RAP Review Study Approach**

The RAP review and updating study involved verification, review and updating of the original RAP of 2014 study to ensure that the report presents an enhanced assessment of potential resettlement and social impacts of the proposed project and to ensure that provisions are made for it to be implemented in an environmentally and socially sustainable manner.

This RAP review is has been carried out in compliance with the Government of Kenya applicable laws, the African Development Bank's (AfDB) Integrated Safeguard System and the European Investment Bank (EIB) relevant policies, standards and guidelines. Specifically, reference has been made to the EIB's Standard 6 on Involuntary Resettlement and Standard 7 on the Rights and Interests of Vulnerable Populations and Standard 10 on Stakeholder Engagement. This has been considered jointly with AfDB Involuntary Resettlement Policy and AfDB's Integrated Safeguard Systems, specifically Operational Safeguard 2 on involuntary resettlement, land acquisition, population displacement and compensation.

The RAP review undertook a Socio-economic survey along the entire road corridor, census survey of affected persons and asset inventory of the affected property was carried out during the field work exercise in order to determine the census of PAPs affected as per the applicable cut-off date. The Consultant team administered questionnaires and conducted interviews with the PAPs whose property were determined to be in the right of way of the road corridor and also carried out consultations meetings at 6 centres along the proposed route. The field investigations and data collection were carried out from Tuesday 29 March, 2016 – Wednesday 14 May 2016. Project activities implemented included:

- Road Route Survey using road chainage coordinates provided by KeNHA
- Census Survey for data on PAPs and their affected assets;
- Asset Inventory of affected land, structures trees, crops and loss of business Strategic
- Consultation forums and validation of cut-off dates.

The PAP community has continued to encroach on the proposed right of way since the original RAP study was carried out in 2014 and approved. The community has been aware of the proposed project and the cut-off date for eligibility to compensation and other resettlement assistance. The cut-off date is 30 July 2014 for those PAPs who occupied or

were engaged in various business activities on the road reserve area. The cut-off date of 30 July 2014 was validated during the public/ community meetings held during the 2014 study and also during the updating of the RAP Report in 2015. The cut-off date for this RAP review study remains as declared. The cut-off date of 18 December 2015 will apply for PAPs whose land is will acquired as per the gazette notice of this date and for the new PAPs entrants (with or with no legal entitlements to the land they occupy) a result of incorporation of additional road design features including the interchanges that had not been concluded on during preparation of the original RAP.

People have continued to encroach the road corridor after the cut of date. Some are carrying out temporary business, constructing residential and business structures with the intention of being compensated by KeNHA. The identified new entrants into the road reserve area expansion after the cut-off date were excluded in this RAP Review Study of 2016.

### **Road Route Survey**

The road route survey was undertaken using satellite positioning technology and applying differential GPS (DGPS) positioning techniques to achieve required precision. Real time Kinematic (RTK) DGPS method, in which GPS positioning corrections were broadcasted real-time from a control base geodetic GPS to a roving geodetic GPS was used. This method is quicker in carrying out the surveys and less prone to errors since only one equipment station was utilized for a large area. Errors associated with conventional surveying method like booking and computation errors were eliminated.

The road reserve alignment was fed into the data loggers of the rover set-up. New beacons were established from Changamwe to Mazeras. Between Mazeras and Mariakani some sections had already been marked. The beacons were precast using molds, which were designed to meet the beacon specifications as per the terms of reference i.e 15cm × 15cm × 40cm. After pre-casting, the beacons were then loaded into a pickup, transported and placed along the alignment. The beacons were placed such that the top section of the beacon measuring 15cm ×15cm ×15cm is left above the ground.

Land, structures, trees, crops, boundary fences, etc. along the marked road corridor were picked and documented. The beacon markings of the right of way were used by the other experts in the field team to collect the relevant data for the RAP study. Refer to **Annex 10** for a full survey report.

### **Detailed Census and Asset Inventory Survey**

The Census and Asset Inventory surveys that were carried out along the Mombasa-Mariakani road Corridor involved data and information collection regarding the following features:

- Persons living or doing business within the proposed road corridor where information regarding household population, sources of income; income levels, level of education;
- Location of the project affected land, ownership and its size for value determination;
- Size and type of commercial structures including commercial buildings, residential houses, churches, Mosques, Madrassa school and Municipal Water Supply facility for value determination;
- Type and size of trees and other vegetation for value determination;
- Commercial and social activities taking place within the road corridor to determine loss.

Interview guides, questionnaires and asset inventory forms were used to record above data collected during the census and asset inventory survey.

The PAPs were identified and consulted with the objective of establishing land ownership, the existing socio-economic conditions within the project area of influence and the

immediate surroundings. The resettlement action plan study team used qualitative and quantitative techniques to collect data and information on the social and economic status of the community along the road corridor

### **Consultation Meetings**

Six (6) Consultation meetings were conducted at various centres along the route of the proposed road. These meeting were held between 21<sup>st</sup> and 24<sup>th</sup> of March 2016. Consultations were carried out with the community, key stakeholders, local leaders and PAPs through direct verbal interaction with them and the administration of questionnaires. The purpose of the meetings was to elaborate on the various aspects of the proposed project and discuss project impacts, mitigation measures and alternatives. Projects aspects discussed during the meeting included land acquisition, compensation for land, structures, loss of business, trees and crops and resettlement sites so as to make sure that all stakeholders and PAPs are able to make informed decisions and choices. The views and suggestions by the community, stakeholders and PAPs were recorded inform of minutes and used to enhance mitigation measures and alternatives aimed at minimizing project impacts and enhancing benefits.

A checklist of the information collected from each public consultation meeting guided the collection of data throughout the field exercise. The data was analysed at the end of the fieldwork. Minutes of the consultation meetings are included in **Annex 2** and Attendance Registers in **Annex 3**.

## **1.5 Limitations of Study and Mitigations**

### **1.5.1 Limitations/Challenges**

- Many of the PAPs losing land did not have land ownership documents for land they claimed to own
- Several PAPs had land ownership documents on road reserve land owned and gazetted as belonging to KeNHA.
- Some PAPs were absent during the census and asset Inventory survey i.e. they own affected assets on the right of way but they live/work away from the project area. However through the local administration (chiefs) and PAP committees, majority have been contacted;
- There was claim that some traders who are not genuine PAPs brought their goods from their business and stores that are not on the right of way, and placed them on stands/ mats by the roadside with the hope that they can be enumerated as PAPs for compensation.
- There were instances where a person found on the ground during the census survey would register as the sole proprietor of a business or structure whereas it is owned by several parties. This was discovered when the other interested parties show up later demanding to be included.

### **1.5.2 Mitigations to Overcome Challenges**

- As required by the Land Act 2012, due process on land acquisition shall be followed where the National Land Commission is currently involved in the verification and validation of land ownership. The NLC with support of the County Commissioner's office are undertaking verification of ownership for those with interest on land earmarked for acquisition well before compensation packages are prepared and paid out.
- Adequate dissemination of information regarding dates/ periods of reviewing the PAPs census and asset inventory survey and related consultation were given to the entire PAP

community. A two (2) weeks' in advance to ensure adequate notice period for the PAPs. The notice was facilitated through the local administration and PAP committees before enumeration and verification officers move to the ground for data collection.

- The existing PAP committees, the local administrators and neighbours were involved in the verification to confirm the list of those who occupied the ROW as per the cut-off date especially where a PAP was suspected to be a new entrant. The committee members were also involved in the identification of property/asset ownership and authenticity of a PAP

**KeNHA will educate and inform PAPs and their representatives on the available grievance redress mechanism and the set up the community RAP committee to participated in verification of ownership of all forms of affected assets and timely address of PAPs grievances.**

## **1.6 The Consultant Team**

The resettlement action plan study team included the following experts:

- Team Leader/Expert In Resettlement Matters
- Sociologist
- Registered Land Valuer
- Registered Surveyor
- Highways Design Engineer
- Environmental Scientist/Community Development Expert,
- Data Base Officer
- Socio-Economic Survey Team Members/Enumerators

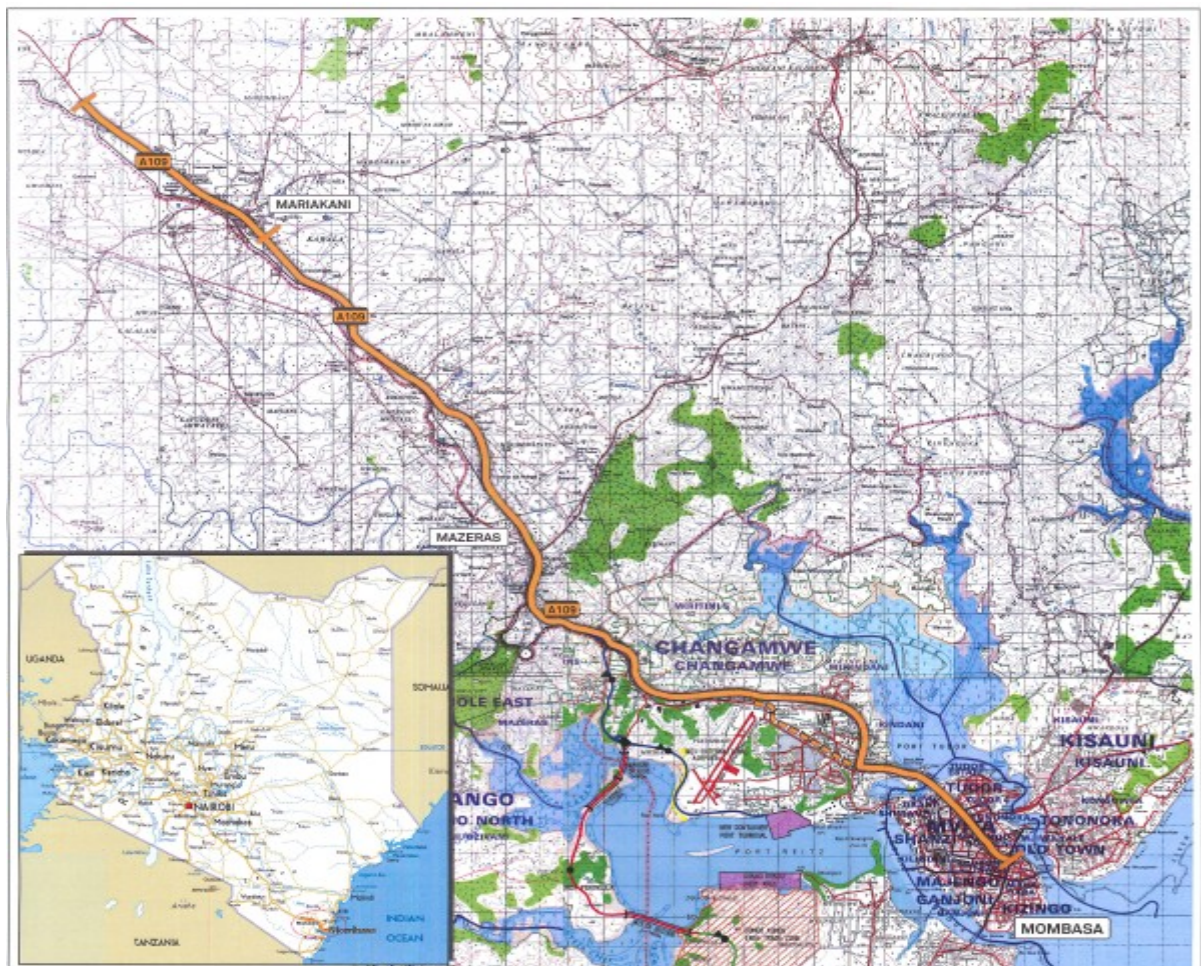
## 2 PROJECT DESCRIPTION

### 2.1 Location of Proposed Road

The project road is located within the coastal region of Kenya starting at the centre of the port City of Mombasa in Mombasa County and terminates at Mariakani Weigh Bridge in Kilifi County. The Proposed Road Project is approximately 42km. The project road is the main gateway into Kenya and the East and Central Africa region for both export of raw materials and import of manufactured goods. The road serves the countries of Uganda, DR Congo, Rwanda through Malaba; South Sudan through Lodwar; Ethiopia through Moyale and northern Tanzania through Voi-Taveta.

The existing road corridor from Mombasa Island runs through Makupa Causeway, Changamwe and Kwa Jomvu/Miritini industrial areas, Mazeras and Mariakani residential and agricultural areas.

#### Map 1: Project Location



Source: Initial RAP Report for Mombasa – Mariakani Road (2014)

### 2.2 Description of the project area

The Mombasa – Mariakani road can be socially and economically divided into two sections as follows:

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- (i) Urban/Peri-urban sections covering Mombasa island from Digo road through Changamwe to Jomvu as well as the urban centers of Mariakani and Mazeras. The sections are characterized by commercial activities, small-scale trading, heavy industries (steel makers, Doshi, Mabati Rolling Mills, Nyumba and Kaluworks among others) and residential (Changamwe, Mikindani Jomvu and Bagladesh slum among others).
- (ii) Rural sections from Mazeras and all sections from the suburbs Mombasa city through Mazeras to Kokotoni to Mariakani. These are characterized by huge tracts of empty land, livestock keeping, small scale farming and scattered homesteads. However, observations show an emerging trend in land development along the corridor mainly commercial in nature.

Politically, the project starts in Mvita and traverses through Changamwe and Jomvu constituencies in Mombasa County and Rabai and Kaloleni constituencies in Kilifi County. The road passes through Port Reitz, Kipevu, Airport, Changamwe and Chaani wards in Changamwe constituency and Jomvu Kuu, Miritini and Mikindani wards in Jomvu constituency. In Kilifi County, the road traverses Rabai/Kisurutuni in Constituency and Mariakani in Kaloleni Constituency.

Land ownership in the coast region and along the project corridor has remained a thorny issue as most of the residents do not legally own land and most of the land is owned by absentee landlords leaving many of the residents as squatters. In addition, many of the people in the rural areas own land communally.

In Mombasa County, only 30% of the residents have title deeds to their land compared to 40% in Kilifi County. The proposed project road traverses land whose tenure is mixed including privately owned land (dominant in the area), trust land and government land.

### 2.3 Administrative Setting of the Project Area

Mombasa – Mariakani Road (A109) running from Digo road junction constitutes the main link between Mombasa City Island to the upcountry including among other locations Voi, Nairobi City, Western Kenya, Uganda and other states. The road connects the Port of Mombasa, the largest in East Africa and a vital gateway for imports (mainly petroleum, oil and lubricants and maize, clinker, wheat, iron and steel) to Kenya and its neighboring countries.

The road starts in Mombasa Island of Mombasa County before entering Kilifi County where it ends. It starts in Mombasa sub – county and traverses through the four sub-counties of Changamwe, Rabai and Kaloleni. The road traverses nine administrative location and ten administrative sub-locations. The administrative locations and sub-locations traversed by the project road are presented in the **Table 2**:

**Table 2: The administrative locations and sub-locations traversed by the project road**

County	Sub-county	Location	Sub-Location
Mombasa	Mombasa	Mwembe Tayari	Mwembe Tayari
		Tononoka	Tononoka
		Tudor	Tudor

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		Majengo	Majengo
	Changamwe	Changamwe	Changamwe
		Miritini	Miritini
		Mikindani	Birikani
		Jomvu	Jomvu Kuu
Kilifi	Rabai	Rabai	Buni Kisimani
			Mugumo Patsa/ Mazeras
			Kaliang'ombe/ Jiba
	Kaloleni	Mariakani	Mtangoni/Mariakani
<b>TOTAL</b>	<b>4</b>	<b>10</b>	<b>12</b>

### 2.3.1 Trade and Industry within the Project Area

There are various types of trade in the project area including retail, wholesale, distribution and hawking. The wholesale businesses are few and are located mainly in the major Trading Centres of Mariakani, Mazeras and Mombasa. The small-scale retail outlets include canteens, kiosks, hawkers and newspaper vendors.

Mombasa – Mariakani Highway has served as the main corridor along which many manufacturing firms have established their processing plants and warehouses. The main establishments along the project corridor include Athi River Mining Cement Factory, Mabati Rolling Mills, Pwani and Kapa Oil Refinery.

The proposed project road improvement will speed up trade and trading activities along the project corridor and into the hinterland. This will also result to reduction in prices of goods and services and redistribution of wholesales in markets where none existed.

### 2.4 Condition of Current Road

The existing road between Mombasa Island and Mariakani is a single carriage-way except partial dualling between Miritini and Mazeras; Changamwe roundabout and Shimanzi roundabout. The road corridor between Digo Road junction and Makande Roundabout within the Island of Mombasa is 30m wide and clearly defined by buildings on either side of the carriageway. Between Makupa Causeway and Miritini the road space available is variable between 36.58m and 60.0m. There is evident encroachment on the road corridor that is occupied by informal businesses and parking areas for the heavy commercial trucks. The road section between Miritini and Mariakani Weighbridge is 60.0m wide except the narrow road reserve of 36.58m within the trading centres of Mazeras and Mariakani. Alongside the road corridor, there is a railway reserve and a water pipeline way-leave that run on either side of the road.

The project road is characterized by:-

- (i) In-adequate capacity that entails increase in the number of lanes where the road is single carriageway or additional lanes between Digo Road junction to Changamwe round about
- (ii) Invasion of the road corridor by informal traders who have illegally occupied the existing road reserve concentrated mainly at Changamwe, Miritini/Kwa Jomvu, Mazeras and Mariakani.

- (iii) Need for new improved junctions at Changamwe, Jomvu, and Mazeras. The junction with the southern bypass is accommodated within the RAP for the particular project including land acquisition for 2km at the location
- (iv) There are sharp curves between the southern bypass junction and Mazeras that require re-alignment

## 2.5 Proposed Road design

The existing single carriage-way sections of Mombasa-Mariakani Road project will be upgraded to dual carriageway and the design concept was guided by the Highway Design Manual (1978) where the key features for consideration during the design include among others:

- (i) Main carriageway;
- (ii) Median section for dual road sections;
- (iii) Service roads where applicable;
- (iv) Foot paths on each side; and
- (v) Bridges, flyovers and foot-bridges,
- (vi) Interchanges at appropriate locations and improved roundabouts as may be necessary (this was not provided for in the road designs during preparation of the original RAP)

The proposed road corridor earmarked for improvement from a 2-lane single carriageway to a 3x3 and 2x2 Dual carriage-way is 60m wide in most sections. Within Mombasa Island from Digo Road Junction with Kenyatta Avenue, to Makande Round About, the road reserve is 30m wide and well defined by the business –cum-residential buildings. Between Makupa Causeway and Miritini the road reserve is variable in width but generally 60m wide. From Miritini to Mariakani, the road reserve is 60m wide.

However, due to the incremental improvement of the road corridor, informal businesses have encroached into the space and set-up. The road reserve at Mazeras and Mariakani Trading Centres, the road reserve is constrained at 36.58m wide previous improvements notwithstanding. In view of this:-

- The additional space to accommodate the road expansion from single carriageway to dual carriageway will trigger displacement of the people trading within the road corridor.
- The improvement of road junctions will entail requirement of additional space outside the road corridor at Changamwe (Km 5+800); Jomvu (Km 11+350);
- Acquisition of land for truck parking along the road corridor within Mombasa County
- Re-alignment of the road to improve road geometry
- Incorporation of service roads at road sections with volumes of traffic accessing directly into private properties and concentration of human settlements at Mazeras and Miritini.

## 2.6 Project Activities

### 2.6.1 Pre-Construction Phase

The pre-construction phase involves the following activities;

- Commissioning of the proposed project Feasibility study, Detailed Engineering Design and Tender Documentation, Environmental and Social Impact Assessment Study and getting the required approvals;
- Development of appropriate designs review to improve and upgrade the road from Mombasa to Mariakani;
- Commissioning of a Resettlement Action Plan Study along the 60m wide road corridor covering the entire 42km to identify PAPs, affected land parcels, structures, trees and

crops existing within the road corridor for appropriate census, valuation, compensation and relocation/ resettlement.

- Conducting a census of all the project affected persons, their socioeconomic status and special needs of the vulnerable groups
- Valuation of affected parcels of land, structures, trees and crops in preparation for compensation and land acquisition;
- Compensation for acquired land, affected structures trees and crops;
- Identification of suitable resettlement sites, preparing the sites to habitable conditions and resettlements of the PAPs on these sites
- Obtaining all relevant approvals from the various regulatory authorities and relevant institutions;
- It is mandatory to compensate or provide assistance to all the project affected persons operating within the proposed road reserve in conjunction with the Mombasa and Kilifi County Governments and other government agencies.

## **2.6.2 The Construction and Operational Phase**

The construction and operational phases will involve the following;

- Compensation and relocation/resettlement of PAPs;
- Demolition of existing structures and ground excavation;
- Monitoring and Evaluation of the resettlement of PAPs.

### 3 MINIMIZING RESETTLEMENT

#### 3.1 Justification for Resettlement Action Plan

The proposed dualling of the Mombasa – Mariakani road corridor will generally follow the current road alignment. However, land acquisition and resettlements will take place where there are needs for enhanced junction, and interchanges, realignment and extra widening to allow for dualling. The original RAP study had identified that, a total of about 22 ha of land would be acquired to allow for the dualling. The RAP review process has proposed the reduction of properties previously affected through an analysis of optimal alignment necessary for the road design features as per the final road designs in order to minimise resettlement impacts and disturbances arising from the road project. However, even with the efforts to minimise impacts, the current RAP has estimated that a total of about 70ha of land will be acquired for the road development between Mombasa to Mariakani. This has increased because the interchanges will require additional land than was in the original design. The reduction on resettlement has not been very notable on land to be acquired because the reduction of impacts was mainly on trying to avoid large buildings constructed on the encroached road reserve.

The justification for minimise the land acquisition was as follows:

- KeNHA already had an existing corridor which is however, encroached hence need to first reposes this reserve for road expansion.
- Most of the displacement of persons will largely occur in the towns and market centres where both residential and businesses are concentrated as well as in some areas that have industrial plants (most of which were excluded from this RAP) which will attract very high compensation values and thereby hindering achievement of sustainable development.
- The need to reduce the amount of land to be acquired from various individuals, public and private organizations for the road construction;

#### 3.2 Measures to reduce Impacts

After carrying out consultations with the PAPs and the business communities along the proposed road corridor as well engagement of KeNHA's management, the decision to realign the road to avoid affecting the several large factories and plants situated within the ROW was arrived at. This proposal was also reviewed and approved by the NLC as an effort to reduce impacts and disruptions of business activities and in particular, the industrial plants whose cost of relocation and set up could run into billions of shillings.

**Table 3: Schedule of the Optimum Widths**

Chainage	Existing Road Corridor (m)	Design Corridor Width (m)	Optimum Road Corridor (m)	Remarks
Km 0+000 – Km 3+900	30	30	30	Existing corridor maintained
Km 3+900 – Km 4+400	45 - 67	45 - 67	45 - 67	Existing corridor maintained
Km 4+400 – Km 4+900	31- 36	31- 36	31- 36	Existing corridor maintained

Chainage	Existing Road Corridor (m)	Design Corridor Width (m)	Optimum Road Corridor (m)	Remarks
Km 4+900 – Km 5+800	36	36	36	Existing corridor maintained, but acquisition proposed for weigh in motion at Km 5+050 – Km 5+565 and for interchange
Km 5+836				Changamwe round about
Km 5+900 – Km 7+300	30	55	42	Optimum corridor chosen to accommodate design cross section
Km 7+300 – Km 8+400	20 - 30	55	45	Optimum corridor chosen to accommodate design cross section
Km 8+400 – Km 8+600				Mikindani interchange
Km 8+600 – Km 9+300	20 - 30	55	45	Optimum corridor chosen to accommodate design cross section
Km 9+300 – Km 10+400	55	55	45	Optimum corridor chosen to accommodate design cross section
Km 10+400 – Km 11+260	36	55	45	Optimum corridor chosen to accommodate design cross section
Km 11+260 – Km 11+400				Kwa Jomvu interchange
Km 11+400 – Km 11+560	36	55	45	Optimum corridor chosen to accommodate design cross section
Km 11+560 – Km 14+800	36	57	40	Optimum corridor chosen to accommodate design cross section
Km 14+800 – Km 15+125	36	60	60	Design corridor maintained.
Km 15+125 – Km 16+460				Dongo Kundu
Km 16+460 – Km 17+648	80	60 - 98	60 - 98	Design corridor maintained.
Km 17+648 – Km 19+200	36	60 - 98	60 - 98	Design corridor maintained.
Km 19+200 – Km 19+820	36	60	42	Optimum corridor chosen to accommodate design cross section
Km 19+820 – Km 20+100	36	64	45	Optimum corridor chosen to accommodate design cross section
Km 20+100 – Km 20+300	36	55	45	Optimum corridor chosen to accommodate design cross section
Km 20+300 – Km 20+500	60	55	45	Optimum corridor chosen to accommodate design cross section
Km 20+500 – Km 21+300	36	60	60	Existing corridor maintained
Km 21+300 – Km 25+900	60	60	60	Existing corridor maintained
Km 25+900 – Km 26+150	60	60	52	Corridor reduction proposed to avoid impact on developments while accommodating design cross section
Km 26+150 – Km 28+900	60	60	60	Existing corridor maintained
Km 28+900 – Km 29+300	60	60	47	Corridor reduction proposed to avoid impact on developments while

Chainage	Existing Road Corridor (m)	Design Corridor Width (m)	Optimum Road Corridor (m)	Remarks
				accommodating design cross section
Km 29+300 – Km 33+200	44	60	60	Design corridor maintained.
Km 33+200 – Km 35+940	44	60	40	Corridor reduction proposed to avoid impact on developments while accommodating design cross section
Km 35+940 – Km 36+100	60	60	40	Corridor reduction proposed to avoid impact on developments while accommodating design cross section
Km 36+100 – Km 41+412	60	60	60	Existing corridor maintained

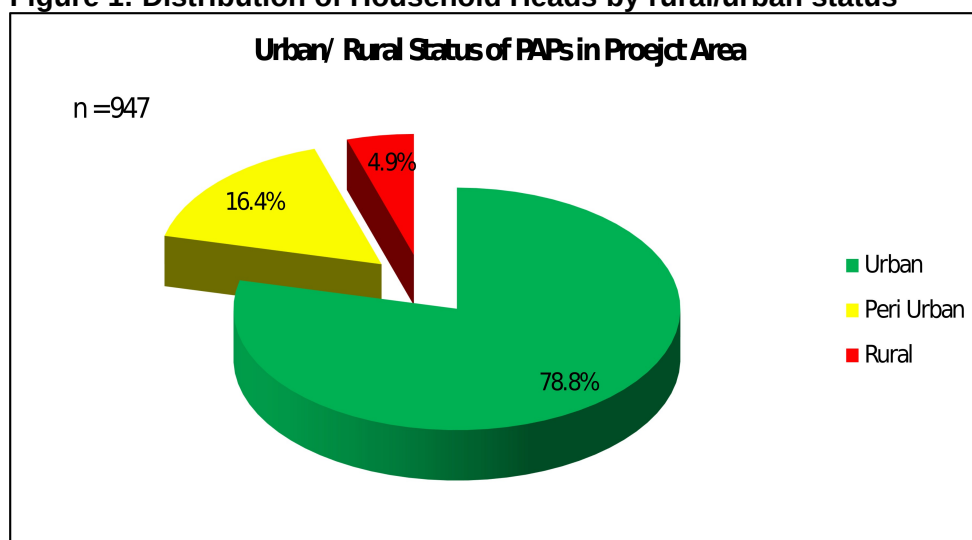
Despite the efforts put in place to minimize the impacts, the new design features at the interchanges, which were not in the original RAP, has contributed to the increasing number of PAPs who mainly have erected structures and carrying our businesses in these areas. Eleven (11) industries have been avoided following efforts on minimization of the resettlement. Refer to **Annex 9**.

## 4 CENSUS AND SOCIO-ECONOMIC SURVEYS

### 4.1 Introduction

This section looks at the social characteristic of the PAPs. It focuses on the demographic and socio-economic characteristics of PAPs by giving the baseline socio-economic situation as provision for anticipating socio-economic impacts and as a basis for monitoring and evaluation. The data used to evaluate the project area socio-economic status is primary data obtained from the socio-economic survey conducted by the RAP Study team from Tuesday 29 March 2016 to Saturday 14 May 2016. The socioeconomic data has been presented to show the urban, peri urban and rural settings along the road project area. **Figure 1** below shows that 78.8% of the PAPs live in an urban set up area while 16.4% and 4.9% live in the peri urban and rural areas respectively.

**Figure 1: Distribution of Household Heads by rural/urban status**



**Source:** RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016

Overall the, the affected PAPs in the urban and peri-urban area are in the age bracket of 0-39 years which is the youthful and productive age while those in the rural areas are in the age bracket of 40-59 years which is middle age. Cross the entire stretch of the road, the PAPs comprise of more males than females and more married people than other categories of marital status.

The majority of the PAPs have attained primary school education in the whole project area. As shown in **Table 4** overleaf the highest percentage of PAPs in each region had attained primary school education followed by secondary education. Moving from urban to the rural areas, there is progressive increase in the percentage of PAPs with no formal education and a progressive decrease in the percentage of those who have post-secondary education with no PAP with any post-secondary school education in the rural areas.

**Table 4: Highest level of Education attained by PAPs across the project area**

Highest Education Level attained	Urban%	Peri-urban%	Rural%
None	6.4	16.5	16.7
Primary	42.8	51.4	56.7
Secondary	42.7	28.4	26.7
Post-Secondary	8.1	3.7	0
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>

Cross the entire stretch of the road, more PAPs engage in business activities than in any other income generating activity/ occupation. There is no farming activities taking place in the urban areas which increases gradually in the peri urban and rural areas.

The project route also consists of movable traders/ hawkers who move their wares/goods to the road reserve area and trade during certain times of day and mainly evenings when the human traffic increase and hence their chances of increased sales. This category of movable traders were not enumerated as it was difficult to get their accurate numbers due to their mobility and uncertainty of their time of trade. They display their wares on plastic sheets or mats spread on the ground/ pavements while others bring along racks on which they display their goods and take these racks away at the end of a trading day/ session. These traders are entitled to a 3 months' notice to vacate the road reserve.

**Table 5: Main Occupation of PAPs across the project area**

Main Occupation	Urban %	Peri-urban %	Rural %
Artisan	3	1.8	0
Employed	2.7	5.5	3.3
Business	89.9	80	70
Farmer	0	1.8	23.3
Other	4.4	10.9	3.3
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>

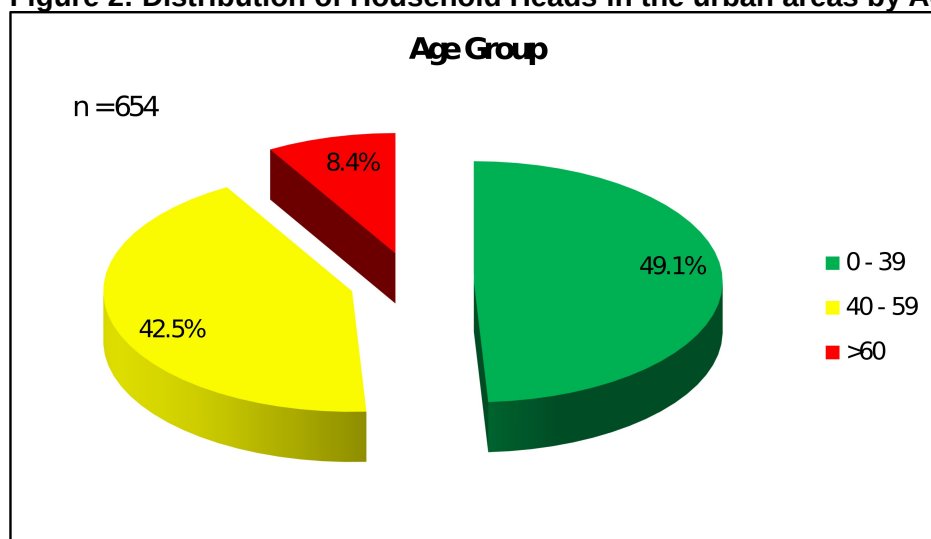
## 4.2 The Socio-Economic Profile of the PAPs in the Urban Areas

### 4.2.1 Distribution of Household Heads in the urban areas by Age

The analysis of the Household Heads surveyed in the urban area revealed that 49.1% fall in the youthful age group of below 39 years followed by those in the middle age of 40-59 years, which comprise of 42.5%. The over 60 years old age group forms the smallest percentage of the population, which comprise of 8.4% of those affected. In the urban area just like in the peri urban stretch of the project area, majority of the affected household heads are youthful men and women running various small to medium size businesses along the road reserve. All these are active, energetic and mature group that can utilize the economic benefits that will spring from this project.



**Figure 2: Distribution of Household Heads in the urban areas by Age**



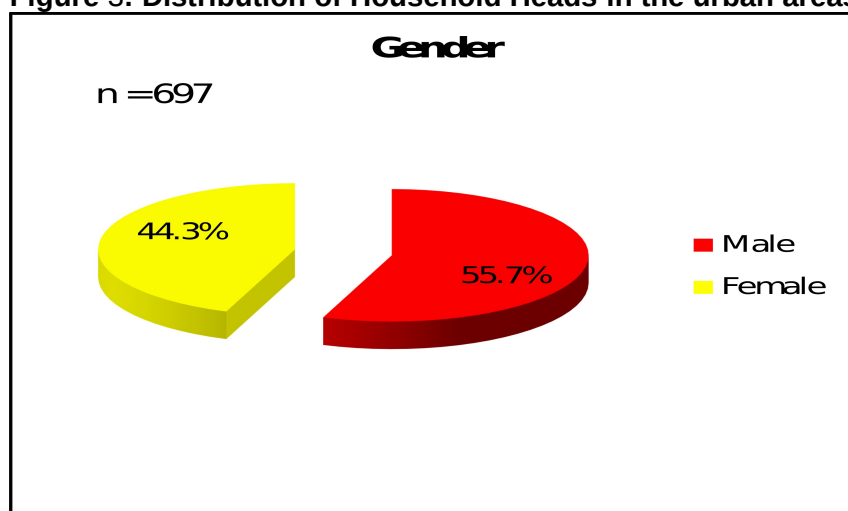
*Source: RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016*

#### 4.2.2 Distribution of PAPs in the urban areas by Gender

In terms of gender, the household heads surveyed in the urban areas indicate that majority are, male (55.7%) while female Household Head population is 44.3%. as shown in **Figure 3**. Part of the reason for this kind of outlook relates to the fact that Mombasa County and Kilifi County are patriarchal and hence property in land, structures and business are socially defined to belong to male adults and thus these were available as the owners and hence the best placed to be registered for purposes of valuation and registering for compensation.

There were calls for concerted efforts to ensure that women who own land and property are not sidelined in the process of paying out compensation and putting together sufficient monitoring processes to ensure that spouses of the affected asset owners participate in the compensation processes to enhance their socioeconomic safety.

**Figure 3: Distribution of Household Heads in the urban areas by Gender**

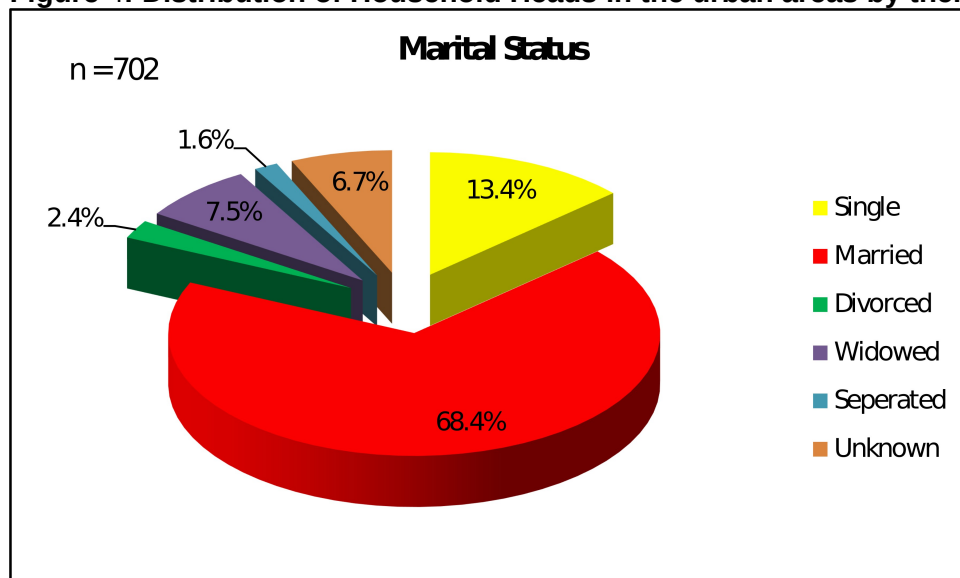


*Source: RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016*

### 4.2.3 Distribution of Household Heads in the urban areas by their Marital Status

The study also looked into the marital status of the Household Heads. It was found that 68.4% of them were married, 13.4% were single, 7.5% were widowed and 2.4% were divorced and 1.6% were separated.

**Figure 4: Distribution of Household Heads in the urban areas by their Marital Status**



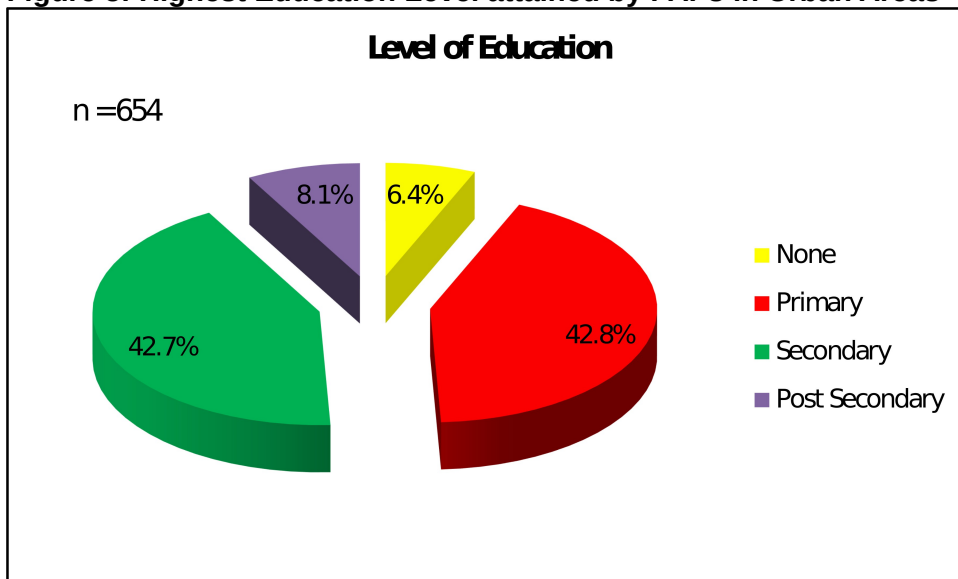
**Source:** RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016

The implication of the marital status outlook of PAPs Household Heads shows that most of the PAPs are in families and hence compensation should take into consideration this fact and provide support in such a way as not to separate family members or jeopardize the rights of family members such as denying children the right to education or shelter. The RAP implementing team must ensure that for the married PAPs, the compensation money is paid into a joint account held by both spouses and the cash is secure by both spouses being joint signatories to the accounts and that neither spouse can access the account/ money singly.

### 4.2.4 Distribution of Household Heads in the urban areas by their Highest Education Level

42.8% of the Household Heads surveyed have attained primary school level of education, 42.7% have attained secondary school level of education and 8.1% have attained post-secondary school education. Only a minority of 6.4% have not attended school or attained any formal education. This is a bright outlook of the literacy level of the PAPs household heads indicating that many have attained basic education and hence have an understanding of the project, its impacts and benefits it will bring to their own lives and the lives of other near and afar of from the project area. See **Figure 5**

**Figure 5: Highest Education Level attained by PAPs in Urban Areas**

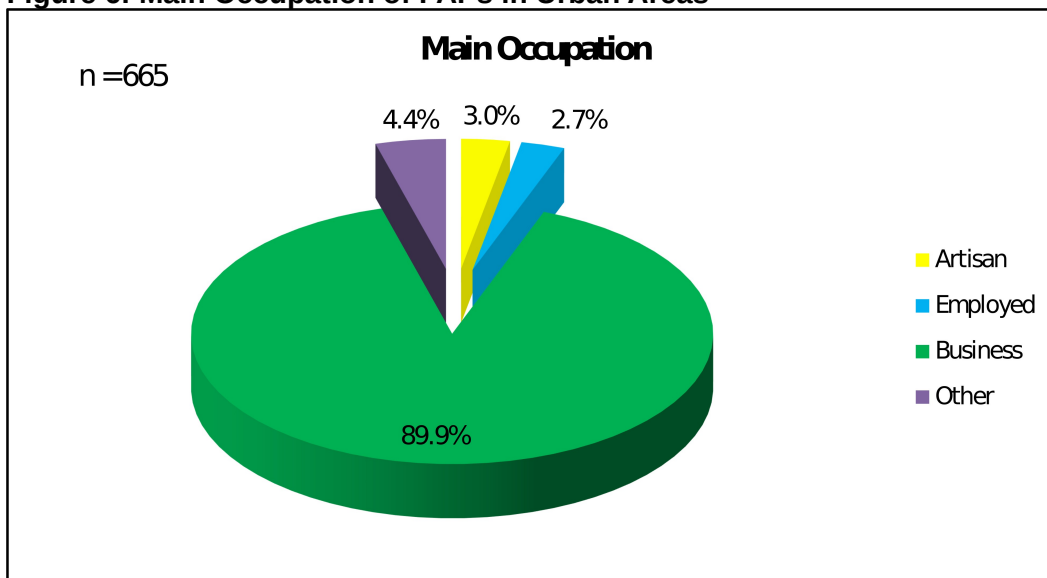


**Source:** RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016

#### 4.2.5 Main Occupation of PAPs in Urban Areas

PAPs household heads carrying out various business activities and providing commercial services are the majority at 89.9%, those in employment form 2.7%. Jua kali artisans form 3.0% and the others form 4.4% as shown in **Figure 6**. This indicates that the project will greatly affect the business community in the urban areas.

**Figure 6: Main Occupation of PAPs in Urban Areas**



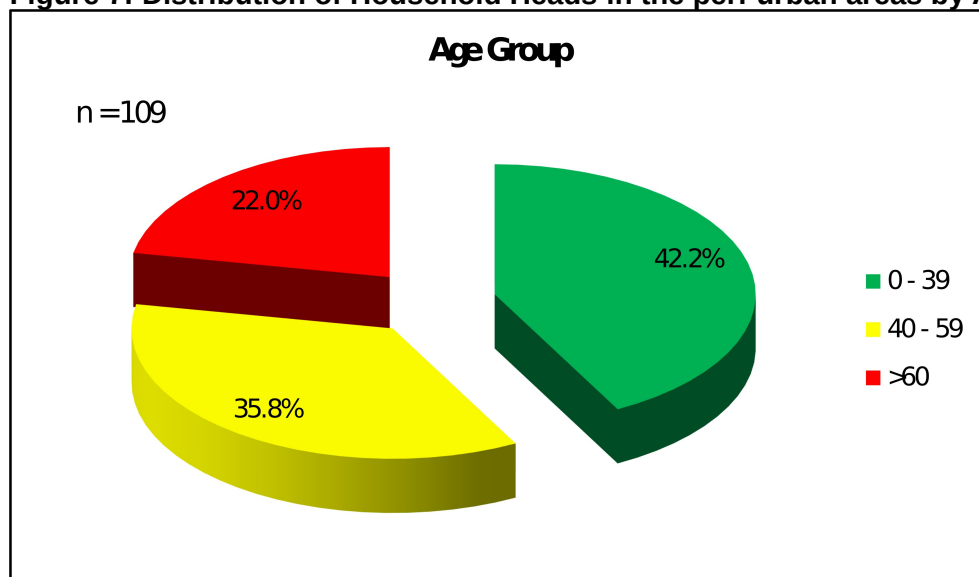
**Source:** RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016

### 4.3 The Socio-Economic Profile of the PAPs in the Peri-Urban Areas

#### 4.3.1 Distribution of Household Heads in the peri-urban areas by Age

The analysis of the Household Heads surveyed in the peri-urban area revealed that 42.2% fall in the youthful age group of below 39 years followed by those in the middle age of 40-59 years, which comprise of 35.8%. The over 60 years old age group forms the smallest percentage of the population, which comprise of 22% of those affected. In the peri-urban area just like in the urban stretch of the project area, majority of the affected household heads are youthful men and women running various small to medium size businesses along the road reserve. All these are active, energetic and mature group that can utilize the economic benefits that will spring from this project.

**Figure 7: Distribution of Household Heads in the peri-urban areas by Age**



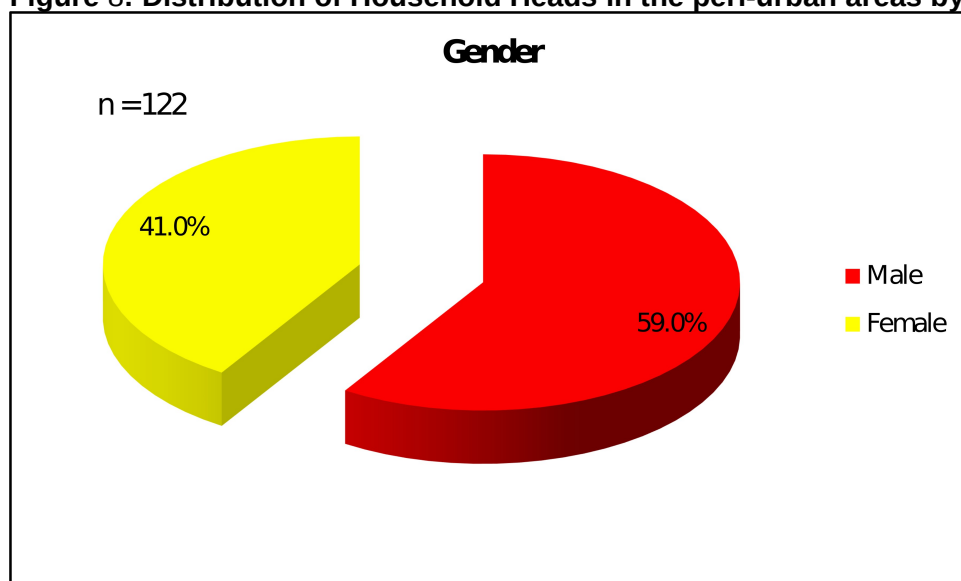
*Source: RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016*

#### 4.3.2 Distribution of PAPs in the peri-urban areas by Gender

In terms of gender, the household heads surveyed in the peri-urban areas indicate that majority are, male (59%) while female Household Head population is 41%. as shown in **Figure 8**. Part of the reason for this kind of outlook relates to the fact that Mombasa County and Kilifi County are patriarchal and hence property in land, structures and business are socially defined to belong to male adults and thus these were available as the owners and hence the best placed to be registered for purposes of valuation and registering for compensation.

There were calls for concerted efforts to ensure that women who own land and property are not sidelined in the process of paying out compensation and putting together sufficient monitoring processes to ensure that spouses of the affected asset owners participate in the compensation processes to enhance their socioeconomic safety.

**Figure 8: Distribution of Household Heads in the peri-urban areas by Gender**

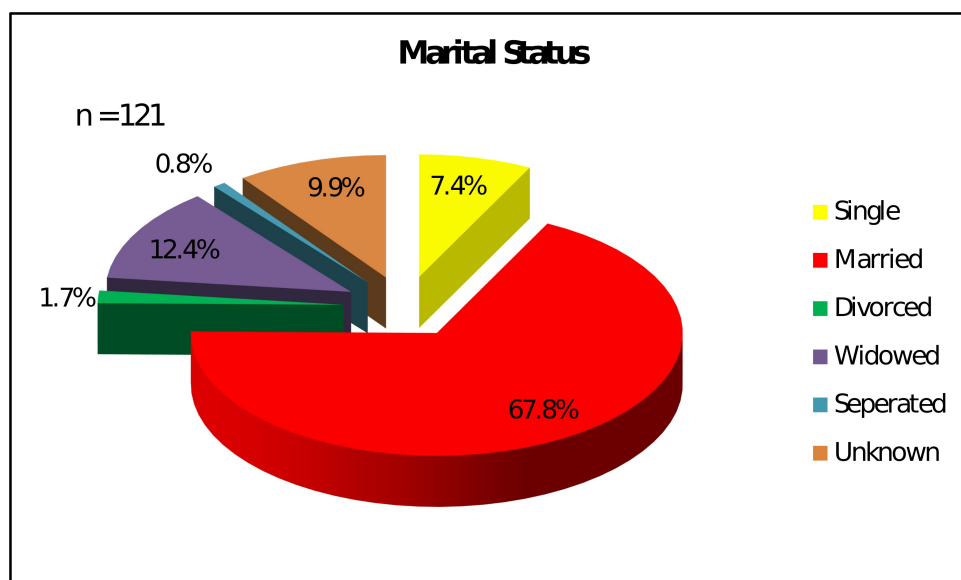


*Source: RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016*

**4.3.3 Distribution of Household Heads in peri-urban areas by their Marital Status**

The study also looked into the marital status of the Household Heads. It was found that 67.8% of them were married, 7.4% were single, 12.4% were widowed and 1.7% were divorced and 0.8% were separated.

**Figure 9: Distribution of Household Heads in peri-urban areas by their Marital Status**



*Source: RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016*

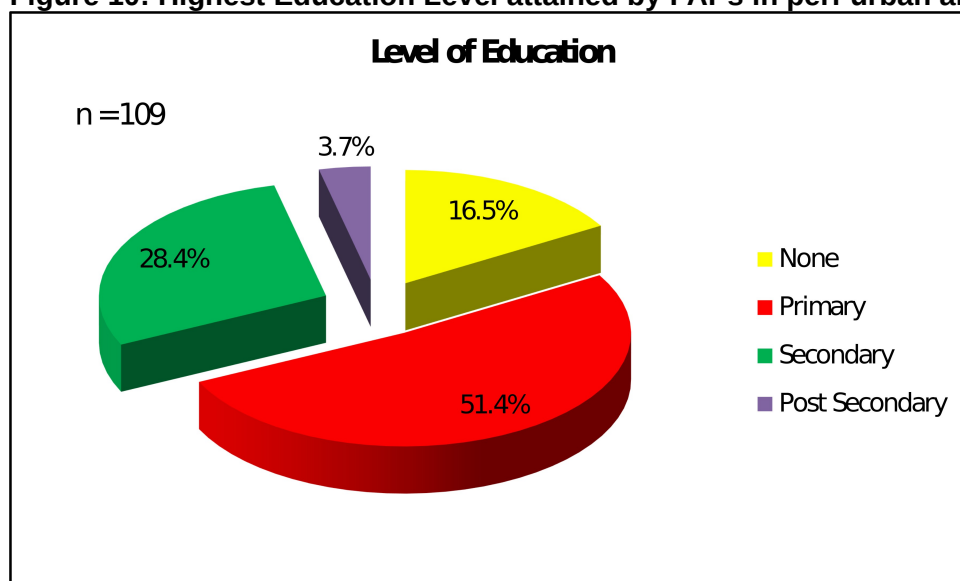
The implication of the marital status outlook of PAPs Household Heads shows that most of the PAPs are in families and hence compensation should take into consideration this fact and provide support in such a way as not to separate family members or jeopardize the rights of family members such as denying children the right to education or shelter. The RAP implementing team must ensure that for the married PAPs, the compensation money is paid

into a joint account held by both spouses and the cash is secure by both spouses being joint signatories to the accounts and that neither spouse can access the account/ money singly.

#### 4.3.4 Distribution of Household Heads in peri-urban areas by their Highest Education Level

51.4% of the Household Heads surveyed have attained primary school level of education, 28.4% have attained secondary school level of education and 3.7% have attained post-secondary school education. 16.5% have not attended school or attained any formal education. This is a bright outlook of the literacy level of the PAPs household heads indicating that many have attained basic education and hence have an understanding of the project, its impacts and benefits it will bring to their own lives and the lives of other near and afar of from the project area. See **Figure 10**

**Figure 10: Highest Education Level attained by PAPs in peri-urban areas**

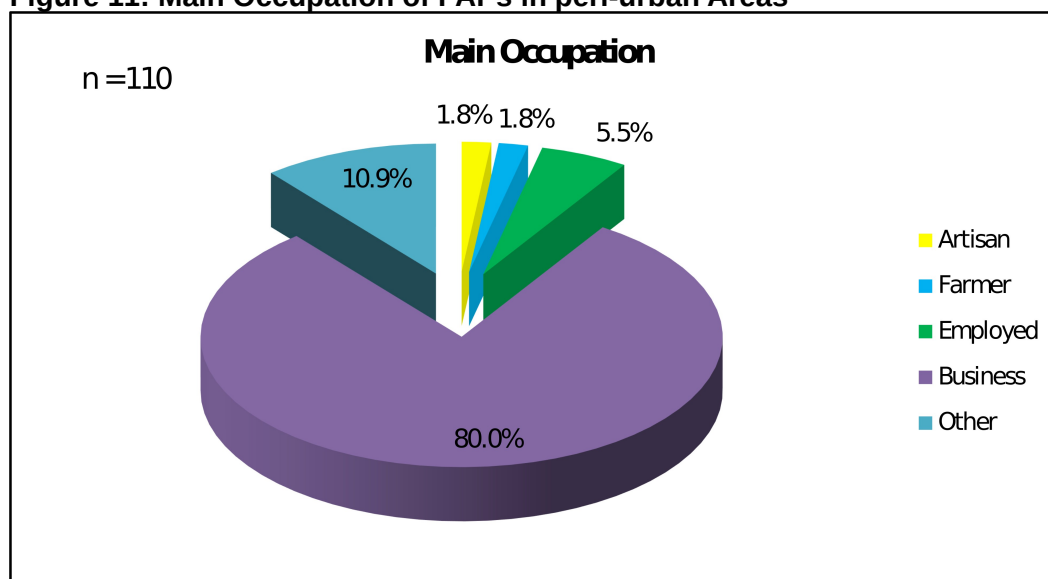


*Source: RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016*

#### 4.3.5 Main Occupation of PAPs in peri-urban n Areas

PAPs household heads carrying out various business activities and providing commercial services are the majority at 80%, those in employment form 5.5%. Jua kali artisans and farmers form 1.8% each and the others form 10.9% as shown in **Figure 11**. This indicates that the project will greatly affect the business community in the peri-urban areas.

**Figure 11: Main Occupation of PAPs in peri-urban Areas**



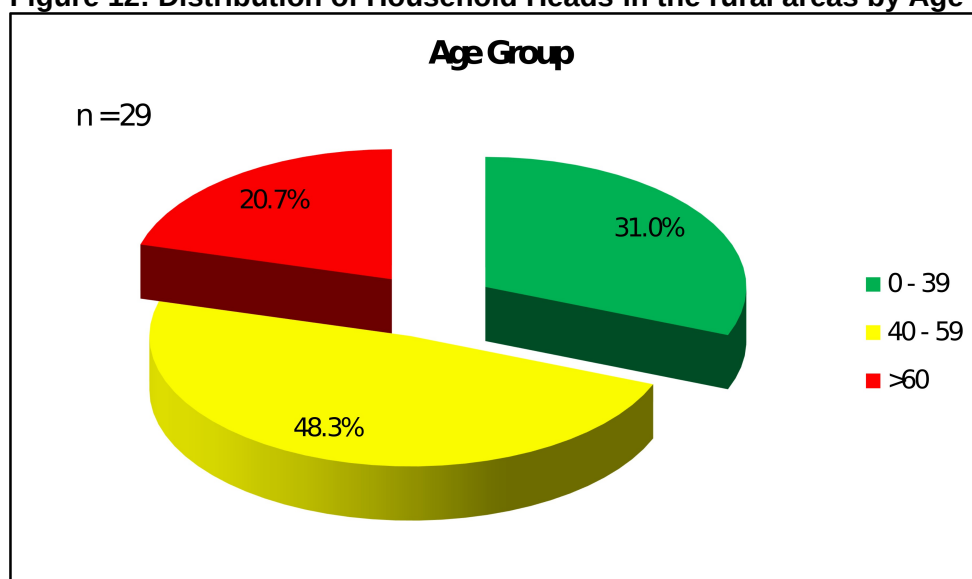
*Source: RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016*

#### 4.4 The Socio-Economic Profile of the PAPs in the Rural Areas

##### 4.4.1 Distribution of Household Heads in rural areas by Age

The analysis of the Household Heads surveyed in the rural area revealed that 48.3% fall in the middle age group of 40-59 years followed by those in the youthful age of below 39 years, which comprise of 31%. The over 60 years old age group forms the smallest but significant percentage of the population, which comprise of 20.7% of those affected. In the rural areas unlike in the urban and peri urban stretch of the project area, majority of the affected household heads are middle-aged men and women (40 -59 years) running various small to medium size businesses along the road reserve. All these are active, able and mature group that can utilize the economic benefits that will spring from this project.

**Figure 12: Distribution of Household Heads in the rural areas by Age**



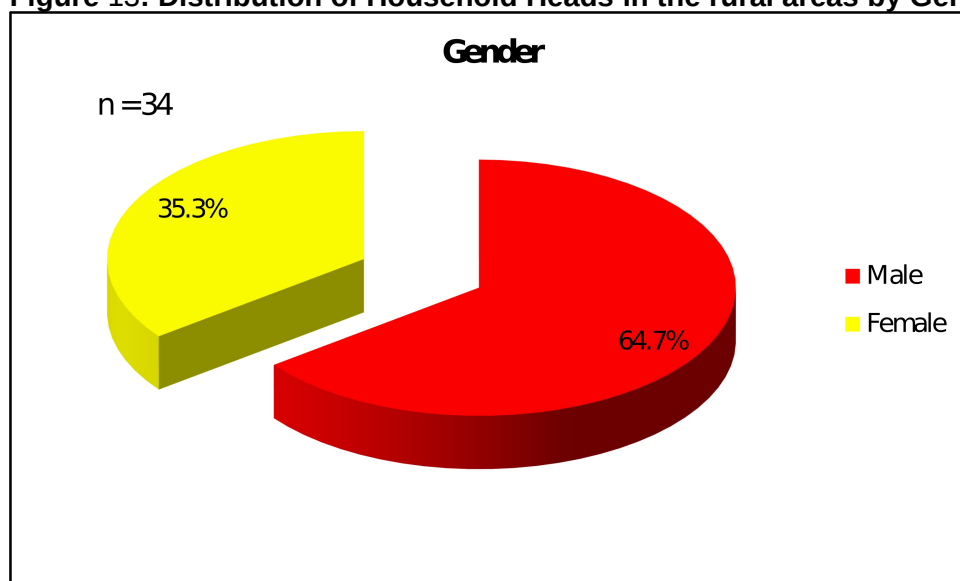
*Source: RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016*

#### 4.4.2 Distribution of PAPs in the rural areas by Gender

In terms of gender, the household heads surveyed in the rural areas indicate that majority are, male (64.7%) while female Household Head population is 35.3%. as shown in **Figure 13**. Part of the reason for this kind of outlook relates to the fact that Mombasa County and Kilifi County are patriarchal and hence property in land, structures and business are socially defined to belong to male adults and thus these were available as the owners and hence the best placed to be registered for purposes of valuation and registering for compensation.

There were calls for concerted efforts to ensure that women who own land and property are not sidelined in the process of paying out compensation and putting together sufficient monitoring processes to ensure that spouses of the affected asset owners participate in the compensation processes to enhance their socioeconomic safety.

**Figure 13: Distribution of Household Heads in the rural areas by Gender**



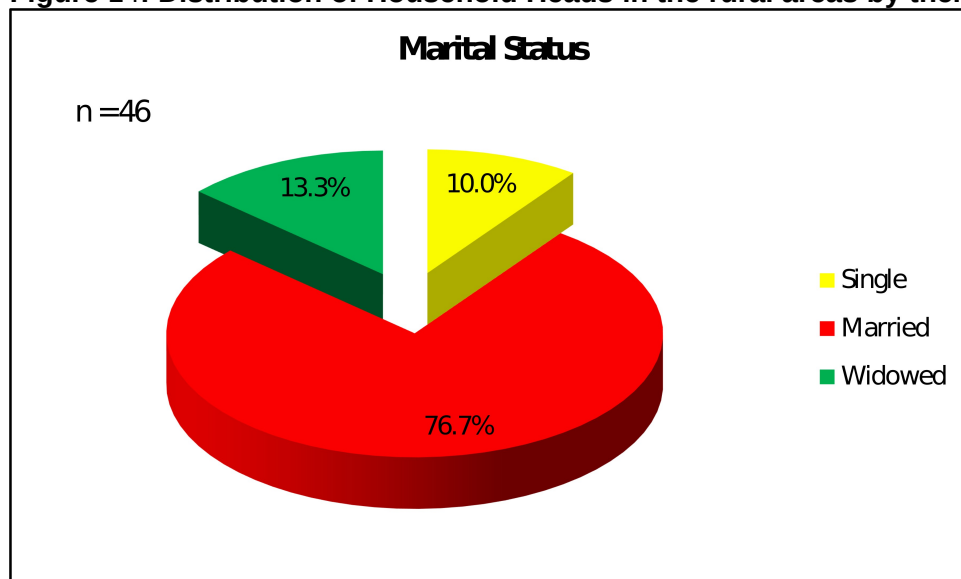
**Source:** RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016

#### 4.4.3 Distribution of Household Heads in the rural areas by their Marital Status

The study also looked into the marital status of the Household Heads. It was found that 76.7% of them were married, 10% were single, and 13.3% were widowed.



**Figure 14: Distribution of Household Heads in the rural areas by their Marital Status**



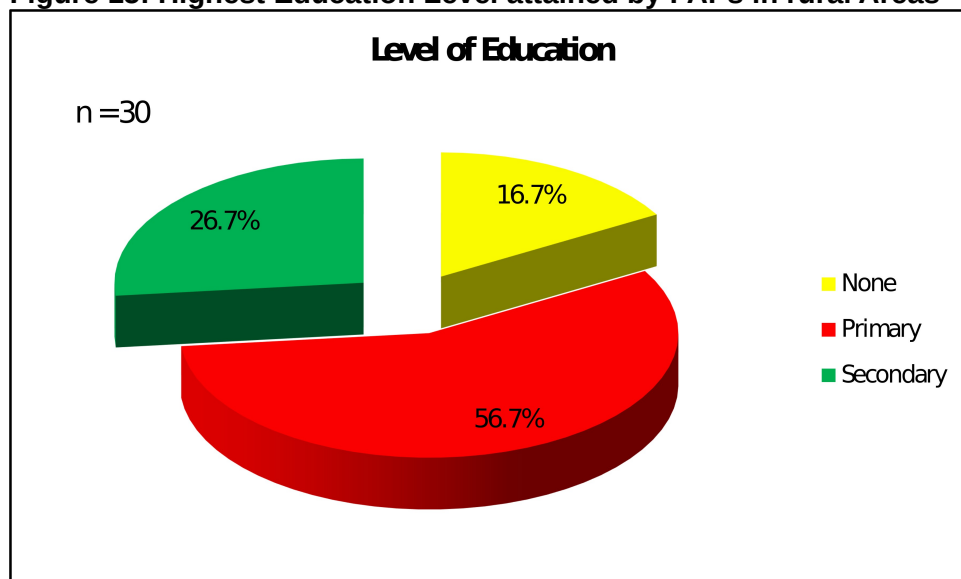
**Source:** RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016

The implication of the marital status outlook of PAPA Household Heads shows that most of the PAPA are in families and hence compensation should take into consideration this fact and provide support in such a way as not to separate family members or jeopardize the rights of family members such as denying children the right to education or shelter. The RAP implementing team must ensure that for the married PAPA, the compensation money is paid into a joint account held by both spouses and the cash is secure by both spouses being joint signatories to the accounts and that neither spouse can access the account/ money singly.

#### **4.4.4 Distribution of Household Heads in the rural areas by their Highest Education Level**

56.7% of the Household Heads surveyed in the rural areas have attained primary school level of education, 26.7% have attained secondary school level of education and 16.7% have not attended school or attained any formal education. This is a bright outlook of the literacy level of the PAPA household heads indicating that many have attained basic education and hence have an understanding of the project, its impacts and benefits it will bring to their own lives and the lives of other near and afar of from the project area. See **Figure 15**

**Figure 15: Highest Education Level attained by PAPs in rural Areas**

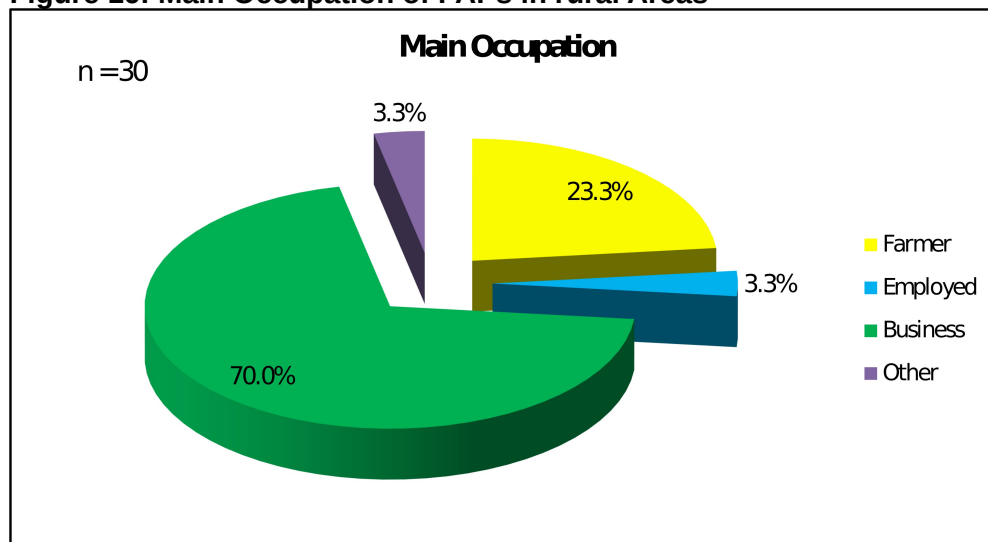


*Source: RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016*

#### 4.4.5 Main Occupation of PAPs in in rural Areas

PAPs household heads carrying out various business activities and providing commercial services are the majority at 70%, those in employment form 3.3%. Farming activities form 23.3% and the others form 3.3% as shown in **Figure 16**. This indicates that the project will greatly affect the business community and farmers in the rural areas.

**Figure 16: Main Occupation of PAPs in rural Areas**



*Source: RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016*

#### 4.4.6 Gender issues along the Project Area

Culture, literacy levels and religion dictates gender issues, which are reinforced by society values, norms and roles to males and female.

These disparities including marginalization of women in education, income, property and asset ownership rights, lack of credit in turn will dictate the levels of participation in decision making and roles played as well as contribution of resources during and after construction of the road.

Gender roles and responsibilities are well defined. Women are generally engaged in home care, and reproductive roles in the households. They are also engaged in other income generating activities: trading along the road corridor, selling and buying merchandise and foodstuff. Men on the other hand are more engaged in marketing, running businesses as traders, and employed in both formal and informal sectors. While men own most of the valued household assets, women traditionally do not own large assets in the family, neither are they allowed to make decision on the same. Women headed households have limited decision-making power especially if the assets are not family –based.

Generally, in many households, women have no say in financial matters and hence KeNHA should ensure that women are involved in the compensation and resettlement process. In Mombasa - Mariakani road project, 59.8% of the affected property holders are men. This gives them a better chance of assessing and controlling the compensation proceeds than the women. KeNHA RAP implementing team must ensure that for the married PAPs, the compensation money is paid into a joint account held by both spouses and the cash is secure by both spouses being joint signatories to the accounts and that neither spouse can access the account/ money singly.

#### 4.4.7 Vulnerable Property Holders

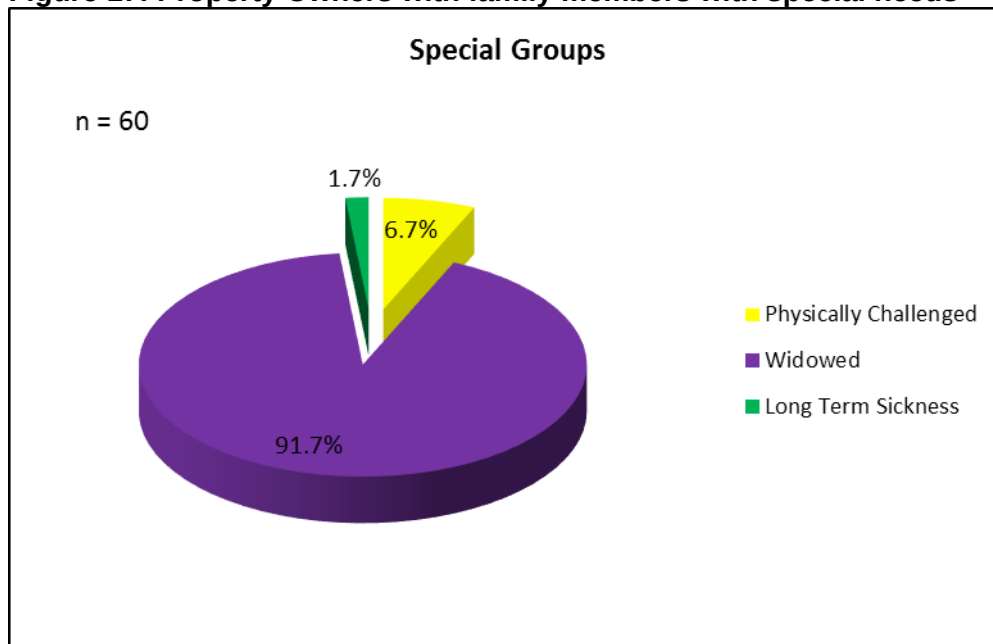
Squatters, women, elderly persons, illiterate, persons living with disability, the terminally ill and widowed property holders are considered as vulnerable PAPs under this project depending on a combined score of the various level of vulnerability for each PAP. Vulnerability risk of each PAP was assessed by ranking the various parameters under analysis and computing a score for each PAP and classifying as per **Table 6** below.

**Table 6: Vulnerability Score Classification**

No	Vulnerability Grouping	Remarks	Total Score	Number
1	Not Vulnerable	No vulnerability assistance required	0 - 5	296
2	Low Vulnerability		6 - 15	625
3	Moderate Vulnerability	Vulnerability Assistance required above the compensation cash	16 - 25	26
4	Highly Vulnerable	Additional/ special assistance required in addition to the general vulnerability assistance	26 - 31	0

A total of 60 affected property owners considered as people with special needs under this project as outlined in **figure 17** overleaf.

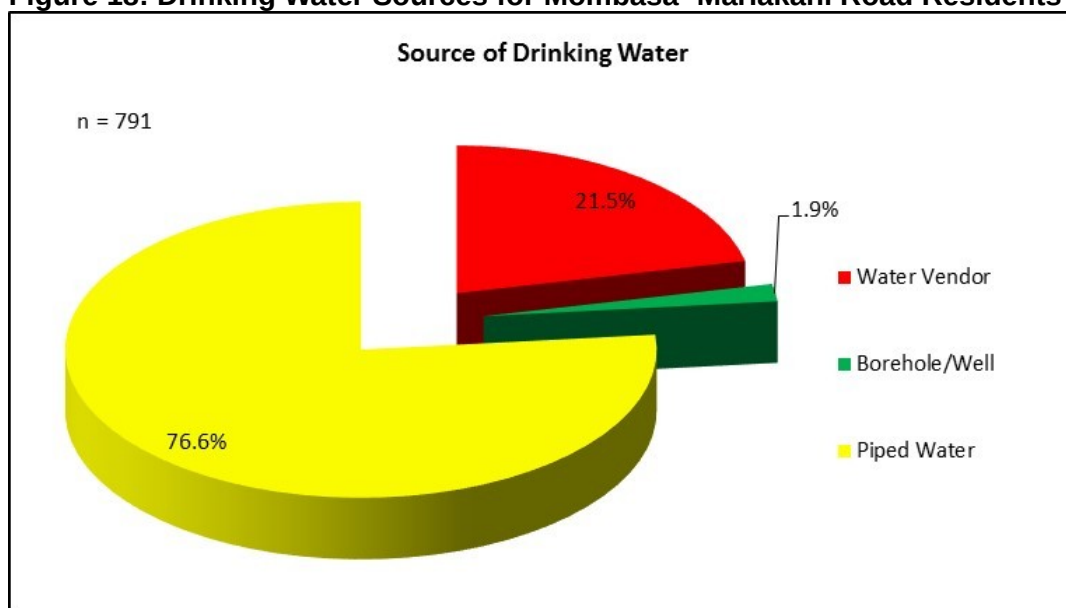
**Figure 17: Property Owners with family members with special needs**



**4.4.8 Drinking Water Sources for the PAPs respondents**

The results from analysis of PAPs’ sources of drinking water along the Mombasa – Mariakani Road corridor are as shown in **Figure 18**. Majority of them use piped water source (76.6 %) which reflects the more urban nature of the project area. The 21.5% purchase from water vendors while 1.9% rely on boreholes and wells for their regular supply. The water vendors were noted to distribute the commodity on hand carts many of which are parked by the road side. The road contractor under the supervision of KeNHA should ensure that water pipes that are laid on the road reserve are minimally interrupted as this is the main source of water in the project area

**Figure 18: Drinking Water Sources for Mombasa- Mariakani Road Residents**



**Source:** RAP Review Socio-economic Survey for Mombasa – Mariakani Road 2016

## 5 LEGAL AND REGULATORY FRAMEWORK

### 5.1 Introduction

The original RAP reviewed the legal and regulatory framework for Kenya and AfDB. The review included a gaps analysis and mitigation measures for the gaps identified were proposed. This included a proposal to consider PAPs who have structures on the road reserve or public land assigned for the road expansion. The original RAP proposed that loss of structures and livelihoods be considered for compensation.

The RAP review and updating process in addition, incorporated the EIB safeguard policies and guidelines. The updated RAP report has considered all the laws and legislations as relates to land acquisition, compensation and resettlement in Kenya in comparison to the financiers guidelines and polices on resettlement, highlighting gaps and making recommendations to fill up gaps.

### 5.2 Legal Framework reviewed in the Original RAP

The following legislation was comprehensively evaluated in the initial RAP

1. Constitution of Kenya, 2010
2. Land Act, 2012
3. The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012
4. Urban Areas and Cities Act, 2011
5. Kenya Road Act, 2007
6. Traffic Act Cap 403
7. Public Roads and Roads of Access Act, Cap 339
8. Physical Planning Act Cap 286
9. AfDB Safeguard Policies and Guidelines ,2003 and 2013

In addition to the above, the following legislations were considered relevant to the project.

### 5.3 Additional Legislation reviewed in the RAP review exercise

The following legislations were reviewed during the RAP Review exercise

#### 5.3.1 Power of Eminent Domain- Constitution of Kenya

The Constitution of Kenya stipulates the Power of Eminent Domain as the right of the state to acquire land, using its sovereign power, for public purpose. National law establishes which public agencies have the prerogative to exercise eminent domain. It is the right of the state or its assignees to take private property for public purposes thus ousting the individuals or private rights to property.

*This doctrine is triggered by the necessity of this government-sponsored project that will require that privately owned land revert back to the government. However, the proponent will ensure that all the private landowners who will relinquish land and other properties are fully compensated and appropriately resettled within acceptable timeline*

### 5.3.2 National Land Commission Act (2012)

To resolve any conflicts that may arise during the acquisition of the land for this project, Article 16 authorizes the commission to establish committees for carrying of their functions among them compulsory acquisition process as outlined in Land Act (2012). This is further cascaded to the counties according to article 18 by establishing the County Land Management Boards, in consultation with the national and county governments. The Board's subject management of any transactions on land to scrutiny hence can be useful in resolving any disputes arising from land acquisition process for purposes of this project.

### 5.3.3 Valuers Act (Cap 532)

The valuation practice in Kenya is governed by the Valuers Act Cap 532. The Act establishes a board (Valuers Registration Board-VRB) with the responsibility of registering the valuers and regulating their activities according to the provision of the Act. The Valuers Registration Board regulates the activities and conduct of registered valuers. Valuers in Kenya are registered upon application to the Board and are required to be full members of the Institution of Surveyors of Kenya (ISK). The Act governs the formation and composition of valuation practices including the qualification of partners and directors in charge of valuation. The Board also deals with discipline and complaints in respect to valuation practice.

*This Act is triggered by this project since a registered valuer has carried out valuation estimates for the project according to the regulations in the Act. The Valuer who is carrying out the valuation of the affected assets on behalf of the proponent is registered in accordance to the Act.*

### 5.3.4 Land Registration Act, 2012

**Section 16. (1)** The office or authority responsible for the survey of land may rectify the line or position of any boundary shown on the cadastral map based on an approved subdivision plan, and such correction shall not be effected except on the instructions of the Registrar.

**Section 21. (1)** Any person who defaces, removes, injures or otherwise impairs a boundary feature or any part of it unless authorized to do so by the Registrar commits an offence.

**Section 26. (1)** The certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained or endorsed in the certificate.

**Section 93. (1)** Subject to the law on matrimonial property, if a spouse obtains land for the co-ownership and use of both spouses or, all the spouses

(b) the Registrar shall register the spouses as joint tenants. **(2)** If land is held in the name of one spouse only but the other spouse or spouses contribute by their labour or other means to the productivity, upkeep and improvement of the land, that spouse or those spouses shall be deemed by virtue of that labour to have acquired an interest in that land in the nature of an ownership in common of that land with the spouse in whose name the certificate of ownership or customary certificate of ownership has been registered and the rights gained by contribution of the spouse or spouses shall be recognized in all cases as if they were registered. **(3)** Where a spouse who holds land or a dwelling house in his or her name individually undertakes a disposition of that land or dwelling house—

(a) the lender shall, if that disposition is a charge, be under a duty to inquire of the borrower on whether the spouse has or spouses have, as the case may be, have consented to that charge; or (b) the assignee or transferee shall, if that disposition is an assignment or a transfer of land, be under a duty to inquire of the assignor or transferor on whether the spouse or spouses have consented to that assignment.

(4) If the spouse undertaking the disposition deliberately misleads the lender or, the assignee or transferee by the answers to the inquiries made in accordance with subsection (3) (a) or (3) (b), the disposition shall be void at the option of the spouse or spouses who have not consented to the disposition.

*The acquisition of such lands where the proposed road traverses Centres, Township/Municipality plots will be undertaken in compliance with the provisions of this Act including the right for spouses to consent. As proof of land ownership; copies of land title, official Allotment letters and identity cards shall be used to confirm ownership and KeNHA undertakes to ensure just compensation at the current open market value.*

*KeNHA will ensure compliance with legislation requiring that all persons owning property including those in marriage both execute transaction relating to the land and if a married person holds the title to the land the spouse is required to give consent for the transaction to be registered.*

### **5.3.5 Trust Lands Act Cap. 288**

This is an Act of Parliament to make provision for Trust land. According to the Act, all the trust lands are vested in county governments within whose area of jurisdiction the land is situated. Additionally, each county government holds the trust land vested in it for the benefit of the persons ordinarily resident on the land, and give effects to rights, interests or other benefits in respect of the land as may be under the African Customary Law for being in force and applicable thereto; and be vested in any tribe or individual, subject to the rights for the Government to set apart and alienate any land required for public purposes, or for such other purposes as the County Council may think is beneficial. The Commissioner of Lands acts as the agent of the County Council in respect of any trust land which is to be set apart.

*The Act is triggered since land in the town centres located along the route of the proposed route is leasehold land held in Trust by the local authorities and the occupants either have allocation letters or title deed for the land. The proponent shall comply with the provisions of the Section 7 of the Act that define how setting a part of the Trust land is carried out*

### **5.3.6 [Land Control Act Cap 302](#)**

This is an Act of parliament to provide for controlling transactions in agricultural land. The Act requires approval of the Land Control Board for the following transactions to be legal and valid; (a) The sale, transfer, lease, mortgage, exchange, partition or other disposal of or dealing with any agricultural land which is situated within a land control area; (b) The division of any such agricultural land into two or more parcels to be held under separate titles, other than the division of an area of less than twenty acres into plots in an area to which the Development and Use of Land (Planning) Regulations, 1961 for the time being apply; (c) The issue, sale, transfer, mortgage or any other disposal of or dealing with any share in a private company or co-operative society which for the time being owns agricultural land situated within a land control area.

*The Proponent undertakes to transact as per the above Act in acquiring agricultural land where the road shall pass through especially where interchange construction will require acquisition of agricultural land. All the interested parties will be required to be in attendance during negotiation and transfer of consideration for any acquired land.*

#### **5.4 Lenders Policies relating to Relocation and Resettlement**

AfDB resettlement and social policies, 2003 and 2013 were articulated in the Initial RAP Report but EIB, policies relating to relocation, and resettlement were not. Mirroring the fact that both Lots 1 and 2 fall under a single project definition, it is necessary that all lenders policies relating to relocation and resettlement are considered so as to foster equivalence of managing resettlement impacts across the two lots. It has been agreed that Lot 2 is to be governed by EIB's Environmental and Social Standards only. As such, AfDB and EIB standards are discussed below followed up by a comprehensive gap analysis with GoK provisions and the articulation of necessary bridging measures adopted by this RAP.

##### **5.4.1 AfDB Involuntary Resettlement Policy,2003**

The primary goal of the involuntary resettlement policy is to ensure that when people must be displaced they are treated equitably, and that they share in the benefits of the project that involves their resettlement. The objectives of the policy are to ensure that the disruption of the livelihood of people in the project's area is minimized, ensure that the displaced persons receive resettlement assistance so as to improve their living standards, provide explicit guidance to Bank staff and to borrowers, and set up a mechanism for monitoring the performance of the resettlement programs.

Most importantly, the resettlement plan (RP) should be prepared and based on a development approach that addresses issues of the livelihood and living standards of the displaced person as well as compensation for loss of assets, using a participatory approach at all stages of project design and implementation.

Compensation at the full replacement cost for loss of lands and other assets should be paid prior to projects implementation with the view to improve the former living standards, income earning capacity and production levels of the affected population. The improvement of these living standards should also apply to host communities.

In addition, the needs of disadvantaged groups (landless, female headed households, children, elderly, minority ethnic, religious and linguistic groups, etc.) must be at the centre of the development approach

##### **5.4.1.1 Policy Objectives**

The policy has the following key objectives:

- To avoid involuntary resettlement where feasible, or minimize resettlement impacts where population displacement is unavoidable, exploring all viable project designs. Particular attention must be given to socio-cultural considerations, such as cultural or religious significance of land, the vulnerability of the affected population, or the availability of in-kind replacement for assets, especially when they have important intangible implications. When a large number of people or a significant portion of the affected population would be subject to relocation or would suffer from impacts that are difficult to quantify and to compensate, the alternative of not going ahead with the project should be given a serious consideration;
- To ensure that displaced people receive resettlement assistance, preferably under the project, so that their standards of living, income earning capacity, and production levels are improved;



- To provide explicit guidance to Bank staff and to the borrowers on the conditions that need to be met regarding involuntary resettlement issues in Bank operations in order to mitigate the negative impacts of displacement and resettlement and establish sustainable economy and society; and
- To set up a mechanism for monitoring the performance of involuntary resettlement programs in Bank operations and remedying problems as they arise so as to safeguard against ill-prepared and poorly implemented resettlement plans.

In order to achieve the overall objectives of this policy, projects that involve involuntary resettlement shall be prepared and evaluated according to the following guiding principles:

- a) The borrower should develop a resettlement plan where physical displacement and loss of other economic assets are unavoidable. The plan should ensure that displacement is minimized, and that the displaced persons are provided with assistance prior to, during and following their physical relocation. The aim of the relocation and of the resettlement plan is to improve displaced persons former living standards, income earning capacity, and production levels. The resettlement plan should be conceived and executed as part of a development program, with displaced persons provided sufficient resources and opportunities to share in the project benefits. Project planners should work to ensure that affected communities give their demonstrable acceptance to the resettlement plan and the development program, and that any necessary displacement is done in the context of negotiated settlements with affected communities;
- b) Additionally, displaced persons and host communities should be meaningfully consulted early in the planning process and encouraged to participate in the planning and implementation of the resettlement program. The displaced persons should be informed about their options and rights pertaining to resettlement. They should be given genuine choices among technically and economically feasible resettlement alternatives. In this regard, particular attention should be paid to the location and scheduling of activities.
- c) In order for consultation to be meaningful, information about the proposed project and the plans regarding resettlement and rehabilitation must be made available to local people and national civil society organizations in a timely manner and in a form and manner that is appropriate and understandable to local people. As well, careful attention should be given in the organisation of meetings. The feasibility of holding separate women's meetings and fair representation of female heads of households, in addition to mixed meetings should be explored. Also, the way in which information is disseminated should be cautiously planned as levels of literacy and networking may differ along gender lines;
- d) Particular attention should be paid to the needs of disadvantaged groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, and ethnic, religious and linguistic minorities; including those without legal title to assets, female-headed households. Appropriate assistance must be provided to help these disadvantaged groups cope with the dislocation and to improve their status. Provision of health care services, particularly for pregnant women, and infants, may be important during and after relocation to prevent increases in morbidity and mortality due to malnutrition, the psychological stress of being uprooted, and the increased risk of disease.
- e) Resettlers should be integrated socially and economically into host communities so that adverse impacts on host communities are minimized. Any payment due to the hosts for land or other assets provided to resettlers should be promptly rendered.

- f) Conflicts between hosts and resettlers may develop as increased demands are placed on land, water, forests, services, etc., or if the resettlers are provided services and housing superior to that of the hosts. These impacts must be carefully considered when assessing the feasibility and costs of any proposed project involving displacement, and adequate resources must be reflected in the budget for the mitigation of these additional environmental and social impacts;
- g) Displaced persons should be compensated for their losses at “full replacement” cost prior to their actual move or before taking of land and related assets or commencement of project activities, whichever occurs first; and
- h) The total cost of the project as a result should include the full cost of all resettlement activities, factoring in the loss of livelihood and earning potential among affected peoples. This attempt to calculate the “total economic cost” should also factor the social, health, environmental and psychological impacts of the project and the displacement, which may disrupt productivity and social integration. The resettlement costs should be treated against economic benefits of the project and any net benefits to resettlers should be added to the benefit stream of the project.

#### **5.4.1.2 AfDB ISS Policy Statement and Operational Safeguards, December 2013**

The African Development Bank adopted its Environmental Policy in 1990, a set of Environmental and Social Assessment Procedures (ESAPs) in 2001, the Involuntary Resettlement Policy in 2003 and a revised Policy on the Environment in 2004. These policies have provided the basis for the Bank’s current environmental and social safeguards, which set out the requirements for an appropriate level of environmental and social assessment and management measures to mitigate project-related risks.

The Bank has developed an Integrated Safeguards System (ISS) to update its safeguards policies and consolidate them into a set of Operational Safeguards (OSs) supported by revised ESAPs and Integrated Environmental and Social Impact Assessment (IESIA) Guidance Notes.

The OSs are intended to:

- Better integrate considerations of environmental and social impacts into Bank operations to promote sustainability and long-term development in Africa;
- Prevent projects from adversely affecting the environment and local communities or, where prevention is not possible, minimise, mitigate and/or compensate for adverse effects and maximise development benefits;
- Systematically consider the impact of climate change on the sustainability of investment projects and the contribution of projects to global greenhouse gas emissions;
- Delineate the roles and responsibilities of the Bank and its borrowers or clients in implementing projects, achieving sustainable outcomes, and promoting local participation; and
- Assist regional member countries and borrowers/clients in strengthening their own safeguards systems and their capacity to manage environmental and social risks.

#### **5.4.1.3 OS 2: Involuntary Resettlement: Land Acquisition, Pop. Displacement & Compensation**

This safeguard consolidates the policy commitments and requirements set out in the Bank's policy on involuntary resettlement, and it incorporates refinements designed to improve the operational effectiveness of those requirements. In particular, it embraces comprehensive and forward-looking notions of livelihood and assets, accounting for their social, cultural, and economic dimensions.

It also adopts a definition of community and common property that emphasizes the need to maintain social cohesion, community structures, and the social interlinkages that common property provides.

The safeguard retains the requirement to provide compensation at full replacement cost; reiterates the importance of a resettlement that improves standards of living, income-earning capacity, and overall means of livelihood; and emphasizes the need to ensure that social considerations, such as gender, age, and stakes in the project outcome, do not disenfranchise particular project-affected people

#### **5.4.2 EIB's Standard 6 on Involuntary Resettlement,**

The objectives of this Standard are to:

- Avoid or, at least minimise, project-induced resettlement whenever feasible by exploring alternative project designs;
- Avoid and/or prevent forced evictions and provide effective remedy to minimise their negative impacts should prevention fail;
- Ensure that any eviction which may be exceptionally required is carried out lawfully, respects the rights to life, dignity, liberty and security of those affected who must have access to an effective remedy against arbitrary evictions;
- Respect individuals', groups' and communities' right to adequate housing and to an adequate standard of living, as well as other rights that may be impacted by resettlement;
- Respect right to property of all affected people and communities and mitigate any adverse impacts arising from their loss of assets, or access to assets and/or restrictions of land use, whether temporary or permanent, direct or indirect, partial or in their totality. Assist all displaced persons to improve, or at least restore, their former livelihoods and living standards and adequately compensate for incurred losses, regardless of the character of existing land tenure arrangements (including title holders and those without the title) or income-earning and subsistence strategies;
- Uphold the right to adequate housing, promoting security of tenure at resettlement sites. Security of tenure provides occupants with legal protection against forced evictions, harassment and other threats. People living in informal settlements and communities usually lack security of tenure;
- Ensure that resettlement measures are designed and implemented through the informed and meaningful consultation and participation of the project-affected people throughout the resettlement process; Give particular attention to vulnerable groups, including women and minorities, who may require special assistance and whose participation should be vigilantly promoted. Within household units, it is encouraged that titles of replacement land and structures are issued in the names of the head of household and his wife, rather than merely the former.

#### 5.4.3 EIB's Standard 7 on the Rights and Interests of Vulnerable Populations

Specific objectives of this Standard are to:

- Affirm, respect, and protect the rights and interests of vulnerable individuals and groups within the designated operational scope, throughout the project lifecycle. Such rights include the right to non-discrimination, the right to equal treatment between women and men and the rights of indigenous peoples;
- Adopt a gender-sensitive approach to the management of environmental and social impacts, that takes into account the rights and interests of women and girls, men and boys, including specific attention to the differentiated burden of impacts that women and girls might face;
- Identify and avoid adverse impacts of EIB operations on the lives and livelihoods of vulnerable individuals and groups, including women and girls, minorities and indigenous peoples. Where avoidance is not feasible, to reduce, minimise, mitigate or effectively remedy impacts;
- Ensure that vulnerable individuals and groups are duly and early on identified in EIB operations and that engagement is meaningful, taking into account individuals' and communities' specificities, and delivered in an appropriate form, manner and language; and
- Enable vulnerable groups, including women and girls, minorities and indigenous peoples to benefit from EIB-financed operations.

#### 5.4.4 EIB's Standard 10 on Stakeholder Engagement

Specific objectives are:

- Establish and maintain a constructive dialogue between the KeNHA, the affected communities and other interested parties throughout the project life cycle;
- Ensure that all stakeholders are properly identified and engaged;
- Engage stakeholders in the disclosure process, engagement and consultations in an appropriate and effective manner throughout the project lifecycle, in line with the principles of public participation, non-discrimination and transparency;
- Ensure that the relevant stakeholders, including commonly marginalised groups on account of gender, poverty, educational profile and other elements of social vulnerability, are given equal opportunity and possibility to voice their opinions and concerns, and that these are accounted for in the project decision-making; and,
- Duly verify and assess that the quality and process of engagement undertaken by third parties on the project conform to the provisions included in the present standard.

**Table 7: Recommendations to bridge the gap between EIB, KfW & AfDB Policies/ Standards & Kenyan law**

No.	RAP ISSUE	GoK	AfDB/KfW/EIB	GAP between the GoK and Lender's	HOW the RAP has bridged the Gaps identified
1.	Displacement (Involuntary Resettlement) of persons occupying the Mombasa-Mariakani Road corridor.	According to the Land Act 2012, involuntary resettlement may occur as a result of projects implemented in public interest. The Act does not recommend that resettlement should be avoided, minimized or mitigated	All lenders provide for measures to Avoid, Minimise or Mitigate the impacts of Involuntary Resettlement by exploring all alternatives.	The Land Act 2012 does not provide for exercising avoidance, minimizing or mitigation of resettlement wherever possible. It only mentions that as long as a project is for public interest, involuntary resettlement is considered to be inevitable.	The Mombasa-Mariakani Road being a busy highway with a lot of businesses along the corridor, resettlement impact are being considered at the design stage to avoid/minimise resettlement. The design of the road has been changed from the Design Route to the Optimum Route where the PAP population has been reduced from 3,510 to 943.
2.	Acquisition of Land for the expansion of the Mombasa-Mariakani Road	The Land Act 2012 supports involuntary land acquisition for public interest but does not provide for avoidance of acquisition where impact is significant Land can be involuntarily acquired for public interest whether the land ownership is private or public. The National Land Commission (NLC) shall be responsible of ensuring that squatters are resettled Customary or traditional rights to the land are recognized. All persons being displaced by land acquisition have to be identified and resettled. NLC is mandated to set up procedures for land acquisition that	All lenders operational safeguards recognize involuntary land acquisition but emphasize that this should happen only where it is necessary. Displaced persons have to be identified and appropriate compensation paid Customary or traditional rights to the land are recognized. Trust Land along the proposed road is currently under management of County Governments of Mombasa, Kilifi and Kwale Counties. County Governments are in the process of allocating land to individuals and providing allocation letters. Due to	The Land Act 2012 does not provide for exercising avoidance, minimizing or mitigation of land acquisition to reduce impacts As long as a project is for public interest, involuntary land acquisition is considered inevitable. Whereas GoK does not issue guidelines on mode of compensation for land, Lenders Social Safeguard suggests land for land compensation should be implemented where the land forms the primary source of income.	Impact of the land acquisition has been evaluated at the design stage to reduce adverse consequences of land acquisition. NLC being the authority to deal with land issues in Kenya is already on the ground carrying out impact of the road expansion on land acquisition and verification of ownership NLC is to carry out verification of land ownership, valuation and compensation. NLC is to set out clear procedures for land acquisition considering project impacts and land rights.NLC will carry out the

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No.	RAP ISSUE	GoK	AfDB/KfW/EIB	GAP between the GoK and Lender's	HOW the RAP has bridged the Gaps identified
		<p>must be followed by the acquiring agency. The Act provides for just compensation for any acquired land and paid promptly in full to all persons whose interests in the land have been determined.</p>	<p>encroachment into the road reserve and controversies with such allocations, NLC will carry out verification for compensation and relocation before construction commences.</p> <p>EIB advises that there should be use of negotiated settlements and facilitation of resettlement on voluntary basis (i.e. acquire land through voluntary sale at market price)</p>	<p>Whereas the lenders do not provide procedures for land acquisition, Land Act 2012 provides for NLC to set out clear procedures for involuntary land acquisition and compensation</p>	<p>exercise as part of the verification of ownership of property before compensation is paid and relocation carried out.</p>
3.	Eligibility for Land Compensation	<p>The Land Act 2012 talks of prompt, just compensation before the acquisition of land. The NLC is yet to make rules to regulate the assessment of just compensation. The Land Act 2012 provides that written and unwritten official or customary land right are recognized as valid land right where it conforms to the Constitution of Kenya of 2010. The Law provides that people eligible for compensation are those holding land tenure rights. The Land Act also recognizes those who have interest or claim in</p>	<p>Eligibility Criteria</p> <p>Those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country); Those who do not have formal legal rights to land at the time the census commences but have a claim to such land or assets—provided that such claims are recognized under the laws of the country or become recognized through a process identified in the settlement plan Those who have no recognizable</p>	<p>The constitution of Kenya recognizes occupants of land who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition of the land is made. EIB operational safeguards provide that payment for related land transaction fees is considered in the compensation cost whereas the Land Act does not elaborate on this</p>	<p>A census survey has been carried out taking into account the Cut-off date of July 30 2014 and December 18, 2015 for those who own land or the new entrants as a result of the design changes.</p> <p>Carry out compensation for land including related transaction fees</p> <p>A large number of PAPs living or carrying out business along the project road do not have legal rights to the land occupied (squatters).</p>

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No.	RAP ISSUE	GoK	AfDB/KfW/EIB	GAP between the GoK and Lender's	HOW the RAP has bridged the Gaps identified
		<p>the land such pastoralist or those who use the land for their livelihood.</p> <p>Section 40 of The Constitution of Kenya recognizes 'occupants of land even if they do not have titles' and payment made in good faith to those occupants of land. However, this does not include those who illegally acquired land</p> <p>Land Act 2012 bestows responsibility on NLC to carry out valuation, verification and compensation</p>	<p>legal right or claim to the land they are occupying</p>	<p>Kenya's Land Law defines eligibility as both formal (legal) and informal (customary) owners of expropriated land. However, it does not explicitly recognize all users of the land to be eligible for compensation.</p>	<p>Under the Land Act 2012, provides that NLC shall, on behalf of the national and county governments, implement settlement programmes to provide</p> <p>Access to land for shelter and livelihood to squatters.</p> <p>Whereas the squatters do not have legal rights to the KeNHA road reserve land, due to their vulnerability, KeNHA is going to carry out compensation payment for the loss of their business structures and restoration.</p> <p>NLC, County Government of Mombasa and Kilifi and KeNHA to facilitate resettlement of PAPs at the 90acre truck parking area where market stalls are being developed.</p>
4..	<p>Eligibility for structure and other property compensation</p>	<p>The Land Act of 2012 mentions prompt and just compensation for loss of property but NLC is yet to clearly define the rules that will regulate just compensation.</p> <p>Other expenses related to seeking advice and launching claims is not</p>	<p>All the lender operational safeguards require tha:</p> <p>Displaced persons are provided with prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.</p>	<p>The Land Act 2012 only mentions prompt payment in full of Just compensation. It does not provide guidelines that will govern determination of such compensation.</p>	<p>Implement prompt and effective compensation at full replacement cost for the losses of the assets.</p> <p>Allow PAPs to take away salvage material from the structures affected by the project.</p> <p>Include relocation assistance</p>

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No.	RAP ISSUE	GoK	AfDB/KfW/EIB	GAP between the GoK and Lender's	HOW the RAP has bridged the Gaps identified
		<p>provided in this Act</p> <p>The Act also does not specify assistance for relocation but it can be interpreted that relocation costs is included in the just compensation.</p>	<p>If physical relocation is an impact, displaced persons must be provided with assistance during relocation and residential housing, housing sites and/or agricultural sites to at least equivalent standards as the previous site. Replacement cost does not take depreciation into account. In terms of valuing assets, if the residual of the asset being taken is not economically viable, compensation and assistance must be provided as if the entire asset had been taken. Compensation and other assistance required for relocation should be determined prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required</p>	<p>EIB and AfDB clearly state that compensation for houses and other structures should be equivalent to replacement cost plus relocation costs. Depreciation of assets or the value of salvage materials shall not be deducted from the value of replacement cost.</p> <p>EIB and AfDB requires that displacement must not occur before all necessary measures for resettlement are in place, i.e., measures over and above simple compensation</p>	<p>when payment of compensation is being done. This includes disturbance allowance. Ensure that ALL resettlement options are agreed on with the PAPs and put in place before the displacement of affected persons.</p>
5.	Consultation and Commination	The Land Act outlines procedures for consultation and communication with affected population by the NLC and grievance management procedures.	Lenders Operational Safeguards/ Sustainability Principles advice that displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement	Consultation procedures and requirements Kenyan Legislation is similar to Lenders Operational Safeguards	Implement communication and consultation as outlined in in both Kenyan legislation and Lenders Operational Safeguards

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No.	RAP ISSUE	GoK	AfDB/KfW/EIB	GAP between the GoK and Lender's	HOW the RAP has bridged the Gaps identified
			programs		
6.	Grievance Procedures	Land Act 2012 clearly provides the procedures to be followed when launching complaints. These include: Encouragement of communities to settle land disputes through recognized local community initiatives Use of Alternative dispute resolution mechanisms, Re-negotiation with NLC that is backed by the judicial system through Environmental and Land Courts for determination	Lenders Operational Safeguards strongly suggest that Grievance Redress Mechanisms must be put in place. This is to ensure that there is structured, systematic and managed way of allowing the voices and concerns of affected people to be heard and addressed during project planning and implementation	Both Kenyan legislation and Lenders Operational Safeguards are similar in requiring that a grievance redress mechanism is put in place	A Grievance Redress Mechanism will be prepared and Grievance Committee Formed before Compensation and Resettlement. This will ensure that issues and concerns of the PAPs are promptly and speedily addressed.
7.	Valuation of Land and Structures	Valuation is covered by the Land Act 2012 which stipulates that the affected person receive just compensation from NLC, as determined by National Land Commission. The Valuers Act stipulates that a residual amount of 0.5% of the total valuation of an asset is expected to pay the valuer	Valuation of land by using "replacement cost"  It is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.	Though there is some form of similarity between the Kenyan Law and the Lenders Operational Safeguards on valuation of land, the interpretation of 'just compensation' in the Kenyan Legislation, rules to regulate just compensation has not been released.	Use comparable sales method should be adopted for valuing the affected land. This is based on the open market comparison of the land to be valued with what other similar parcels of land are currently selling for in the area taking into account the difference between them on a willing seller willing purchaser basis

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No.	RAP ISSUE	GoK	AfDB/KfW/EIB	GAP between the GoK and Lender's	HOW the RAP has bridged the Gaps identified
8.	Valuation of Structure	<p>Valuation is covered by the Land Act 2012 which stipulates that the affected person receive just compensation from NLC, as determined by National Land Commission.</p> <p>Land Act 2012 mentions that just compensation is to be made for the lost assets. However it does not provide specific details on how just compensation values for assets is to be arrived at.</p>	<p>Valuation of Structures using "replacement cost"</p> <p>For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes.</p>	<p>The interpretation of "Just Compensation" is not very clear and is yet to be elaborated.</p>	<p>The valuation basis adopted for valuing the developments (structures) on the land taken for compensation is the current replacement cost or equivalent reinstatement basis or probable cost of acquiring similar premises for the same purpose</p>
9.	Mode of Compensation	<p>Land Act 2012 appears to prefer cash based mode of compensation by the Government to the affected population.</p>	<p>The Lenders Operational Safeguard emphasizes that Cash based compensation should only be made where (a) land taken for the project is a small fraction of the affected asset and the residual land is economically viable; (b) active markets for lost assets exist and there is sufficient supply of land and housing; or (c) livelihoods are not land-based.</p>	<p>Cash based compensation seems to be the preferred mode of awarding compensation to the affected population by Government of Kenya Lenders Operational Safeguards strongly suggest that Land for Land Compensation should be adopted for PAPs who generate income from the Land</p>	<p>In the Mombasa-Mariakani Road project majority of the PAPs are operating businesses in the road reserve hence they do not own the land. Compensation will be paid for structures and businesses. Where land is owned by the PAP, compensation will be done using the current market rate for land. Where the remaining parcel of land is large enough for use by the PAP, only the affected part is to be compensated.</p>

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No.	RAP ISSUE	GoK	AfDB/KfW/EIB	GAP between the GoK and Lender's	HOW the RAP has bridged the Gaps identified
					Where the remaining part of the land after acquisition is not economically viable then the whole parcel will be acquired and compensated.
10.	Evictions	Kenyan Legislation does not permit eviction without prior notice	Forced eviction is not permissible. Only compulsory possession can take place in rare cases where the construction process must be carried out lawfully, only in exceptional circumstance and in full accordance with relevant international human rights principles (provide full reference to EIB Standard 6 in this regard)	Both Kenyan and Lenders Operational Safeguards do not permit forced evictions.	Restoration of Evictees at Kwa Jomvu has been addressed through the CAP KeNHA has been making compensation payment to PAPs for affected property. Adequate notice is going to be given to PAPs to relocate. No further forced evictions, as defined under Lenders standards, will occur, as they contradict the spirit and provisions of this RAP.
11.	Monitoring of Resettlement	Land Act 2012 only mentions monitoring and evaluation of land sector performance. It does not elaborate on monitoring of Compensation and Resettlement Activities	The Lenders Operational Safeguards emphasises monitoring and reporting on resettlement activities	The Kenyan legislation does not provide for monitoring and reporting on compensation and resettlement activities	Apply the Lenders Operational Safeguards and carry out monitoring and reporting on Compensation and Resettlement Activities
12.	Livelihood restoration, resettlement and assistance	The Land Act 2012 provides for livelihood restoration and resettlement. However the Legislation does not elaborate on the details of the restoration	The Lenders Operational Safeguards advocates that people whose livelihoods are negatively affected by a project should have their livelihoods improved or at	Kenyan Legislation does not elaborate on the livelihood restoration activities that should be implemented. On the other hand, the Lenders	Make provision for livelihood restoration for the PAPs. taking into consideration commensurate compensation for land, structures and loss of

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No.	RAP ISSUE	GoK	AfDB/KfW/EIB	GAP between the GoK and Lender's	HOW the RAP has bridged the Gaps identified
		activities. The Act also provides for compensation for affected assets and resettlement. This includes compensation and resettlement	minimum restored and/or adequately compensated for any losses incurred. This livelihood restoration includes compensation, resettlement and training, credit, job placement, and/or other types of assistance;.	Operational Safeguards elaborate on the livelihood restoration activities including training, credit, job placement, and/or other types of assistance.	business and resettlement assistance. Livelihood Restoration shall include the following:: KeNHA is to work with the provision of market stalls or business stalls for relocation of landless businesses for enhanced security from displacement. PAPs shall be given training on financial management, appropriate use of compensation funds and improvement of business operation to enhance income. This is to be done before payment of compensation funds. KeNHA is to provide technical training to selected youths as part of their contribution to the communities where the project is being implemented to enhance self-employment. . The PAPs will also have opportunity for employment in the road project.
13.	Supporting Gender Equality and Vulnerability	The Land Act of 2012 provides for inclusion of spouses in all land transactions. The Act does provide	The Lenders Operational Safeguards provides for Gender mainstreaming in the acquisition	The Lenders Operational Safeguards provides for consideration of vulnerable	The RAP has provided for inclusion of women (spouses) in the land acquisition and

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No.	RAP ISSUE	GoK	AfDB/KfW/EIB	GAP between the GoK and Lender's	HOW the RAP has bridged the Gaps identified
		special consideration of vulnerable groups.	and compensation process and inclusion of disadvantaged groups .	groups however apart from the requirement that spouses are included in land and property transactions, the Kenyan Legislation does not specifically cater for other vulnerable groups.	<p>compensation process</p> <p>KenHA, County Government of Mombasa and NTSA are facilitating for business squatters to be relocated to carry out their businesses at the Truck Parking Stalls</p> <p>Those who have structures and business along the Mombasa-Mariakani project road corridor who do not have security of tenancy will be considered for compensation for their structures and businesses</p>

## 6 PARTICIPATION AND CONSULTATION

The Stakeholder consultation and public forums on the project entailed presentation of the proposed road project at public meetings convened as stipulated by Constitution of Kenya 2010 and the Lenders' guidelines. Consultation of PAPs and stakeholders was undertaken during preparation of the original RAP and through the process of updating the RAP. KeNHA undertook additional sensitization forum to appraise the PAPs and stakeholders on the project and disclose measures put in place for safeguard of PAPs that are affected by the project. Deliberate efforts to raise awareness on the project and mitigation measures designed to safeguard PAPs affected was made through use of different medium including local daily newspaper adverts and articles as well as public notices mounted in public places and audio advertisements through the local radio station. This was to ensure publicity of the project at local grass root to national levels. KeNHA also publicized the cutoff date through Kenya gazette notice and local daily

### 6.1 Summary Stakeholder and PAPs Consultations during the Original RAP

The original RAP adopted various approaches to enhance stakeholders and PAPs consultation and participation. This included interviews, public forums, focus group discussions and meetings. The process of consultation with the PAPs and other stakeholders was done at grass root level to enhance full involvement of the PAPs. Consultation was also undertaken at the county level.

Engagement and consultation with civil society groups and local administration was also undertaken. This was significant in determination of mitigation measures to address negative impacts emanating from the project as well as rally the support of these organizations in enhancing safeguard of the PAPs and communities living along the project zone of influence.

The additional PAPs and stakeholder sensitization undertaken after the approval of the original RAP and the loans agreement for Lot 1 Mombasa-Kwa Jomvu was aimed to enhance project awareness, disclosure of the RAP and processes adopted for land acquisition and compensation. These forums resulted to the formation of five (5) PAPs Local committees whom KeNHA will continue to work with during RAP implementation.

Due to the nature of activities being undertaken especially within the existing road reserve, consultation with the County Government of Mombasa was conducted to explore possibilities for available land space for development of social facilities such as stalls for relocation of small scale road side traders who occupy the road reserve for their livelihoods. This was an effort toward safeguarding these population of PAPs by providing them land compensation thereby enhancing their security of tenure. KeNHA will continue to explore the possibility of relocating these small scale traders during the RAP implementation process.

19 PAPs and stakeholders consultation forums were undertaken. This reached a total of 2,891 participants. **Table 8** below indicates a summary of all PAPs and stakeholders forums undertaken for the project:-

**Table 8: Data on PAPs and Stakeholders forums Held**

County	PAP & Stakeholders Reached	No of Sessions Held	Total Reached
<b>During Preparation of Original RAP</b>			
Kilifi	321	3	751
Mombasa	430	5	
<b>KeNHA's additional forums</b>			
Kilifi	497	3	1,056
Mombasa	559	2	
<b>During RAP review and Updating</b>			
Kilifi	500	3	1,084
Mombasa	584	3	
<b>Total</b>		<b>19</b>	<b>2,891</b>

**Table 9: Data on consultation during preparation of Original RAP**

County	Sub County	Dates	Venue	Total Reached
Kilifi	Kaloleni	11/06/2014	Mariakani Milk Scheme, Mariakani	158
Kilifi	Rabai	12/06/2014	Kaliang'ombe Assistant Chief's Office	98
Kilifi	Rabai	13/06/2014	Botanical Garden, Mazeras	65
Mombasa	Changamwe	16/06/2014	Jomvu/Madavuni	71
Mombasa	Changamwe	17/06/2014	Chief's Office, Chaani	75
Mombasa	Changamwe	18/06/2014	Catholic Hall, Changamwe	132
Mombasa	Changamwe	19/06/2014	Assistant Chief's Office, Mbirikani	122
Mombasa	Mombasa	20/06/2014	Worget Centre, Makupa	30
<b>Total</b>				<b>751</b>

Data on the additional sensitization sessions and disclosure of the original RAP by KeNHA

**Table 10: Schedule of additional PAPs and Stakeholder engagement forum**

Date	Time	County	Location	Venue	No. of Attendants
12/08/2015	10.00am	Mombasa	Majengo Railway Changamwe Chaani	Changamwe Catholic Church Hall	124
13/08/2015	10.00am		Mikindani/Bangladesh Jomvu Miritini	Bangladesh Catholic Church Hall	435
10/08/2015	10.00am	Kilifi	Rabai	Assistant Chief's	140

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				Camp –Hall, Kaliang'ombe	
10/08/2015	3.00pm		Mazeras	Assistant Chief's Office - Mazeras	193
11/08/2015	10.00am		Mariakani	Mariakani Milk Scheme	164
				<b>Total</b>	<b>1,056</b>

A total of 1056 (310 females) PAPs and stakeholders participated in the sensitisation and disclosure of RAP undertaken in August 2015 after the project approval for Lot 1

## 6.2 Consultations done during the RAP Review

During RAP review and updating, additional six (6) community meetings were held at the various venues along the existing Mombasa - Mariakani road. Community consultation meetings before review of the field census and asset inventory survey. Stakeholders in the project area were further engaged to validate the provisions made in the original RAP. They also took part in verifying the list of PAPs as per the cut-off date. Further to these the stakeholders and PAPs, were also involved to establish the existing socio-economic conditions as well as the PAPs needs within the proposed project area. This was done through various forums with the County government and Civil Society Organisations as well as during community engagement meetings as indicated in **Table 11** below.

**Table 11: Public Consultation Meetings**

	Date	Time	County	Location	Venue	No. of Attendants
1.	21 March 2016	09.00 am	Kilifi	Mariakani	Mariakani Milk Scheme, Mariakani	194
2.	21 March 2016	2.00 pm	Kilifi	Buni Kisimani	Mazeras Botanical Gardens	187
3.	22 March 2016	2.00 pm	Kilifi	Kaliang'ombe	Kokotoni Hall	119
4.	22 March 2016	09.00 am	Mombasa	Chuda	Worget Centre, Makupa	21
5.	23 March 2016	09.00 am	Mombasa	Changamwe Chaani	Catholic Church Hall, Changamwe	200
6.	24 March 2016	09.00 am	Mombasa	Jomvu Mikindani	Bangladesh Catholic Church Hall	363
	<b>Total</b>					<b>1,084</b>

During the additional consultation and PAPs engagement forum at Kwa Jomvu area in 2015, It was evident that there were a group of PAPs that suffered evictions prior to compensation for their affected assets.

Further to this, the RAP review established that KeNHA had fully engaged this group of evictees to determine the extent of impact and losses in a bid to remedy the effect of demolitions.

### **Issues Raised During Public Consultation Meetings**

The issues raised during all the meetings were crosscutting. They include the following:

- There was dissatisfaction with the project citing lack of adequate consultation prior to design, slow pace of project implementation
- Concern over disturbance where people will be required to relocate;



- Concern over loss of business and livelihood;
- Fear of unjust valuation of affected land and property for compensation;
- Possibility of the business community being resettled in areas away from their current customer who are mainly the road users
- Concern over those who have obviously continued to put up new developments and encroached on the delineated road reserve
- Concern over how KeNHA will manage environmental impacts of the project such as increased dust and noise
- The community expect that KeNHA will replant the trees and landscape the roadside after project completion
- The PAP community felt that they were some genuine PAPs who were not enumerated during the last census study in 2014
- The business tenants claimed that they observed that during the previous census survey only their landlords were enumerated and considered for compensation and not them
- The PAP business community suggested that KeNHA could consider certain CSR initiatives such as construction of a public toilets and modern commercial stalls for use by the traders relocated from the road reserve
- The PAPs wanted to know the compensation rates for land and other developments

Refer to **Annex 5** for details of issues raised during the consultation meetings.

### 6.3 Engagement of Civil Society Organizations (CSOs)

Several Civil Society Organizations (CSOs) were involved in development of the original RAP. Following the eviction at Kwa Jomvu, the high level of interests of the civil society was eminent. During RAP review, it was very evident that KeNHA had made deliberate effort to involve the following CSOs in determination of a remedial action for impacts suffered during demolitions. The CSOs involved included;

- Amnesty International –Kenya chapter
- Haki Yetu Initiative<sup>1</sup>
- Mombasa Youth Senate
- Miritini Peace Initiative
- Rapid Response Initiative

These CSOs have expressed a lot of interests in the affected communities and the land matters. Some of the CSOs were also involved in the preparation of the original RAP. During the RAP review and updating consultancy, the Haki Yetu Initiative showed a high level of interest and contributed immensely to supporting PAPs in the RAP updating process.

KeNHA and the Panafcon, involved CSOs during the RAP review preparation and this engagement should continue during RAP implementation and monitoring phase of the project. The CSO's support so far has mainly been in ensuring careful and correct management of PAPs expectation on the project and particularly the expected

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<sup>1</sup> Haki Yetu Initiative, is a civil society organisation registered as a non-profit making entity whose core business is protection of human rights for sustainable development.

The organisation has a heavy presence in the project area and part of the matters they deal with is right to property ownership and land issues. The organisation have an interest in monitoring implementation of the RAP and have demonstrated high level of interest, control and power in Kwa Jomvu and Mikindani areas. They have been able to contribute positively in the RAP updating process.

compensation packages which has to be within the Kenyan legal framework and guided by the Lenders' involuntary resettlement policies and standards/guidelines.

**Table 12: Details of CSOs with presence in the project area**

No.	Name	Description
1.	Miritini Peace initiative	Miritini Peace Initiative was established amid the 2007-2008 post-election violence in order to promote peace and sustainable leadership.
2.	Amnesty International - Kenya	<p>Amnesty International Kenya was founded in 2002 and operates with specific goals and objectives for improving lives and upholding human rights for the citizens of Kenya and the surrounding areas. These initiatives include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Right to Adequate Housing and Safety in Impoverished Neighbourhoods</li> <li>• Sexual and Gender Based Violence</li> <li>• Education on Improving Relations Between Law Enforcement and Residents</li> <li>• Growth and Human Rights Education</li> <li>• Active Involvement of Youth for a Better Tomorrow</li> </ul> <p>Amnesty International Kenya operates independently of any government, political ideology or religion and are funded mainly by their membership and public donations.</p> <p>Their aim is to have people from every walk of life enjoy all the rights outlined by the Universal Declaration of Human Rights and other international human rights standards.</p>
4.	Haki Yetu Initiative	<p>Haki Yetu Initiative began its operations in the year 2008. It is a faith-based organization. Haki Yetu mainly focuses on</p> <ul style="list-style-type: none"> <li>• Addressing human rights</li> <li>• Land and housing rights</li> <li>• Offering Legal advice</li> <li>• Governance e.g CDF and Public funds audits</li> <li>• Auditing of projects being run by public funds</li> <li>• Gender, child protection, sexual offences issues</li> </ul>
5.	Mombasa Youth Senate	Mombasa Youth Senate is a Mombasa CBO that champions for the participation of youths in both socio-economic a political transformation

From the above analysis of the CSOs in the project area, the Consultant recommends that KeNHA continues consulting and engaging with them and particularly Amnesty International and Haki Yetu Initiative who have shown lot of interest in the project and are more actively involved in other community issues.

**Future Consultations**

The project will also undertake additional consultation during validation of asset ownership in preparation for compensation of losses occurring because of the road project. The consultation will also be undertaken with county government offices in preparation for relocation of informal traders and businesses as part of implementation of the livelihood restoration initiatives for the project. Upon approval of this RAP and the project, KeNHA will develop a project specific stakeholder engagement plan to guide the engagement activities through the project life cycle.

**Table 13: Consulted and requiring further consultation**

Stakeholders	Follow up or as Initial	Issues of consultation	Responsibility	Timeline Pre-project, During or after project or Continuous
PAPs	Follow up	Verification of RAP, Disclosure and	KeNHA and NLC	Continuous

		Compensation Livelihood Restoration		
County Governments	Follow up	Livelihood Restoration Programme	KeNHA	Continuous
CSOs	Follow up	Livelihood Restoration Programme	KeNHA	Continuous
Service Providers	Initial	Relocation of Public Facilities	KeNHA	Pre-project

## 7 ELIGIBILITY CRITERIA

### 7.1 Eligibility Criteria

This chapter of the RAP report lays the basis on which the people occupying the road corridor qualify for compensation or assistance from the project to be able to continue with their lives uninterrupted. The chapter therefore reiterates the criteria established in the original RAP. This criteria is adopted for qualification to benefit on the acquisition, compensation and relocation program for the Mombasa – Mariakani Road Project.

This RAP considers any person whose property is affected by the project is eligible for compensation of loss incurred and/or other resettlement assistance if they were on the project corridor by the cut-off date. The eligibility is for people with formal land title, land use rights, customary or traditional rights to the land as well as those who occupy/use the land but have no formal title for objective reasons.

The reviewed RAP also considers squatters, who shall be provided compensation for assets on the land and resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives of the resettlement standards, if they occupied the project area prior to a cut-off date of 30 July 2014 as established in the original RAP. The cut-off date of 18 December 2015 will apply for PAPs whose land is will acquired as per the gazette notice of this date and for the new PAPs entrants (with or with no legal entitlements to the land they occupy) a result of incorporation of additional road design features including the interchanges that had not been concluded on during preparation of the original RAP.

Such affected persons shall not be compensated for land but for their land improvements or structures, such as buildings (houses and business structures) and trees/crops and may qualify for other resettlement and rehabilitation assistance to ensure and enhance restoration of livelihoods.

Resettlement assistance shall consist of cash compensation, training, allocation of trading spaces and market stalls, parking areas for lorries and buses and job opportunities within the road construction project,. Speculators and persons who encroach on the road corridor after the cut-off date are not entitled to compensation or any form of resettlement assistance.

#### 7.1.1 Cut-off date

The established cut-off date of 30 July 2014 as per the original RAP was maintained. This was for both the people who have no legal entitlement to land they occupy on the road reserve as per the design used to prepare the original RAP as well for the PAPs who have legal entitlements to their land being affected by the project. The cut-off date of 18 December 2015 will apply for PAPs whose land is will acquired as per the gazette notice of this date and for the new PAPs entrants (with or with no legal entitlements to the land they occupy) a result of incorporation of additional road design features including the interchanges that had not been concluded on during preparation of the original RAP.

Further to this, KeNHA publicly declared the cut-off date of 30<sup>th</sup> July 2014 and raised sensitisation on the cut-off date. The Authority also published the intention to acquire land for the project in the Kenya Gazette Notice Vol.CXVII-No\_.141 of 18 December 2015. Any new entrants to the ROW after the cut-off date shall not be eligible for compensation.

Anyone making claims and not captured in the PAPs census survey will be referred to the Grievance Redress procedure to be subjected to verification and validation of the claims with the help of the local leaders/village elders. This group will largely comprise of persons who by way of review of road design become project affected persons.

In addition, the PAPs evicted at Kwa Jomvu during the May 2015 demolitions as documented by the Evictions Audit report and also were found on the road reserve during the RAP review are also included as PAPs eligible to compensation, resettlement and livelihood restoration assistance as per the entitlement matrix. The assets of the evictees that remained standing after the eviction was inventoried and valued as where was and their values have been included in the RAP budget for compensation. Any compensations or payments made to this group of PAPs (evictees at Kwa Jomvu) for the assets that have been included in the RAP will be reduced and excluded in their compensation package during RAP implementation. These category of evictee PAPs will enjoy similar entitlements and receive resettlement assistance as with other PAPs identified in the reviewed RAP.

## 8 PROJECT IMPACTS AND ENTITLEMENT MATRIX

The RAP Review study compared the impacts as stipulated in the original RAP in comparison to the findings during RAP review process. These impacts are tied to the eligibility for compensation under the project resettlement programme. The impacts were also used to review the cost of compensation of asset/loss incurred by the project.

Generally the impacts identified were categorised into three

- Impacts on Land and structures
- Impacts on Businesses and livelihoods
- Impacts on community assets

### 8.1 Impacts on Land

The proposed road improvements are mainly confined within the existing road corridor except where is necessary to locate new junctions with slip roads and interchanges extending beyond the existing road corridor. The main impact of this project arises as a result of the need to acquire 70Ha of land for the expansion of the road corridor. The impacts of land acquisition vary from one affected person or entity to another but may include (in part or full land acquisition).

### 8.2 Impacts on Structures

The 1,476 structures affected by the proposed improvement include both the permanent and Semi Permanent/Temporary structures erected within the land being acquired and existing road reserve including buildings and fences

### 8.3 Loss of Trees and Crops

The road only affects very few subsistence farmers who carry out farming along the road corridor. A total of 7,431 trees and 48 units of crops, which are mainly on the road reserve will be affected by the road construction; and verification and validation of ownership will be undertaken during RAP implementation process in order to effect compensation for the loss of trees.

### 8.4 Impacts on public utilities

It was noted that the project road will affect public utilities such as water points, water pipes, water tanks, manholes and signboard.

### 8.5 Impacts on Businesses

The RAP review has established that 746 businesses has been affected and were all valued and their full value included in the RAP budget. When during the asset inventory survey, the survey team consulted with the PAP committee's members and neighbouring business people and visually observed that the inventoried assets had been at the project corridor long enough and were established before the cut-off date.

## 8.6 Identified New Entrants

Two business operators who had recently set up their businesses on the project corridor were noted but their businesses and structures were not valued and hence not included in the RAP budget. These are shown on **Table 14** below.

**Table 14: Identified New Entrants**

PAP No.	Property recently put up on road corridor
4274	Structure and Business
3150	Water Tank

It is worth noting that the consultations with the County Chief Officers in June 2014 during preparation of the original RAP and the subsequent consultation held in 2016 during the RAP review, it was impressed upon the Chief Officers in the County Governments that the traders who are within the road reserves will require to be relocated to the existing markets at Mazaras and Mariakani when the road project starts. The officers were requested to consider integration of the market up-grading with the proposed improvements to optimize access and use of the market spaces that most hawkers had abandoned in preference for the road reserve along the highway due to close proximity to customers.

For trading activities that are not possible to accommodate in the existing market facilities; such as garages, furniture and hard ware shops, a request was made for the officers to identify appropriate sites that would accommodate the displaced persons. The bus companies parking in the CBD will move their businesses to the already designated bus parking area and the county government in Mombasa will provide Jua Kali shades and open air areas where these traders could relocate their businesses too.

During RAP implementation, KeNHA will continue to engage the County Governments of Mombasa and Kilifi with support of the National Land Commission towards determination of sustainable solution towards relocation of those informal businesses occupying the road reserve. The project has made provisions for construction of a lorry park at Miritini and consultation will be undertaken with the county government for integration of business sheds within this amenity.

## 8.7 Project Affected Persons

**Table15** overleaf shows the 10 categories of PAPs that will be affected and that a total of 947 Project Affected Property Holders will be affected by the dualling of the Mombasa - Mariakani road. The details of what is affected for each category of PAPs is presented in **Vol B; Sec. 4** and the itemised PAPs with the details of what will be affected and the value associated with each affected asset per PAP is given in **Vol B Sec 6 to 10**.

**Table 15: Categories of PAPs Identified in the RAP review**

	Category of PAPs	Number of PAPs Affected
1.	Churches and Mosques	11
2.	Government Institutions	14
3.	Large Businesses	12
4.	Medium Businesses	42

	<b>Category of PAPs</b>	<b>Number of PAPs Affected</b>
5.	Private Companies	45
6.	Private Individual	225
7.	School & colleges (Bill Boards)	4
8.	Self Help Groups	8
9.	Small Businesses	584
10.	Other	2
		<b>947</b>

The project affected persons are concentrated at Miritini, Mazeras and Mariakani centres along the road. Mariakani and Mazeras constitute important junctions into the interior of Kilifi County. **Table 16** gives a summary of the PAPs and affected property. This list provides the property holders per location, the description of the structures and the number affected for each category of structure.

A detailed list containing the name of the property holder and affected property is provided in the **Data Book Volume B** where the name of each property holder, location Co-ordinates, and description of structure, construction details, estimated value and a photo of the property is given as a matrix.



**Table 16: Summary of PAPs identified in the RAP review per Location and affected Property**

No.	Sub-County	Location Name	Number of Property Holders	Type of Property Holder	Affected structures	Type of Structures	Number of Affected Businesses	Type of Businesses
1	Mombasa	Mwembe Tayari	1	Commercial Structure Owner	1	Fence Under Construction	0	
2	Mombasa	Tononoka	3	Commercial Structure and Business Owners	4	Verandah, Tree Nursery and Bill Boards	2	Restaurant, Tree Nursery & Service Station business
3	Mombasa	Tudor	3	Commercial Structure and Business Owners	3	Semi-Permanent Commercial Building - 2 Wooden Shed - 1	2	Kiosk Business and Rental Income
4	Mombasa	Majengo	6	Commercial Structure and Business Owners	6	Kiosks - 3 Wooden Sheds - 3	6	Shoe Shine, Grocery and Vegetable Business
5	Changamwe	Changamwe	95	Residential and Commercial Structures and Business Owners	102	Permanent Commercial Building - 1 Permanent Residential Building - 1 Kiosks - 12 Wooden Sheds - 74 Underground Water Tank - 1	89	Private Residential Houses, Commercial Buildings and Kiosk/Shed Businesses
6	Changamwe	Miritini	60	Residential and Commercial Structures and Business Owners	90	Permanent Commercial Buildings - 3 Semi-Permanent Commercial Buildings - 24 Permanent Residential Buildings - 2 Semi-Permanent Residential Buildings - 5 Kiosks - 11 Wooden Sheds - 26 Underground Fuel Tanks - 1 Dispensing Fuel Pumps	53	Private Residential Houses, Commercial Buildings and Kiosk/Shed Businesses
7	Changamwe	Mikindani	184	Residential and Commercial Structures and Business Owners	315	Permanent Commercial Buildings - 45 Semi-Permanent Commercial Buildings - 11 Permanent Residential Buildings - 6 Semi-Permanent Residential Buildings - 47 Kiosks - 21 Wooden Sheds - 24 Church/Mosques - 2 Underground Fuel Tanks - 4 Dispensing Fuel Pumps - 4 Underground Water Tank - 1	138	Private Residential Houses, Commercial Buildings and Kiosk/Shed Businesses, Fuel Station Business
8	Changamwe	Jomvu	168	Residential and Commercial Structures and Business Owners	236	Partially Demolished Buildings - 9 Permanent Commercial Buildings - 29 Semi-Permanent Commercial Buildings - 21 Permanent Residential Houses - 4	156	Private Residential Houses, Commercial Buildings and Kiosk/Shed

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No.	Sub-County	Location Name	Number of Property Holders	Type of Property Holder	Affected structures	Type of Structures	Number of Affected Businesses	Type of Businesses
						Semi-Permanent Residential Houses - 13 Kiosks – 29 Wooden Sheds - 87 Church/Mosques - 1 Graves - 1 Dispensing Fuel Pumps - 3 Underground Water Tanks – 1		Businesses, Fuel Station Business
9	Rabai	Rabai	220	Residential and Commercial Structures and Business Owners	394	Permanent Commercial Buildings - 48 Semi-Permanent Commercial Buildings Permanent Residential Buildings - 16 Semi-Permanent Residential Buildings - 23 Kiosks - 16 Wooden Sheds - 27 Church/Mosques - 4 Graves - 5 Underground Fuel Tanks - 1 Dispensing Fuel Pumps - 3	131	Private Residential Houses, Commercial Buildings and Kiosk/Shed Businesses, Fuel Station Business
10	Kaloleni	Mariakani	207	Residential and Commercial Structures and Business Owners	325	Permanent Commercial Buildings - 29 Semi-Permanent Commercial Buildings - 44 Permanent Residential Houses - 5 Semi-Permanent Residential House - 5 Kiosks - 25 Wooden Sheds - 98 Church/Mosques - 1 Graves - 1 Underground Fuel Tanks - 3 Dispensing Fuel Pumps - 2	169	Private Residential Houses, Commercial Buildings and Kiosk/Shed Businesses, Fuel Station Business
			<b>947 PAPS (855 individuals and 92 Institutions/ companies)</b>		<b>1,476</b>		<b>746</b>	

The effect will be as a result loss of structures, businesses/livelihoods, trees and crops. These people have 191 dependants making a total of 1,138PAPs, (165 children and 973 adults).

### 8.8 Impact on vulnerable groups

This alignment is passing through areas where a majority of those affected do not have security of tenure. Some of the occupants on the private land being affected are squatters and are occupying land belonging to absentee land lords. Some have also developed their structures on the road reserve. . Refer to **Table 6** on Vulnerability Score Classification

The spouses of household being affected may also become vulnerable if not involved in the land acquisition and compensation process. This is because in similar project (Standard Gauge Railway) within the project location, there were cases and claims made where some men disappeared from their households upon receiving compensation and/or misuse of the monies compensated thereby exacerbating the vulnerability of the family/household.

### 8.9 Assistance to vulnerable groups

The RAP also provides for inclusion of spouses of household whose shelter/housing units will be affected by the project in the disclosure of the compensation amounts. . The Authority with the support of the National Land Commission will make deliberate efforts to include the spouses of asset owners affected during verification and validation of ownership, acceptance of awards and compensation process. Deliberate efforts will be put in place to ensure that spouses are included in the opening of bank accounts such that compensation monies are channelled to the joint accounts.

In view of this, the RAP Implementation Unit through the PAP committees will provide additional assistance in provision and dissemination of relocation related information. The RIU and the PAP committee will support in dispute resolution during the compensation and resettlement process. These committees will receive such complaints and use the existing local channels to resolve them. In addition, they will support vulnerable families utilise/invest their compensation monies wisely.

### 8.10 Entitlement Matrix

The RAP review further enhanced the entitlement matrix approved in the original RAP. This matrix has also been reviewed in relation to the entitlement matrix developed to remedy the impact following the Kwa Jomvu evictions in 2015 however, tenants like in the CAP have been incorporated in this RAP for the standing assets that they will loose.

**Table 17** provides the entitlement matrix proposed for this project.

**Table 17: Entitlement Matrix**

#	Impact – Structure Matrix around Impacts, not Properties or PAPs categories	Type of Loss	Category of Eligibility (Individual or Household)	Entitlement Conditions	Entitlements
<b>A. Loss of Residential/Commercial/Industrial Land</b>					
1	Commercial Land	Partial loss of land but residual is viable	Individual	(a) Genuine Land Title Holder registered with the relevant Authorities before the cut-off date.  •	<p><b>Affected Land</b></p> <ul style="list-style-type: none"> <li>• Due to the possibility that the portion of land to be compensated will be rather small and preference of the PAPs, there will be no land for land compensation.</li> <li>• Cash compensation for loss of land equivalent to the market value of affected land.</li> <li>• 15% cash top up in compulsory acquisition</li> <li>• Administrative charges, title fees, or other legal transaction costs</li> </ul> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Money Management training</li> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Relocation to be done after receiving compensation payment</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
			Individual	(b) Land Tenant or Lease Holder (Commercial or Residential)  •	<p><b>Compensation</b> No compensation for land</p> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Money Management training</li> </ul>

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#	Impact – Structure Matrix around Impacts, not Properties or PAPS categories	Type of Loss	Category of Eligibility (Individual or Household)	Entitlement Conditions	Entitlements
					<ul style="list-style-type: none"> <li>Relocation to be done after receiving compensation payment</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
			Individual	(c) Informal Settlers <ul style="list-style-type: none"> <li></li> </ul>	<p><b>Compensation</b> No compensation for land</p> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>Money Management training</li> <li>Relocation to be done after receiving compensation payment</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
2	what matters is loss of land, not whether it is commercial or residential	Entire loss of land or partial loss where residual is not viable	Individual	(a) Genuine Land Title Holder registered with the relevant Authorities before the cut-off date.	<p><b>Affected Land</b></p> <ul style="list-style-type: none"> <li>Cash compensation for loss of land equivalent to the market value of affected land.</li> <li>15% cash top up in compulsory acquisition</li> <li>Administrative charges, title fees, or other legal transaction costs</li> </ul> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>Money Management training</li> <li>Relocation to be done after receiving compensation payment</li> </ul>

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#	Impact – Structure Matrix around Impacts, not Properties or PAPS categories	Type of Loss	Category of Eligibility (Individual or Household)	Entitlement Conditions	Entitlements
					<p><b>Relocation Notice</b> 3 months' notice to vacate</p>
			Individual	(b) Land Tenant or Lease Holder (either residential or business)	<p><b>Compensation</b> No compensation for land.</p> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Relocation to be done after receiving compensation payment</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
				(c) Informal Settler	<p><b>Compensation</b> No compensation for land</p> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood assistance)</li> <li>• Money Management training</li> <li>• Relocation to be done after receiving compensation payment</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
3	Commercial Land that has not been registered (No legal Title) – Land Held Under Customary Ownership	Partial loss of land where residual viable	Individual	(a) Customary Land Owner (Recognized as unregistered Genuine Land Owner –	<p><b>Affected Land</b></p> <ul style="list-style-type: none"> <li>• Cash compensation for loss of land equivalent to the market value of affected land.</li> <li>• 15% cash top up in compulsory acquisition</li> <li>• Administrative charges, title fees, or other legal transaction costs</li> </ul>

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#	Impact – Structure Matrix around Impacts, not Properties or PAPs categories	Type of Loss	Category of Eligibility (Individual or Household)	Entitlement Conditions	Entitlements
				Resident or Non-Resident). – Holder before cut-off date.	<p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Money Management training</li> <li>• Relocation to be done after receiving compensation payment</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
			Individual	(b) Land Tenant or Lease Holder (either residential or business)	<p><b>Compensation</b> No compensation for land</p> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Relocation to be done after receiving compensation payment</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
				(c) Informal Settler	<p><b>Compensation</b> No compensation for land</p> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Money Management training</li> <li>• Relocation to be done after receiving compensation payment</li> </ul>

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#	Impact – Structure Matrix around Impacts, not Properties or PAPs categories	Type of Loss	Category of Eligibility (Individual or Household)	Entitlement Conditions	Entitlements
					<p><b>Relocation Notice</b> 3 months' notice to vacate</p>
4	Commercial Land that has not been registered (No legal Title) – Land Held Under Customary Ownership	Entire loss of land or partial loss where residual is not viable	Individual	(a) Customary Land Owner (Recognized as an unregistered Genuine Land Owner – Resident or Non-Resident). – Holder before cut-off date.	<p><b>Affected Land</b></p> <ul style="list-style-type: none"> <li>• Cash compensation for loss of land equivalent to the market value of affected land.</li> <li>• 15% cash top up in compulsory acquisition</li> <li>• Administrative charges, title fees, or other legal transaction costs</li> </ul> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Money Management training</li> <li>• Relocation to be done after receiving compensation payment</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
			Individual	(b) Land Tenant or Lease Holder (either residential or business)	<p><b>Compensation</b> No compensation for land</p> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
				(c) Informal Settler	<p><b>Compensation</b> No compensation for land</p> <p><b>Restoration Assistance</b></p>

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#	Impact – Structure Matrix around Impacts, not Properties or PAPS categories	Type of Loss	Category of Eligibility (Individual or Household)	Entitlement Conditions	Entitlements
					<ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Money Management training</li> <li>• Relocation to be done after receiving compensation payment</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
<b>B. Loss of Structures (Commercial or Residential and Public (Mosque/Churches))</b>					
1	Commercial or Residential Structures	Partial loss of Business or Residential Structure (Permanent or Semi-Permanent) but residual viable	Individual	(a) Genuine Owner of Business Structure	<p><b>Repair of Affected Part of Business Structure</b></p> <ul style="list-style-type: none"> <li>• Cash compensation at replacement cost for affected portion of structure calculated at market value for carrying out repair without depreciation.</li> <li>• Repair costs to include cost of buying materials, transportation of materials to the site and cost of the artisan carrying out the repair.</li> </ul>
			Household	(b) Genuine Owner of Residential Structure	<p><b>Repair of Affected Part of Business Structure</b></p> <ul style="list-style-type: none"> <li>• Cash compensation at replacement cost for affected portion of structure calculated at market value for carrying out repair without depreciation.</li> <li>• Repair costs to include cost of buying materials, transportation of materials to the site and cost of the artisan carrying out the repair.</li> </ul>
2	Commercial or Residential Structures	Entire loss of Business or Residential Structure (Permanent or Semi-Permanent)	Individual	(a) Genuine Owner of Business Structure	<p><b>Replacement of Affected Commercial Structure</b> Cash compensation for affected building structures based on the current replacement cost or equivalent reinstatement basis or probable cost of acquiring similar premises for the same purpose.</p> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> </ul>

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#	Impact – Structure Matrix around Impacts, not Properties or PAPs categories	Type of Loss	Category of Eligibility (Individual or Household)	Entitlement Conditions	Entitlements
					<ul style="list-style-type: none"> <li>• Relocation to be done after receiving compensation payment</li> <li>• Money Management training</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
			Household	(b) Genuine Owner of Residential Structure	<p><b>Replacement of Affected Residential Structure</b> Cash compensation for affected building structures based on the current replacement cost or equivalent reinstatement basis or probable cost of acquiring similar premises for the same purpose.</p> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Relocation to be done after receiving compensation payment</li> <li>• Money Management training</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
3	Temporary Commercial Structures	Entire loss of Temporary Commercial Structure including Wooden Kiosks and Sheds	Individual	(c) Genuine Owner of Temporary Commercial Structure	<p><b>Replacement of Affected Commercial Structure</b> Cash compensation for affected kiosks/Sheds based on the current replacement cost</p> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Relocation to be done after receiving compensation payment</li> <li>• Money Management training</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>

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#	Impact – Structure Matrix around Impacts, not Properties or PAPS categories	Type of Loss	Category of Eligibility (Individual or Household)	Entitlement Conditions	Entitlements
<b>C. Movable structures</b>					
1	Movable Kiosks and Containers  Movable Bill Boards and Sign Posts	<ul style="list-style-type: none"> <li>• Loss of Business Space</li> <li>• Loss of strategic positions for advertisement and direction provision to general public</li> </ul>	Individual	(a) Genuine Owner of Movable Structure	<p><b>Replacement of Affected Movable Structure</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Relocation to be done after receiving compensation payment</li> </ul> <p><b>Relocation Notice</b> 1 month' notice to vacate</p>
<b>D. Partially Demolished Structures (Evictions at Kwa Jomvu)</b>					
1	Partially Demolished Commercial or Residential Structures	Partial loss of Residential or Commercial Structure	Individual	(a) Genuine Owner of Partially Demolished Structures (	<p><b>Compensation</b> Compensation Catered for in the CAP</p> <p><b>Restoration</b> <b>Affected Persons to be provided with the following restorative measures:</b></p> <ul style="list-style-type: none"> <li>• Counselling and reassurance therapy</li> <li>• Training on financial management and prudent business operations</li> <li>• Provision of Job Opportunities (employment in the project)</li> <li>• Training in various technical skills to enhance self-reliance in income generation.</li> </ul>
<b>E. Loss of Trees and Crops</b>					
1	Trees	Loss of Trees	Individual	Genuine owner of	<b>Compensation</b>

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#	Impact – Structure Matrix around Impacts, not Properties or PAPS categories	Type of Loss	Category of Eligibility (Individual or Household)	Entitlement Conditions	Entitlements
				project affected trees	<p>Cash Compensation for each tree based on compensation schedules prepared by the Kenya Forest Service for various species depending on age and its future potential</p> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Relocation to be done after receiving compensation payment</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
2	Affected Perennial Crops	Loss of Perennial Crops	Individual	Genuine Owner of Perennial Crops	<p><b>Compensation</b> Cash Compensation for affected perennial crops based on compensation schedules prepared by the Agricultural Department for various perennial crop types depending on age and its future potential</p> <p><b>Restoration Assistance</b></p> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Relocation to be done after receiving compensation payment</li> </ul> <p><b>Relocation Notice</b> 3 months' notice to vacate</p>
<b>F. Loss of Amenities</b>					
1	Utility Amenities like boreholes, water tanks,	Loss of resources amenities	Households	Individuals or Communities using	<p><b>Replacement of Affected Amenity Structures</b> Cash compensation for affected Amenity structures based on the</p>

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#	Impact – Structure Matrix around Impacts, not Properties or PAPS categories	Type of Loss	Category of Eligibility (Individual or Household)	Entitlement Conditions	Entitlements
	Toilets, Septic Tanks etc			such facilities	current replacement cost.  <b>Restoration Assistance</b> <ul style="list-style-type: none"> <li>• Relocation assistance (cost of shifting, and livelihood rehabilitation assistance)</li> <li>• Relocation to be done after receiving compensation payment</li> <li>• Money Management training</li> </ul> <b>Relocation Notice</b> 3 month' notice to vacate
<b>G. Loss of Businesses</b>					
1	Business	Loss of Businesses conducted in structures	Individual	Persons carrying out business	<b>Compensation for Loss of Business</b> <ul style="list-style-type: none"> <li>• Compensation for the calculated monthly profit for a period of 3months</li> <li>• To be paid to businesspersons carrying out businesses in structures along the road corridor that have been affected by the project.</li> <li>• Payment to be made immediately notice to vacate is issued.</li> </ul> <b>Relocation Notice</b> 3 month' notice to vacate
2	Business	Loss of Business carried out without structures (car wash, Parking for buses, fruit, vegetable, clothes, shoes and fish vendors	individual	Persons carrying out business along the road corridor without a structure	<b>Notice to Vacate</b> <ul style="list-style-type: none"> <li>• Businesses that are carried out on pavements along the road reserve corridor will be given notice to vacate the said areas.</li> <li>• There will be no monetary compensation</li> </ul> <b>Relocation Notice</b> 1 month' notice to vacate

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#	Impact – Structure Matrix around Impacts, not Properties or PAPs categories	Type of Loss	Category of Eligibility (Individual or Household)	Entitlement Conditions	Entitlements
3	Business	Loss of Rental Income	Landlord	Be Genuine Owner of Business Structure generating Rental Income	<p><b>Compensation for Loss of Rental Income</b></p> <ul style="list-style-type: none"> <li>• Compensation for the calculated monthly profit for a period of 3months</li> <li>• Where evidence of monthly rental income is available, compensation will be equal to such income.</li> <li>• To be paid to landlords owning structures generating rental income along the road corridor that have been affected by the project.</li> <li>• Payment to be made immediately notice to vacate is issued.</li> </ul> <p><b>Relocation Notice</b> 3 month' notice to vacate</p>
<b>H. Loss of Tenancy</b>					
1	Tenants of Commercial and Residential Buildings	Loss of use of Commercial or Residential accommodation	Individual or Household	Occupants of Commercial or Residential Buildings affected by the project	<p><b>Compensation</b> No compensation for Tenants</p> <p><b>Notice to Vacate</b> Tenants occupying commercial or business premises affected by the project will be given adequate notice to vacate and look for alternative accommodation</p> <p>3 month' notice to vacate</p>
<b>I. Assistance to vulnerable groups</b>					
1	Landless PAPs Women	Lack of land to place relocated structures after being removed from road reserve	Individuals and Households	Squatter businesses and women	<p><b>Provision of Relocation Land</b></p> <ul style="list-style-type: none"> <li>• KeNHA is working with County Government and NTSA to secure land for market stalls for the businessmen (90acre plot for such activity has been provided to KenHA by the County Government)</li> </ul>

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#	Impact – Structure Matrix around Impacts, not Properties or PAPS categories	Type of Loss	Category of Eligibility (Individual or Household)	Entitlement Conditions	Entitlements
		corridor Likelihood of facing challenges arising from project impact arising from being disadvantaged due to culture and traditional beliefs including land ownership			<ul style="list-style-type: none"> <li>• KeNHA is providing restoration assistance over and above compensation package to cushion them against impact. To be treated on merit basis</li> </ul>
<b>J. Graves</b>					
1	Graves	Loss of Burial Site and Buried Relatives	Next of Kin of Buried persons	Individual graves	<b>Provision for Conducting Traditional Ceremonies and Relocation</b> <ul style="list-style-type: none"> <li>• Provision of a negotiated reimbursement for traditional ceremonies and translocation costs including option for physical translocation.</li> <li>• Affected Families to be consulted well in advance to allow for a negotiated solution to be reached without undue pressure</li> </ul>
2	Graveyard	Loss of Burial Site and Buried Relatives	Next of Kin of buried persons	Communal graveyards	<ul style="list-style-type: none"> <li>• Consultations with local Authority to be carried out to determine available options.</li> <li>• Affected Families to be consulted well in advance to allow for a negotiated solution to be reached without undue pressure</li> </ul>

## 9 VALUATION CRITERIA

The assets (land and structures) and natural resources (trees and crops) affected by the proposed road project were inventoried and estimated values determined on the basis of their net current replacement cost at realistic market value. The valuation process for the estimates was governed by the Valuers Act (Cap 532) of 2010 and was carried out by a Registered Valuer.

### 9.1 Valuation Methodology

Property values are affected by many factors, the relative importance of which will differ with each heterogeneous property. Some of the factors may be matters of opinion involving subjective judgement which may therefore not be quantitatively measurable.

The RAP proposes for the adoption of replacement cost at the net current realisable market value method of valuation for assets lost. Generally the principle of which compensation is based is that the value to the owner of the land or asset taken would be greater than the market value. This is because there are questions of severance, injurious affection and disturbance. The recommended compensation to a disposed owner would be to put him into a position to reinstate himself on the 'other land' so as to be able to carry on his activities substantially, unaltered and undiminished. This would be a basis for compensation known as equivalent reinstatement.

The amounts of money allocated as compensation to each affected property holder include a 15% disturbance allowance. For every year that passes with the compensation packages not disbursed to the affected property holders, a year appreciation index of 10% of the current amounts will apply. This will cater for inflation and the affected property value appreciation over time.

The following methodologies have been proposed for the affected assets as hereunder:

#### 9.1.1 Land

Comparable sales method should be adopted for valuing the affected land. This is based on the open market comparison of the land to be valued with what other similar parcels of land are currently selling for in the area taking into account the difference between them on a willing seller willing purchaser basis. The comparability of the land should be based on the use, location, site conditions and income related factors.

The market-comparison method is ideal for establishing values of real estate and other goods in a competitive economy. The most critical aspect of the comparative sales method is what constitutes comparability. This is usually in respect of properties, comparability of transactions and market conditions. Each of these aspects has to be thoroughly analysed to obtain an ideal rate. However non-homogeneity of real estate, the imperfections in its market structure, inadequate sales' data and falsified data on the recorded sale transactions and "change of directors" when a sale transaction has occurred are some of the principal factors which limit the application of the method.

Where part of the property is acquired, the Consultant has also considered damage to the remainder of the property. This is in cases where the physical taking of a part of the land might reduce the value of the remainder by making it less convenient for some particular purpose. This form of loss is called damage by severance. This is because after severance the existing highest achievable use might not be realized.



**9.1.2 Valuation of Structures using Replacement Cost Approach**

The valuation basis adopted for valuing the developments on the land taken for compensation is the current replacement cost or equivalent reinstatement basis or probable cost of acquiring similar premises for the same purpose. This is the amount it would cost to search for a supplier of the construction material, the cost to purchase, transport and insure the materials to the site, and the costs of erection of the premises, including professional fees, and completed to a standard as existing at the valuation date.

. The main purpose of valuing the structures for compensation is to reinstate the owner to build similar structures on another site. In obtaining the unit cost for reinstatement, the cost of construction rates recommended by Ministry of Public Works should be considered.

**9.1.3 Valuation of Trees using Guidelines from Kenya Forest Service (KFS)**

The trees have been valued based on compensation schedules prepared by the **Kenya Forest Service** for various species depending on age and its future potential. Also taken into account in the valuation of the trees is the extent of utilization, type of species, quality of logs, diameter of the logs and quality of the log.

**9.1.4 Valuation of Perennial Crops using Ministry of Agriculture Guidelines**

The crops which are on the affected land as at the time of our inspections have been valued based on the schedules prepared by the Ministry of Agriculture for various types and age but taking into account the level of management

**9.1.5 Valuation for Loss of Business Income**

There are a total of 746 businesses have been affected by the road project. These are only businesses carried out inside owner's structure and excludes movable/ mobile business people. Monthly income (profits) accruing from their businesses has been determined during the detailed asset inventory survey. As part of income restoration, compensation to be paid for the affected businesses has been computed as being equivalent to 3 months business income. This will cushion the business owners from the effects of resettlement interruption. It is considered that over this period, the Business PAPs will have identified alternative sites away from the road reserve and re-established their businesses. Payment for this form of resettlement assistance will be subject to proof of loss of the said income by either production of tax returns or audited accounts documents. Where these documents are not availed the PAP will only be paid the cost of the business structure which includes 15% disturbance allowance.

## 10 LIVELIHOOD RESTORATION

### 10.1 Overview

The purpose of this component is to provide a framework to deliberately undertake livelihood restoration measures in addition to the compensation that will be paid to the losses that will be incurred by the project affected persons a result of the dualling of the Mombasa-Mariakani road project. The main losses that will be borne by the Project affected persons in this project will be as a result of assets including land, structures, trees as well as loss of livelihoods.

The existing ROW is majorly encroached by small-scale traders and the main land use in the areas being affected is occupied by structures which are majorly business structures, including small scale trading sheds. The land has no plantation or farms affected. The road will require acquisition of 70Ha of land and most people being affected are occupying public land set aside for the road and with no security of tenure. Majority of the Project Affected Persons (PAPs) along the Mombasa-Mariakani Road are involved in business activities for their livelihood. The main occupation of the PAPs includes small scale businesses, Jua Kali Artisans and formal employment.

Out of a total of 947 affected Households, there are a total of 26 vulnerable Households Heads who will require special support to enhance restoration of their livelihoods. This no is in addition to the small scale traders on the road reserve who have not security of tenure since their source of income will either be lost or interrupted hence the need for livelihood restoration to improve assistance being provided to the PAPs.

This RAP considers any person whose property is affected by the project is eligible for compensation of loss incurred and/or other resettlement assistance if they were on the project corridor by the cut-off date. The eligibility is for people with formal land title, land use rights, customary or traditional rights to the land as well as those who occupy/use the land but have no formal title for objective reasons.

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### 10.2 Eligibility

Eligibility for livelihood restoration will be any person whose property or means of livelihood is affected by the project and eligible for compensation of losses incurred and/or other resettlement assistance if they were on the project corridor by the set cut-off date. The established cut-off date is 30 July 2014 for people who have no legal entitlement to land they occupy on the road reserve and for the PAPs who have legal entitlements to their land being affected by the project. The cut-off date of 18 December 2015 will apply for PAPs whose land will be acquired as per the gazette notice of this date and new PAPs entrants (with or with no legal entitlements to the land they occupy) a result of incorporation of additional road design features including the interchanges that had not been concluded on during preparation of the original RAP.

### 10.3 Alternative Livelihood Restoration Options

Cash Compensation for loss of structures, land, businesses and livelihoods will be undertaken as per the PAPs affected rights enshrined in the entitlement matrix. This will be for all people eligible for cash compensation and the payments will be paid to the PAPs

before their relocation. In addition to this, the following livelihood restoration measures are proposed to enhance livelihoods of the PAPs:-

**10.3.1 Construction of business stalls for relocation of small scale traders-**

The construction of the business stalls for the relocation of small scale traders is an opportunity that can not only to enhance livelihoods but also enhance security of tenure for the PAPs who mainly occupy the road reserve for small scale business. There is an available land parcel within Miritini area that the project may acquire and incorporate business stalls to the planned lorry park under this project. The other opportunity is to engage with the county government for incorporation small scale vendors in their bus park plan. This relocation option will provide an opportunity for the traders to continue with their livelihoods engagement in the new site.

**10.3.2 Enhancement of Markets at Mazeras and Mariakani**

There are two (2) existing markets within the road project. The markets are located in Mazeras and Mariakani area. These markets mainly deal with agricultural produce however, the facilities are underutilized and many traders are no longer operating within the premise. Most of the PAPs affected at these two (2) locations are those trading within the road reserve. The project will engage with the county government of Kilifi for possibility of refurbishing the existing markets and provision of access roads to enhance trading within these facilities. The small scale traders being affected at these sites will be given first opportunity to relocate at these facilities.

**10.3.3 Business management training**

The business management training will is to focus on enhancing capacity of the PAPs engaging in trade mainly to empower them with skills for enhanced business solutions in order widen their income streams. This will also focus on giving them financial management skills for effective handling of the cash compensation that they will be paid.

**10.3.4 Linking the PAPs with credit facilities**

This is an opportunity upon PAPs completion of the business management training, to be linked with existing institutions offering credit facilities. This will be optional for PAPs with interest in credit facilities.

**10.3.5 Vocational skills training for the youth**

The project through the AfDB financing for Lot 1: Jomvu – Mombasa has provision for free vocational skills training for the youth. KeNHA is in the process of identifying the various construction job/trade skills and training institutions. This alternative can provide an opportunity for a number of youth PAPs who may be interested in undergoing training and acquiring new skills for construction related jobs.

**10.3.6 Employment opportunities in the road project**

The dualling of the Mombasa-Mariakani road will entail construction works that will demand for engagement of casual labour. This may also provide an opportunity for employment of PAPs interested for casual labour in the project.

### 10.3.7 Provision of Water in the Project Area

The project can also include provision of watering points within the road project. This could entail drilling of boreholes or undertaking water piping to common areas along the project. KeNHA will undertake needs assessment for water and plan appropriately.

### 10.3.8 HIV/AIDS Interventions

The project will incorporate HIV/AIDS mitigation measures for all the PAPs in the project. The focus of the mitigation measures is to enhance the capacity of the PAPs with skills to prevent HIV and AIDS. This will entail provision of behavioural interventions for HIV and AIDS prevention as well as referral for care and support for the PAPs and families in need of the services. KeNHA will procure the services of an independent consultant to offer this service to the PAPs.

### 10.3.9 Sexual and Gender Based Violence Protection

The project will incorporate sensitization for prevention and protection of sexual and gender based violence. This will entail also provision of complaint reporting desk for allegations of sexual and gender based violence incidences. KeNHA will procure the services of an independent consultant to undertake sexual and gender based violence protection within the project.

### 10.3.10 Right to Salvage

The project has incorporated the right to salvage any property being affected as a result of the project. This will include structures including buildings, fences and trees. The PAPs will also be allowed to harvest any crops that may be affected.

. **Table 18:** Alternative livelihood options

Sector	Activity	Details of activities facilitated by KeNHA	Comments
Business Activities	Cash Compensation	KeNHA will engage the county government of Mombasa and Kilifi for identification of relocation sites,	KeNHA will source for credit for construction of relocation sites and undertaking capacity enhancement for the PAPs.
	Physical relocation		
	Financial management training		
	Right to Salvage of materials		
	HIV/AIDS mitigation		
	Linking with credit facilities		
Employment	Sexual & gender based violence protection	KeNHA will engage the community leaders and institutions within Mombasa to train the youth for employment within the road sub sector.  Employment	KeNHA has received financing from AfDB for youth training on vocational skills
	Opportunities for employment		
	Vocational skills training for youth		
	Attachment placement for youth undertaking training		
	HIV/AIDS awareness		

		opportunities will also be availed for PAPs within the two(2)	
Household	Cash compensation		KeNHA will source for funding for community water projects
	Financial management training		
	Sexual and gender based violence protection		
	HIV/AIDS mitigation		
	Right to salvage		
	Opportunity for employment in the road project		
	Opportunity for Vocational skills training		

**Table 19:** Training for livelihood Restoration

Training	Details
Financial Management Skills	This training will focus on enhancing capacity of the PAPs to appropriately manage the cash they will be compensated for enhanced livelihoods. The training will also enable them to invest their finances wisely. The training will also include business management skills for those who wish to start businesses
Vocational Skills Training for Youth	The training will target youth with road construction related jobs. This is envisaged to provide scholarships for training and opportunities for attachment program in the road construction to equip them will skills for job hunting.
HIV/AIDS Education	The HIV/AIDS education will be availed as part of the HIV/AIDS mitigation measures to reduce the PAPs susceptibility and vulnerability to HIV and AIDS as a result of the project.
Gender Education	The Gender education will be provided to all the PAPs to enhance their full participation in the road development. The training will include sensitization on prevention and protection of sexual and gender based violence

#### 10.4 Limitations of the Livelihood Restoration Program

The alternative livelihood restoration measures proposed in section 10.3 will majorly require financing in addition to the cash compensation that the Government of Kenya will meet as part of her commitment to the project. The vocational skills training for the entire road project, the HIV/AIDS mitigation measures and capacity building for protection of sexual and gender based violence for Lot 1-Mombasa-jomvu is financed by the AfDB. These proposals will therefore require additional financing for their actualization. The project has also made assumptions that the county government will offer land for construction of business stalls, relocation/resettlement sites for the small scale traders. In

the event that land is not availed, KeNHA will source for additional funding to acquire land for these developments.

### 10.5 Alternative Sites for Relocation of Small Scale Traders

KeNHA and the Consultant have engaged the County governments of Mombasa and Kilifi in identifying suitable resettlement sites for the informal small scale businesses located within the road reserve. The County of Mombasa have earmarked a land parcel within Miritini for construction of a lorry park and is also currently developing a bus park located within the city centre.

The table below indicates the category of small scale traders to be given priority for allocation of stalls for relocation. This category of PAPs is those who will be compensated an amount that range from Ksh 0 -100,000 as cash compensation. Construction and relocation to PAPs to the new business stalls will enhance sustainability and livelihoods of this category of PAPs as the cash compensation could boost their business. Other PAPs whose compensation cash is higher than Ksh100,000 will be given cash compensation.

**Table 20: Proposed categories of PAPS to be allocated stalls**

	Range of Anticipated Compensation Money (Ksh)				Total
	0 - 50,000		50,001-100,000		
Location Name	On Road Reserve	On Land to be Acquired	On Road Reserve	On Land to be Acquired	
Mwembe Tayari	0	0	1	0	1
Tononoka	1	0	0	0	1
Majengo	3	0	3	0	6
Tudor	1	0	1	0	2
Changamwe	4	0	49	1	54
Mikindani	29	7	12	2	50
Jomvu	9	1	33	4	47
Miririni	7	0	7	2	16
Rabai	6	27	8	18	59
Mariakani	13	11	18	16	58
<b>Total</b>	<b>73</b>	<b>46</b>	<b>132</b>	<b>43</b>	<b>294</b>

KeNHA shall continue to engage the County Governments and National Transport Safety Authority during the RAP implementation to secure the Lorry park site that will accommodate business stalls at Miritini. The engagement will also focus on enhancing speedy development of this facility for timely relocation of the small scale traders. The lorry parking space will also be developed in such a way that space is provided for putting up of business stalls and other communal facilities e.g. sanitation blocks for traders and their customers.

For the above purpose, 90 acres parcel of land in Miritini earmarked for this development has been given to KeNHA by the Mombasa County Government for the construction of a lorry parking yard. The idea was conceptualized aiming at providing the parking for lorries/trucks which are currently parked by the road side and cause traffic jam and obstruction.

KeNHA will construct business stalls in this area and give the traders business space. The stalls would accommodate as many traders as will be willing to be relocated in this area. This will enhance security of tenure and traders will not face further risks of evictions or

moving back to the road reserve. It is envisaged that this lorry/truck parking area will be attractive for the traders as there will be good customer base from the truck drivers and the lorry/ truck parking yard will spur economic growth in the surrounding area.

The County of Government of Mombasa is also currently developing a bus park located within the city centre and which will give room for relocation of the parking for long distance bus companies that currently pick and drop their passengers along the project corridor in the central business district (CBD). This is part of the Mombasa County Government's traffic management plan aimed at decongesting the city. The County government also have plans for integration of trading in the proposed bus park and further engagement with the government will be undertaken for relocation of the small scale traders operating within CBD and who will be interested to relocate at the site. The integration of the business spaces within the proposed bus park will ease off the encroachment on the road reserve especially in the CBD thereby enhance sustainability.

## **10.6 Influx Management**

The identified sites for resettlement are located close to the project area and thus represents an obvious collection point for job seekers. The proposed project is likely to attract a significant number of newcomers seeking employment or other opportunities associated with construction and operations of the project. The influx of large numbers of newcomers should be managed through the relocation and allocation of spaces for business, and new entrants (those not included in the PAPs census) should be addressed as claims and subjected to the grievance redress mechanism.

## **10.7 PAPs Resettlement Preference**

Even though all PAPs indicated their preference for cash compensation for the losses they will incur during road construction, there are some who suggested relocation to alternative sites available within their localities. Out of this group that suggested relocation as an option, a majority prefer relocation within the area of displacement since they have already established clientele and a good business base for themselves. The informal traders' relocation to existing market areas will also address this need for resettlement sites.

## **10.8 Preparation of Resettlement Sites**

To ensure that the displaced persons resume normal or near normal livelihood and active production the following key activities should be implemented:

- There will be identification and discussions with the county governments for relocation sites;
- Confirmation of land allocation by County government and signing of agreements for developing the space;
- Involvement of the users in the design and acceptance of the facilities being developed;
- Construction of the business stalls and related public infrastructure facilities within the proposed road side amenities.

## 10.9 Resettlement Site Development (Infrastructure, Social Service, Etc.)

The relocation sites shall be improved to accommodate the diverse users and facilitate the businesses adaptation within the shortest time possible. The resettlement site users will participate in development of design for the site development.

### 10.10 Facilitation of Livelihood Restoration Programs

- a. The updated RAP generally aims to enhance restoration of the PAPs' livelihoods/income streams to ensure that livelihoods are improved or restored to pre-displacement levels. The project has proposed other alternative livelihood restoration measures however, the following additional measures should be considered to enhance safeguard the project affected persons. in a bid to ensure Compensation for affected land and property will seek to facilitate full and smooth recovery without exposing the PAPs to vulnerability and this applies not only to PAPs who are not just physically displaced but also those affected by loss of land, structures and sources of income that directly affects their livelihood.
- b. Cash compensation to be paid out to the PAPs prior to relocation
- c. Compensation for land, structures, crops and trees to incorporate disturbance allowance and right of salvage
- d. undertake wider consultation with the PAPs during implementation of the alternative livelihood restoration measures
- e. Provision of adequate notice period to vacate for the PAPs
- f. Undertake robust monitoring of the compensation, relocation and livelihoods of the PAPs
- g. Inclusion of spouses of affected asset owners in the RAP implementation process



**Table 21: Livelihood Restoration Framework for Mombasa Mariakani Road**

#	Resettlement/ Restoration option	PAP/Stakeholder Group	Description of the Activity & Resources Available	Responsible Entity	Time frame	Budget (Ksh)
1.	Construction of business stalls for relocation and resettlement of PAPs at Miritini	Operators and businesses on Road Reserve or rented Land who earn a compensation value of less than KES 100,000	<p>KeNHA to engage the county government of Mombasa to secure approvals to use the land at Miritini for construction of lorry park with business stalls. The documentation for this approval will be sought from the governments for peaceful engagement in the infrastructure development.</p> <p>Stakeholders will be engaged to develop the designs and monitor progress of construction of business stalls and as well as relocation of the PAPs</p> <p><b>Specific activities</b></p> <ul style="list-style-type: none"> <li>Identify availability of Spaces for business stalls at the Lorry Parking area in Miritini Secure the Land for the Lorry Parking at Miritini from County Government of Mombasa or approval for use of land for development</li> <li>Design appropriate size market stalls and ensure funds for their development are secured for construction</li> <li>Construction of business stalls at Miritini</li> <li>Relocate the all the PAPs to the Market Stalls in the various Centres</li> <li>Provide the PAPs with documented security of occupation of the market stalls to ensure they are not displaced.</li> </ul>	<ul style="list-style-type: none"> <li>KeNHA</li> </ul>	Preconstruction	160,000,000
2.	Reconstruction and /or refurbishment of market stalls at Mazeras and Mariakani	Low income PAPs (those receiving less than KES100,000 cash	KeNHA will engage the county government of Kilifi for approval to enhance the markets at Mazeras and Mariakani. The documentation for these approvals will be sought from the governments for peaceful engagement in the infrastructure development. Stakeholders will be engaged to develop the designs and monitor progress of construction of market enhancement infrastructure	<ul style="list-style-type: none"> <li>KeNHA</li> </ul>	Preconstruction	160,000,000

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#	Resettlement/ Restoration option	PAP/Stakeholder Group	Description of the Activity & Resources Available	Responsible Entity	Time frame	Budget (Ksh)
		compensation	<ul style="list-style-type: none"> <li>• <b>Specific Activities</b></li> <li>• KeNHA to source for funding for the enhancement of the 2 market facilities. This could be sourced through grant</li> <li>• Develop designs for the market enhancement in consultation with the County of Mombasa</li> <li>• Construct the market enhancement facilities</li> <li>• Oversee allocation and relocation of the market facilities</li> <li>• PAPs categorised as low income earners and those with special needs to be given priority in the allocation</li> </ul>			
3.	Cash Compensation	All PAPs	KeNHA will engage the National Land Commission to undertake verification and validation of assets affected and their rightful owners. The NLC will also undertake valuation of the losses being incurred, and offer awards for cash compensation. KeNHA will support the PAPs then prepare all the cheques for payments to the	KeNHA and NLC	Preconstruction stage	Government of Kenya will meet the budget
4.	Financial and Business management Training	All PAPs	Improvement of skills in Financial Prudence KeNHA to appoint a Training Consultant to carry out Sensitization of PAPs and Training on aspects of: <ul style="list-style-type: none"> <li>• Financial Management of Funds (Appropriate use of Compensation Funds)</li> <li>• Prudent Business Operations</li> </ul>	<ul style="list-style-type: none"> <li>• KeNHA</li> </ul>	Before issuance of cash compensation	9,470,000

#	Resettlement/ Restoration option	PAP/Stakeholder Group	Description of the Activity & Resources Available	Responsible Entity	Time frame	Budget (Ksh)
5	Vocational skills Training	Youth interested in vocational skills training	<p>KeNHA is at an advanced stage of negotiations with various Technical Institutions to offer training to selected project area youth in various skills such as</p> <ul style="list-style-type: none"> <li>• Operation of Construction Machinery and Equipment like Earth Movers, Excavators, Graders etc to help them have the capability of getting gainful employment.</li> <li>• Maintenance of Construction Machinery and Equipment</li> </ul> <p>KeNHA will upon determination of the course to be offered, develop criteria for identification for youth for training, facilitate their enrolment to the facilities and finance the youth trainings. KeNHA will also facilitate the attachment placements within the road construction project</p>	<ul style="list-style-type: none"> <li>• KeNHA and Training Institutes</li> </ul>	Construction stage	TBD
6	Provision of Employment (Job Opportunities)	<b>PAPs interested in casual labour</b>	<p>KeNHA and Contractor will make provision for engaging project area community especially the PAPs in both Skilled and Unskilled jobs. This is to be done as follows:</p> <ul style="list-style-type: none"> <li>• KeNHA to include employment of Project Area Community especially PAPs as a requirement/deliverable by the Contractor</li> <li>• Contractor to include in its regular Reporting Schedule milestones achieved in providing job opportunities to the community by listing names of individuals, ID numbers, Telephone contacts and areas of engagement.</li> <li>• Contractor to provide reports on skills training imparted to engaged community members.</li> </ul>	<ul style="list-style-type: none"> <li>• KeNHA</li> <li>• Road Contractor</li> <li>•</li> </ul>	construction stage	Nil
7	Provision of Water to Project Area Community	For community leaving along the alignment	<p>KeNHA to consider fund raising for provision of water to the community living close to the road and in the project area in general.</p> <ul style="list-style-type: none"> <li>• A needs assessment can be carried out along the road corridor to identify the most needy spots for consideration.</li> <li>• An evaluation of the available water sources that</li> </ul>	<ul style="list-style-type: none"> <li>• KeNHA</li> <li>•</li> </ul>	Construction period	TBD

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#	Resettlement/ Restoration option	PAP/Stakeholder Group	Description of the Activity & Resources Available	Responsible Entity	Time frame	Budget (Ksh)
			can be done to ascertain the suitability of such a venture This will go a long way in reducing the challenges of potable water faced by the PAPs and road corridor community			
8	HIV/AIDS mitigation measures	All PAPs	KeNHA will engage a consultant to undertake HIV/AIDS education and mitigation services for all the PAPs. The focus will be to empower the PAPs with skills to reduce their susceptibility and vulnerability to HIV and AIDS	• KeNHA		15,000,000
9.	Prevention of sexual and gender based violence	All PAPs	KeNHA will engage a consultant to undertake awareness and education to enhance prevention and protection of sexual and gender based violence	KeNHA		10,000,000
10.	Right to Salvage	All PAPs losing assets	KeNHA will give each PAPs whose assets will be affected with the right of salvage within the notice period	KeNHA		Nil
11.	Credit Facilities	All PAPs	KeNHA through financial management training incorporate	KeNHA		Nil

## GRIEVANCES REDRESS MECHANISM

As stipulated in the original RAP, the updated RAP considers the Grievance redress mechanism as an essential tool for facilitating PAPs to voice their concerns about land acquisition, compensation and relocation as they arise and if necessary for corrective action to be taken promptly. The mechanism will be fundamental towards achieving transparency during RAP implementation processes.

This section describes the procedure and mechanism through which community members and PAPs will be able to report or express a grievance against the project, its staff or contractors as part of the RAP implementation. It also describes the roles and responsibilities for different structures in resolving grievances.

A grievance is any dissatisfaction or sense of injustice, or unfairness felt by a person – in this respect a PAP or his/her representative or other community members in connection with his/her compensation entitlements, the RAP implementation process, the project developer, contractor and other scenarios related to project implementation.

The grievance will be reported at the grassroots level to the PAPs committee. The grievances will then be brought to the attention of the Community Liaison Officer, who is the one to act as the Grievance Officer (GO) and Secretary to the grievance committee and who will be part of the RAP Implementation Unit (RIU). Other grievances will be received from the office of the assistant chief or the chief who will forward them to the DCC who will in turn present these grievances to the RIU that he chairs. The lowest level of grievance redress will be the PAP Committee followed by RIU while NLC/ Court of law will be the highest tier in grievance redress mechanism.

This grievance procedure is intended to put in place and facilitate accessible, prompt and cost-effective handling of grievances at the nearest points of service to community members and the PAPs. The aim and purpose of this system is to make the grievance handling procedures accessible, acceptable, prompt and affordable to the PAPs and other community members. The objective of the grievance management system is to establish for the PAPs and other community members mechanisms for raising complaints related to compensation for loss of land and/ or other livelihood properties and assets and having such complaints resolved as amicably as possible through acceptable and binding corrective actions. This grievance management system will be in place for a period of six months after PAPs have received their full resettlement compensation.

The principal responsibilities of the Grievance Officer will include:

- Recording the grievances, both written and oral, of the affected people, categorizing and prioritizing them and providing solutions within a specified time period.
- Discussing grievances on a regular basis with the RAP Implementation Unit or other stakeholders and coming up with decisions/actions for issues that can be resolved at that level.
- Informing the implementation unit of serious cases within an appropriate timeframe.
- Reporting to the aggrieved parties about developments regarding their grievances and decisions of the RAP Implementation Unit.
- Contributing to and providing inputs into the monitoring and evaluation process.

## 11.1 Grievance mechanism and grievance process

The grievance mechanism operating at each location will receive inputs from four main sources:

- Directly from the PAPs or other members of the affected community;
- From the RAP implementation team;
- From the Community Liaison Officer/ Social Monitoring Specialist who will forward the issues/concerns identified in the field; or
- From the local government offices at the local levels since these are as close to the community as possible.

With respect to this project, the RAP Implementation Unit will also be constituted as the Grievance Committee and will designate a local contact point person to receive grievances.

## 11.2 The steps of the grievance process

### 11.2.1 Method of Lodging Complaints

After valuation of assets, each identified PAP will be issued with a letter of award for their acceptance or otherwise before payment is released. In the event of a dispute or grievance, KeNHA will issue a grievance redress form (See **Annex 11** for Draft Grievance Redress Form) which will be completed by the aggrieved persons so as to reach a settlement within a period of one month. KeNHA shall not commence any construction works before all grievances are settled. KeNHA shall use all available mechanisms to ensure that the grievances are settled within a short time so as to reduce undue stress on the PAPs and delays in project implementation. Other grievances related to the project's environmental pollution and disruption of services during the construction of the road will be forwarded by the aggrieved person(s) or representatives to the Grievance Officer for redress.

### 11.2.2 Proposed Procedure

In projects that require relocation and resettlement of people and loss of property and livelihood, grievance redress mechanisms are essential tools. These mechanisms allow the affected people to voice concerns about the compensation and resettlement process. The project sponsor is hence expected to take corrective action to address these grievances in consultation with the PAPs and other stakeholders. Such mechanisms are fundamental to achieving transparency in the resettlement process. A grievance redress mechanism is given in **Figure 19** overleaf.

During the resettlement process, all grievances and disputes will be referred to KeNHA RAP Implementation Unit (RIU) who may handle the grievance straight away or refer it to the PAP committee who will be asked to provide recommendations as to how it is to be addressed. If deemed necessary by the PAP committee, the case will be re-investigated and depending on the nature of the grievance. PAP Committees have already been established at the affected market/village level and are moderated by the elected chairman. The PAPs elected the committee from members amongst themselves including a Chairperson and a Secretary. The committees have a good representation of men, women, youth, local administration and person living with disability where applicable.

Like most communities in Kenya, the Mijikenda people resolve local disputes through a local mechanism where the complainant reports the matter to the village elder in charge of his village. The leader listens and considers the elements of the matter and brings the

warring parties together towards making them reach an agreement. If no agreement is achieved between the warring parties or the matter is beyond the mandate of the village elder, he escalates it to the higher offices of the assistant chief or the chief respectively. Grievances will therefore follow a similar channel and where possible be settled at the local village or market level using the PAP committees. Consultation and grievance redress will be an ongoing process until proper resettlement is achieved. Grievance Redress mechanism for the proposed road project is:

**Step 1**

PAPs are informed of their losses and entitlement in writing and through the PAPC.

**Step 2**

If satisfied, the PAP claims resettlement payment from the RIU. If dissatisfied or the PAP do not clearly understand the entitlement/any aspect of the resettlement plan, s/he approaches the PAPC for clarification. The PAPC makes a note and explains the unclear issues to the PAP according to the RAP. If the issue(s) are resolved, the PAP collects the payment from the RIU. The PAPC has 2 weeks from submission of a grievance to hold a session with the PAP. If not solved PAP moves to step 3.

**Step 3**

The PAP fills a grievance redress form and appends his signature and formally submit to the RIU through the PAPC. The RIU, duly constituted holds a session with the aggrieved PAP and minutes are recorded. If resolved, the RIU approves and the PAP collects his/her entitlements. The RIU has 2 weeks from submission of a completed and signed grievance redress form to hold a session with the PAP. Depending on the nature of the issue, the case may be referred back to the PAPC by the RIU for re-investigation and then resubmitted to the RIU or referred to the National Land Commission.

**Step 4**

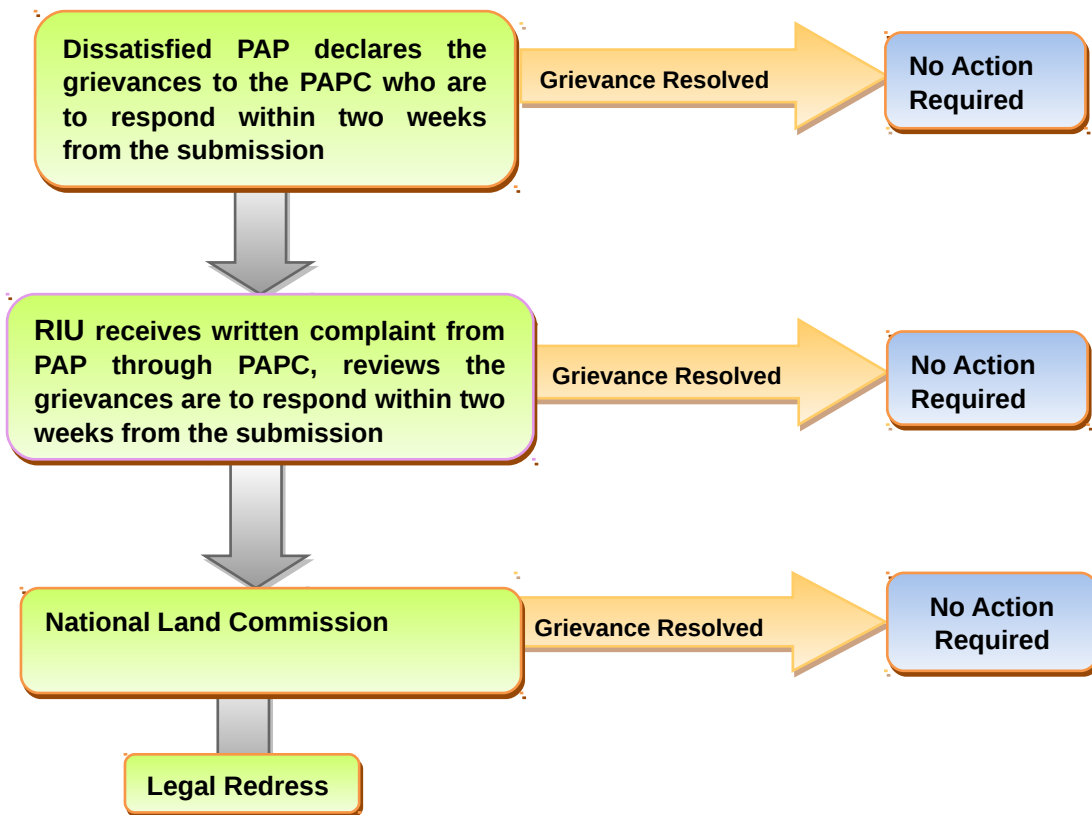
The PAP appeals to the National Land Commission. If the outcome decision is not acceptable, the PAP proceeds to the final step.

**Step 5**

The PAP can appeal to a court of law for settlement of the case.

A schematic diagram of the grievance redress mechanism is presented in the following figure

Figure 19: Chart showing grievance redress mechanism





## 12 INSTITUTIONAL ARRANGEMENTS

This Chapter provided a list of all agencies and institutions that are involved in the implementation of land acquisition, relocation and compensation process. These organisations are crucial in the RAP implementation process and are mandated to perform their respective roles and have capacity to undertake their specific responsibilities even though KeNHA will be charged with the overall responsibilities of implementation of the RAP. **Table 20** below indicates the organisations which are part of this RAP implementation.

**Table 22: Organisations that are part of RAP implementation.**

No	Organisation	Roles	Progress on Engagement
1.	Ministry of Infrastructure and Transport	Procuring resources from the National Treasury for overall project implementation	Funding allocated for land acquisition, and compensation
		Approval for Land Acquisition, Relocation and compensation	MOTI approved the land acquisition for the road project
2.	KeNHA	Overseeing RAP Preparation, Implementation and Monitoring	RAP Preparation and Approval in progress
3.	National Land Commission	Processing compulsory acquisition and compensation of affected PAPs	NLC has started the Land acquisition process
	County Commissioner	Mobilisation of PAPs and verification of PAPs	Involved in the process of sensitisation and land acquisition process
		Supporting the Project in dispute resolution	The PAPS committee are already established under supervision of Local Area Chief (County Commissioners' Representative)

### 12.1 Organization Structure of Various RAP Implementation Committees

The implementation of the RAP requires collaboration from all the PAPs and stakeholders. This requires a properly constituted structure for the administration of the same. The proposed project involves land acquisition, compensation of the affected people for the loss of their land, business, trees, crops and structures. There will also be need to monitor the progress of PAP livelihood restoration to ensure affected persons are not left worse off. The Institutional Framework clarifies the role of various stakeholders in the implementation and administration of the RAP process. It further clarifies the role of PAPs and their responsibility in the entire exercise. It constitutes the procedures to be followed along with the support facilities available and a timeframe for implementation of each of the activities. Internal and external committees will be involved in the RAP Implementation process. These are:

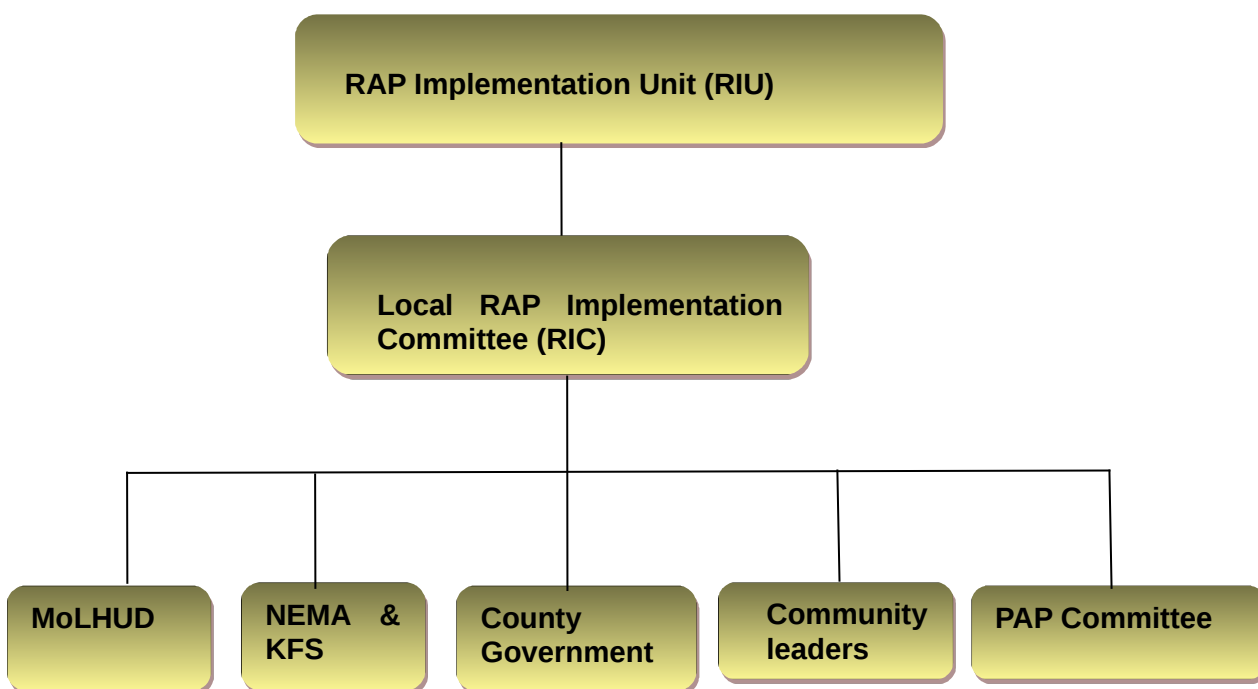
- KeNHA RAP Implementation Unit (RIU)
- Local RAP Implementation Committee (RIC)
- PAP Committee
- 

Refer to **Table 22** overleaf for the RAP implementation units and committees, their composition and responsibility.

**Table 23: RAP Implementation Committee**

Nr	Committee Member	Committee Composition	Responsibility
1.	RAP Implementation Unit (RIU)	Officers from KeNHA with various Key Disciplines	Oversee the RAP Implementation Process
2.	Local RAP Implementation Committee (RIC)	Government representatives including Lands, Housing, Agriculture, Kenya Forest Service, NEMA, local Administrative Officers, local Community leaders, PAP representatives	Ensure a timely execution of the whole process and further clarifies the role of PAPs and their responsibility in the entire resettlement process
3.	PAP Committee	Representatives chosen by the PAPs	Represent the PAPs & attend meetings to negotiate with RIC on behalf of PAPs on issues related to compensation, resettlement & livelihood restoration

**Figure 20: Organization Structure of RAP Implementation Arrangements**



**12.1.1 Proposed RAP Implementation Unit (RIU)**

**RAP Implementation Unit (RIU)** – The team will be composed of persons from KeNHA with various key disciplines that can oversee the RAP implementation process.

The final structure of the unit shall be provided by KeNHA. However the structure shall include professionals presented in **Figure 21** overleaf.

**Figure 21: Proposed KeNHA RAP Implementation Unit (RIU)**



**12.2 Responsibilities of RAP Implementation Unit (RIU)**

The RIU will be responsible for the following:

- Ensure maximum participation of the affected people in the planning of their own resettlement and post resettlement circumstances.
- Oversee the formation of PAP Committees (PC)
- Accept financial responsibility for payment or compensation and other designated resettlement related cost.
- Ensure detailed valuation of the structures in order to determine the case to case value of each component of the project and agree upon a value for compensation.
- Ensure that the affected persons receive their compensation in terms of amounts agreed.
- Ensure monitoring and evaluation of the PAPs and the undertaking of appropriate remedial action to deal with grievances and to ensure that income restoration are satisfactorily implemented.
- Oversee the implementation of the RAP.

### **12.2.1 Local RAP Implementation Committee (RIC)**

RAP Implementation Committee (RIC) shall be formed by KeNHA to ensure a timely execution of the resettlement and further clarifies the role of PAPs and their responsibility in the entire resettlement process. The committee shall consist of Government representatives from line Ministries and Departments including Lands, Housing, Agriculture, Kenya Forest Service,, NEMA, County and local administration officers, local Community leaders, PAP representative for each of the centres where PAPs are concentrated. The various Ministerial and Departmental representatives will be appointed by KeNHA while PAP representatives will be confirmed by the PAPs at each of the areas and centres affected by the road project. The Committee will operate at the County and Sub County Level and will be chaired by the KeNHA sociologist incharge of the road project. The experts in the committee will include but not limited to the following: Legal Advisor, Surveyor, Highways Engineer, Community Liaison Officer, Community Development Expert, Environmental Expert, Database Officer, KeNHA Representative and Registered Valuer.

#### **12.2.1.1 Responsibilities of the Local RAP Implementation Committee (RIC)**

RIC's main role will include ensuring fair resettlement assistance and compensation packages are received in time by the entitled PAPs, ensuring promotion of avenues to address grievances and ensuring continuous communication between the PAPs and RIU and other stakeholders.

The RAP implementation committee will set out the framework for policies, principles, institutional arrangements schedules, and other indicative budgets to facilitate the project resettlement process. The Committee shall;

- Verify land tenure and ownership for compensation purposes;
- Ensure receipt of resettlement assistance and compensation packages on the ground;
- Link the PAPs to other stakeholders;
- Create awareness on land alternatives and resettlement options and identification of alternative land for relocation and resettlement;
- Ensure that displaced persons are informed about their options and rights pertaining to resettlement, offered choices and provision of viable alternatives;
- Provide prompt compensation at full replacement cost for acquired land, losses of assets attributable directly to the project; offer support after displacement for a transition period, based on a reasonable estimate of the time likely/to be needed to restore their livelihood and standards of living;
- Provide development assistance in addition to compensation measures;
- Participate in monitoring of the resettlement progress and of resettled persons after resettlement is complete

#### **12.2.2 PAP Committee and Role of PAPs**

Under the supervision of the KeNHA RAP Implementation Unit (RIU) and the local administration, , various PAP Committees have already been formed. These various PAP committees were elected by PAPs from the various town and rural centres along the whole stretch of the road. Each cluster of PAPs selected people among themselves who are capable of representing their views at the various forums where it is not possible for all the PAPs to participate in person. Each PAP committee consist of a Chairman, Secretary and

Treasurer and several Members. The committees should have a fair representation of men, women and youth that make them gender and age sensitive.

**Constitution of the PAP Committee**

The PAP Committee will be composed of representatives chosen by the PAPs to represent them and attend meeting to negotiate with RIC on behalf of the PAPs on issues related to compensation, resettlement and livelihood restoration.

The PAPs representatives in the committee must be some of the PAPs as the committee will act as the direct voice of the PAPs in various forums. The PAP Committee shall be charged with the task of monitoring and evaluation of the PAPs resettlement activities since they would be familiar with the various variables in the project area. It will therefore be enlisted to continue the post project evaluation system and conduct actual monitoring and reporting. The PAP committee will periodically provide KeNHA with gathered monitoring data for report preparation.

**Table 24: Roles and Responsibilities for Planning and Execution of Resettlement**

Activity	Purpose	Period	Responsible Authority	Implementation
Preparation of Updated of Resettlement Action Plan	To provide census of project affected households, socio-economic baseline data of PAPs, Asset inventory, notification and preliminary consultation with PAPs in line with international good practice & Donor requirements	Planning	KeNHA	RAP Consultant in cooperation with the Environment and Social Interests Team
RAP approval and disclosure	Banks Approval of the RAP and public disclosure	Planning	KeNHA and AfDB/EIB/KfW	KeNHA and AfDB approved and the original approved RAP
Communication of intention to acquire land –through official Kenya Gazette Notice	To inform PAPs of the intended land acquisition process and notify them of the meetings to hear their issues	Planning	National Land Commission	Gazette Notice Vol.CXVII-No_.141of 18 <sup>th</sup> Dec 2015 on intention to acquire land published
Survey & Loss assessment	To assess all land assets, livelihood impacts as basis for valuation	Planning	National Land Commission	Land Acquisition Team instituted by NLC.  National Land Commission will determine land/asset compensation rates for the PAPs.  Land Acquisition team is undertaking survey & loss assessment
Validation of assets being affected and their assets owners	To ensure that rightful asset owners and interested persons are identified for compensation	Planning	National Land Commission	Land Acquisition Team with support of the County Commissioner's office to undertake verification.  Gazette notice for enquiries on ownership will be published.

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Activity	Purpose	Period	Responsible Authority	Implementation
Validation and Valuation of land, assets & livelihood to be lost	To define amount of compensation payable for temporary & permanent use of land	Planning	National Land Commission	National Land Commission with Land acquisition team
PAPs Disclosure and Acceptance of compensation valuers	To formalise acquisition of rights necessary for construction	Pre-construction	National Land Commission	Land Acquisition Team and KeNHA
Opening of Bank Accounts for compensation	For ease in facilitation of safe payments of compensation	Pre-construction	KeNHA	Land Acquisition Team
Payments of compensation	To disburse cash compensation to all eligible affected property owners and users	90 days before construction	KeNHA	Land Acquisition team and PIT
Issue Notices to Vacate	To prepare PAPs compensated to relinquish the property compensated for	90 days before take over	National Land Commission	Land Acquisition Team and Community RAP committee
Movement of PAPs	To take possession of land acquired	Upon expiry of notice period	KeNHA	Land Acquisition Team & Road Reserve Protection Unit
Issue of new ownership documents in respect to title deeds	To formalise all transfers of land ownership (permanent acquisition)	Post construction	National Land Commission	National Land Commission
Livelihood restoration measures	To facilitate project affected persons to restore or enhance their livelihoods	Construction/post construction period	KeNHA	PIT in collaboration with the identified NGO to offer extension services to PAPs
On-going consultation and disclosure	To keep project affected communities informed about project activities	Planning, Preconstruction and construction period	KeNHA	Project Implementation Team
Reception and redress of grievances	To receive and promptly redress grievances	Planning, pre-construction, construction and post construction	KeNHA	PIT, Community Resettlement Steering Committee, and PAPs RAP Implementation Unit

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Activity	Purpose	Period	Responsible Authority	Implementation
		period		
Monitoring and evaluation	To monitor reinstatement, receipt of entitlements and effectiveness of livelihood restoration	All phases	KeNHA	Environment and Social Interest (internal) Resettlement Consultant undertake external monitoring



## 13 MONITORING AND EVALUATION

### 13.1 Internal Monitoring

**13.1.1** This section describes the monitoring and evaluation (M&E) system for this RAP and also describes the parameters and associated indicators to be monitored, including the monitoring milestones and resources needed to carry out the monitoring activities. The purpose of monitoring and evaluation is to report on the effectiveness of the implementation of the RAP, and the outcomes and impact of resettlement compensation in relation to the objectives and goals of the RAP. The responsible key person for social monitoring shall be the Social monitoring specialist/Social Coordinator who is part of the RAP implementation team.

#### 13.1.2 General Objectives of Monitoring and Evaluation

The general objective of this M&E system is to provide a basis to assess the overall success and effectiveness of the implementation of the project resettlement and compensation processes and measures. A number of objectively verifiable indicators (OVIs) will be used to monitor the impacts of the compensation and resettlement activities. These indicators will be used to measure the physical and socio-economic status of the PAPs, at the start, during and after resettlement compensation payments. The following parameters will be used to guide the measurement of the RAP performance:

- Each PAP household will have a digitised compensation file/record indicating his or her background situation before RAP (based on the census data), the compensation allocated and actually received, the impacts on land and property, the use of PAP assets /improvements after RAP, etc.;
- The mode of compensation preferred by PAPs and used by the PIT;
- The use of compensation payments and other resettlement assistance by PAPs;
- Grievance handling outputs and outcomes for respective PAPs;
- The number of grievances handled, the time expended and implementation of the resolution;
- PAPs' ability to re-establish their livelihood activities and property; and
- New or alternative livelihood activities or incomes established and productivity of such livelihood activities.

#### 13.1.3 Roles and Responsibilities of Social Monitoring Specialist

The roles and responsibilities of the Social Monitoring Specialist must contribute to the objectives of the monitoring process. The roles and responsibilities will involve:

- setting up a system to receive, collect and store on a regular basis, basic demographic and livelihood data about PAPs;
- identifying and improving the indicators to measure RAP performance;
- collecting and analysing M&E data against pre-compensation baseline information to be able to track and isolate changes in the livelihoods of the PAPs;
- setting up a system to enable PIT to use the M&E findings to improve RAP implementation measures and processes;
- maintaining in good order and regularly updating the M&E database;
- giving feedback to other officers in the PIT, on the RAP advisory committee, local government stakeholders, civil society and community;

The M&E will be undertaken regularly during implementation and also at the end for the purposes of compiling the Project Completion Report. The report will include an evaluation that ascertains whether resettlement compensation goals and objectives have been realised. Monitoring will be thematically carried out at two process levels: during the resettlement compensation payment period and after that period (post-compensation payment period). Each process or thematic monitoring period will have a number of monitoring issues which the M&E officer will pay attention to, as summarised in the **Table 23** below;

**Table 25: Monitoring thematic issues during and after compensation payments**

Monitoring periods	
Resettlement compensation payment period	Post-resettlement compensation payment period
<ul style="list-style-type: none"> <li>• Number of PAPs compensated</li> <li>• Number of PAPs with legal papers to new property</li> <li>• Number of PAPs with restored livelihood activities</li> <li>• Number of PAPs with registered grievances to GO</li> <li>• No of PAPs with resolved grievances</li> <li>• No of vulnerable PAPs assisted</li> </ul>	<ul style="list-style-type: none"> <li>• Number of PAPs with successfully restored livelihoods and assets</li> <li>• No of PAPs whose grievances have been resolved</li> <li>• Number of vulnerable groups assisted</li> </ul>

The relevant monitoring indicators against which to measure RAP implementation effectiveness are presented in **Table 24**. A monitoring form will be used for this purpose.

**Table 26: Proposed Monitoring Indicators**

Subject	Indicator	Variable
<b>Land</b>	Acquisition of land	Area of communal land acquired by KenHA road project Area of private land acquired? Area of government land acquired?
	Acquisition of buildings	Number, type and size of private buildings acquired Number, type and size of community buildings acquired Number, type and size of government buildings acquired
<b>Buildings/Structures</b>	Acquisition of other structures	Number, type and size of other private structures acquired Number, type and size of other community structures acquired
	Acquisition of trees Crop damage	Number and type of trees cut Acreage of crop damage
<b>Compensation, Re-establishment and Rehabilitation</b>	Compensation and re-establishment of affected owners/individuals	Number of homesteads affected (buildings, land, trees, crops) Number of owners compensated by type of loss Amount compensated by type and owner Number of replacement houses constructed Size, construction, durability and environmental suitability of Replacement houses Possession of latrines Water supply access Number of replacement businesses constructed
	Re-establishment of community resources	Number of community buildings replaced Number, type of plants lost Number of seedlings supplied by type Number of trees planted
<b>Hazards and</b>	Introduction of nuisance	Number of homesteads affected by

Subject	Indicator	Variable
Disturbances	factors	hazards and Disturbances from construction (noise levels, dust, Increased traffic levels)
Social/Demographic	Changes to homestead structure	Homestead size (births, deaths, migration in and out) Age distribution Gender distribution Marital status Relationship to homestead head Status of "vulnerable" homesteads
	Population migration	Residential status of homestead members Movement in and out of the homestead (place and residence Of homestead members)
	Changes to access	Distance/travel time to nearest school, health centre, church, shop, village
	Changes to health status	Nutritional status of resettled homestead members Number of people with disease by type (STDs, diarrhoea, malaria, immunizable disease) Mortality rates Access to healthcare services (distance to nearest facility, cost of services, quality of services) Utilization of healthcare services Disease prevention strategies Extent of educational programmes Latrine provision at schools (schoolchild population per VIP on site)
	Changes to status of women	Participation in training programmes Use of credit facilities Land holding status Participation in related activities and enterprises
	Homestead earning capacity	Ownership of capital assets Land holding status (tenure) Changes to livestock ownership:pre and post disturbance Value of livestock sales, and imputed value of barter transactions Employment status of economically active members Skills of homestead members Earnings/income by source, separating compensation payments Changes to income earning activities – pre and post disturbance Amount and balance of income and expenditure Realization of homestead income restoration plans (components implemented, net income achieved) Possession of bank and savings accounts Access to income generating natural resource base (wood, grass, sand, stones)
	Changes in social organization	Organizational membership of homestead members Leadership positions held by

Subject	Indicator	Variable
		homestead members
	Population influx	Growth in number and size of settlements, formal and informal Growth in market areas
<b>Consultation</b>	Information dissemination	Number, position, staffing of Information Centres Staffing, equipment, documentation of Information Centres Activities of Information Centres Number of people accessing Information Centres Information requests, issues raised at Information Centres
	Grievances resolved	Number of grievances registered, by type Number of grievances resolved Number of cases referred to court
	Consultation programme operation	Number of local committees established Number and dates of local committee meetings Type of issues raised at local committees meetings Involvement of local committees in KeNHA development planning Number of participating NGOs
<b>Training</b>	Operation of training programme	Number of local committee members trained Number of affected population trained in Project related courses
<b>Management</b>	Staffing	Number of implementing agencies by function Number of GoK ministry officials available by function Number of office and field equipment, by type
	Procedures in operation	Census and asset verification/quantification Procedures in place Effectiveness of compensation delivery system Number of land transfers effected Coordination between local community structures, KeNHA and GoK officials

### 13.1.4 Frequency of Monitoring

The frequency of monitoring is influenced by the parameter being monitored and its dynamic nature. The monitoring frequency will vary from monthly to yearly. The frequency of monitoring of other parameters will be determined by project implementers. Refer to **Table 25** for frequency of monitoring various RAP parameters

**Table 27: Frequency of Monitoring**

Nr	Parameter	Monitoring Frequency
1.	Payment of Compensation	Monthly
2.	Resettlement of PAPs in the new environment	Monthly
3.	Compliance with resettlement conditions	Monthly
4.	Health trends of PAPs	Quarterly

5.	PAP income restoration	Quarterly
6.	Quality of life of PAPs	Quarterly
7.	School attendance of PAP children	Quarterly
8.	Effectiveness of mitigation measures	Monthly

## 13.2 External Evaluation

An independent monitoring unit (IMU) should be established to evaluate implementation of compensation and resettlement. The IMU shall be appointed to monitor the resettlement and compensation process and implementation of requirements to verify that compensation, resettlement and rehabilitation have been implemented in accordance with the agreed RAP. The IMU should include personnel with resettlement and social development experience and should include relevant representatives from County RC. The project affected persons should be represented through relevant PAP Committee. The objective of this unit will also be to provide a forum for skills-sharing and to develop institutional capacity. It is important that the Unit is able to maintain a strong, independent position and provide constructive feedback to the project to ensure the objectives are met.

### 13.2.1 Objectives

The IMU will also be involved in the complaints and grievance procedures to ensure concerns raised by PAPs are addressed.

More specifically, the IMU will carry out the following:

- Review the results of the internal monitoring and review overall compliance with the RAP recommendations;
- Assess whether relocation objectives have been met especially with regard to housing, living standards, compensation levels, etc.;
- Assess general efficiency of relocation and formulate lessons for future guidance
- Determine overall adequacy of entitlements to meet the objectives.

### 13.2.2 Agency Responsibilities

The proponent will hire an organization for the independent monitoring and evaluation of RAP implementation. The organization, to be called the Independent Monitoring Agency (IMA) will be specialized in social sciences and experienced in resettlement monitoring. The IMA should start its work as soon as the compensation has been completed.

### 13.2.3 Methodology

The Monitoring & Evaluation advisors will use the baseline information that has been collected included in this RAP report and would hence be in a position to note changes that may have occurred before and after resettlement.

The basis of comparison could be qualitative, although a quantitative measure could also be developed based on per capita maintenance costs. The Consultant would recommend land for land compensation rather than financial compensations for land. This would ensure that funds are not misused causing displacement to family members. The choice of the relocation site would depend the PAPs.

The independent monitoring unit (IMU) should do a closure audit after the resettlement programme has been completed. The purpose of the closure audit is to evaluate if the resettlement programme delivered the expected benefits to the PAPs and

all stakeholders and evaluate if the project was managed well. In addition the closure audit assess what was done wrong and what contributed to successes and to identify changes to improve the delivery of future projects.

#### **13.2.4 Reporting**

After monitoring and evaluation, reports shall be generated. Reporting stage will follow the analysing of information. The report will be in written form and can be made into PowerPoint presentation. These reports shall be put on the proponent website for access by interested and affected parties. The reports generated shall be shared with the project sponsor as per the agreed timelines.

**Table 28: Monitoring and Social Management Plans**

Nr	Social Impact Aspect	Project Stage	Mitigation Action Plans	Responsibility	Timeframe	Monitorable Indicators / Cost Estimates (KShs.)
1.	Relocation of Business/homesteads	Pre-Construction	Verify land tenure Discuss with the resident/owner Develop detailed resettlement plan Conduct resettlement Monitor resettled persons	KeNHA	Finalised before the start of construction	Alternative land for relocation identified Resettlement Plan Number of persons resettled Reports on resettled persons Costs to be determined by resettlement in the plan At least six months duration
2.	Community misconceptions	Pre-Construction, Construction and Commissioning	Awareness creation amongst the community on the project facts	KeNHA  Local provincial administration  Local leaders	Commissioning of the project As required during implementation	Number of meetings held Community issues responded to Project progress reports and monitoring reports PAP Meeting during compensation Costs Estimated at KShs 50,000/= per meeting.
3.	Increase in social vices	Commissioning and Construction	Conduct Information Education and Communication (IEC) amongst the community and the project staff  Provide condoms at village and project level	Ministry of Education Health Centres Provincial Administration Local leaders Other development partners	Regularly throughout the project duration	Number meetings held Number of condoms distributed Number of IEC materials distributed Project progress reports Costing- t/shirts, fliers, posters, road-shows, condoms, banners.

Nr	Social Impact Aspect	Project Stage	Mitigation Action Plans	Responsibility	Timeframe	Monitorable Indicators / Cost Estimates (KShs.)
4.	Loss of farm size	Pre-Construction	<p>Verify land tenure</p> <p>Discuss with the resident/owner</p> <p>Develop a resettlement plan</p> <p>Create awareness on land alternatives</p>	<p>Ministry of Lands</p> <p>Resettlement Plan Expert</p> <p>Resettlement Plan Expert</p> <p>Ministry of Lands</p>	Finalised before the start of construction	<ul style="list-style-type: none"> <li>• Resettlement Plan</li> <li>• Reports on loss of farm size</li> <li>• Reports on adoption of alternative land use practices</li> <li>• Cost as in the resettlement plan</li> <li>• At least six months duration</li> </ul>
5.	Cultural and religious based community conflict	Construction	Promote activities that are common to the communities and project employees that create common understanding such as sports	<p>Project management</p> <p>Local leaders</p>	Ongoing during construction	<ul style="list-style-type: none"> <li>• Number of joint meetings/activities held</li> <li>• Progress reports of project</li> <li>• Costs: activities once a month</li> </ul>



For purposes of compiling the Project completion Report, the monitoring and evaluation will examine RAP implementation effectiveness and outcomes as outlined in **Table 27** below:

**Table 29: External evaluation thematic issues**

Thematic Issues	
<ul style="list-style-type: none"> <li>• Process indicators that measure effectiveness of RAP implementation processes.</li> </ul>	<ul style="list-style-type: none"> <li>• Outcome indicators (the main design of outcome evaluation will be a pre- and post-compensation analysis).</li> </ul>
<ul style="list-style-type: none"> <li>• Adequacy indicators (staff numbers/skills/knowledge levels; and facilities) at PIT</li> <li>• Compliance indicators (legislative compliance to local and the Lenders Policies)</li> <li>• Effectiveness indicators (resource utilization against outputs of the RAP implementation)</li> <li>• Coordination indicators (adequacy and promptness of collaboration of RAP implementing agencies)</li> </ul>	<ul style="list-style-type: none"> <li>• Livelihood changes among PAPs' households.</li> </ul>

## 14 IMPLEMENTATION SCHEDULE

The implementation schedule provides a set of activities from the 1<sup>st</sup> stage of planning to 2<sup>nd</sup> stage of implementation. KeNHA is at the stage of implementation of the RAP that was approved and disclosed in 2014. The updated RAP has reviewed the set of activities incorporated to enhance safeguard of the PAPs and assigned feasible time schedule.

**Table 30: Breakdown RAP Finalization**

Year	2016											2017											
Project Phase	RAP Review Study											RAP Implementation											
Month	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	
<b>1.0 RAP Review Study Activities</b>																							
1.1 Approval of RAP Updated Report																							
1.2 Disclosure of Updated RAP Report and further Consultation																							
1.3 Livelihood Restoration Plan																							
<b>2.0 RAP Implementation</b>																							
2.1 Validation of Assest Ownership and Values (NLC)																							
2.2 Notification for Land Acquisition																							
2.3 Issuance of Awards (NLC)																							
2.4 Payment of Compensation (NLC)																							
2.5 Capacity Building of PAP Committees																							
2.6 Formation of Grievance Management Committees																							
2.7 Preparation for Clearance of the Road Corridor																							
2.8 Livelihood Restoration Activities																							
2.9 Monitoring Activities																							

## **14.1 Additional Details on the process for Land acquisition**

### **14.1.1 Notification**

This is the 1<sup>st</sup> stage of implementation of RAP which requires Government of Kenya's notification to acquire land for the purpose of the road expansion project. KeNHA received approval to acquire additional land for the road project from the parent ministry; Ministry of Transport and Infrastructure. This approval enabled KeNHA to engage the National Land Commission to initiate the land acquisition process. This has resulted to the publication of Official Gazette Notice of the registered land owners indicating the Government's intention to acquire land for this road project. A follow up notice for enquiries to validate ownership will be undertaken after the NLCs validation of assets affected and losses to be incurred as a result of the project.

### **14.1.2 Issuance of compensation awards**

This is the stage where the PAPs will be issued with compensation awards for the losses they will incur as a result of the project. This process will allow the PAPs to understand in details the losses they incur and awards issued for each loss. This process will allow the PAPs with an opportunity to accept or reject the compensation value. Compensation will be processed if the PAP accepts the award and for those who will reject will be subjected to the grievance redress mechanism.

### **14.1.3 Preparation for clearance of the road corridor**

At this stage the PAPs will be prepared for surrender of their property. This may be achieved through ways that include giving information in written form and individual consultations. The role of the partnering NGOs in this respect will be very significant. The role of NGOs will undertake counselling of the PAPs and empowering them on prudent application of the compensation money. This will include offer of basic training for those planning to diversify their investment portfolios. Consultation with the community will be done throughout the RAP implementation process. No physical relocation from the Mombasa-Mariakani Road should commence before alternate arrangements have been made and a sufficient notice to vacate will be provided to PAPs before relocation.

### **14.1.4 Compensation and resettlement allowances**

During this stage, compensation is made in accordance with standard Government procedures and the policies set out in this resettlement plan. The structures within the road corridor shall be demolished by the owners who will be entitled to take with them the salvage material to their new site during the period of vacate notice.

## 15 COSTS AND BUDGETS

The RAP budget has been updated to reflect the findings on impacts on the affected ROW. This budget was determined for the land parcels, structures, businesses, trees and crops affected by the 42km long stretch of the Proposed Dualling of Mombasa - Mariakani A109 Road Project.

### 15.1 Total RAP Budget

Taking into account all factors, it is estimated that compensation for land, structures, loss of business and trees to be affected during the Proposed Dualling of Mombasa - Mariakani A109 Road Project and free from all encumbrances is approximately **KShs 6,525,815,953** which includes 15% disturbance allowance for all affected land and structures. The budget details are included in **Table 29**. It is worth to note that the original RAP had estimated the budget for compensation as about Kshs. 700 million, which is almost a third of the current estimate.

This is so because of the following:

- The number of property holders affected by the project and the RAP Budget have increased in the RAP review due to the inclusion of the design of the interchanges thereby bringing on board persons and their property that were not considered during the Initial RAP.
- The value of the affected property has also increased over the 2 year period that has lapsed since the initial RAP was conducted.

The impacts at these interchanges have contributed to the increase in the estimates for the cost of compensation. An additional 159 property holders will be relocated from the interchange areas where they are currently carrying out their business activities and have constructed structures.

**Table 31: Summary of Estimated Compensation Valuation (KShs)**

No.	Property	No. of Affected Property Holders	Size Affected (Ha)	Total No. of Affected Units	Total Amount (KShs)
1	Land		70		3,807,719,200
2	Structures	914		1,476	1,389,981,680
3	Loss of Business	692		746	135,126,023**
4	Trees	146		7,431	22,337,054
5	Crops	34		48	762,588
6	Livelihood Restoration Programme				316,616,023
		<b>947*</b>	<b>70</b>		
Total (Ksh)					<b>5,672,542,568</b>
Provision for Vulnerable PAPs					<b>2,080,000</b>
<b>Gross Total</b>					<b>5,674,622,568</b>
Contingency (15% of Gross Total)					<b>851,193,385</b>
<b>Grand Total (KShs)</b>					<b>6,525,815,953</b>

*\*The 947 affected property holders is not the cumulative of those listed along each category of affected property. It includes some who have a combination of various categories of assets affected by the project; e.g one owner having being affected on structure, business and trees/ crops or structure and business or structure, trees etc.*

*\*\*The totals for the loss of business is equivalent to 3 months' business income for every affected business. This will cushion the business PAPs from the loss suffered during the for the transition period*

**Table 32: Acreage and cost of land to be acquired**

Road Section	Chainage/ Coordinate	Area To Be Acquired (Ha)	Rate (Ksh/ HA)	Total
Land Before Changamwe Roundabout From Kibarani Flyover	5+000 - 5+500	<b>4.1649</b>	120,000,000	499,788,000
Changamwe Roundabout	5+600 - 5+800	<b>1.2439</b>	135,000,000	167,926,500
Changamwe Roundabout To Mikindani Interchange	7+900 - 8+400	<b>1.2459</b>	120,000,000	149,508,000
Mikindani Interchange	8+400 - 8+500	<b>0.9204</b>	65,000,000	59,826,000
Mikindani To Kwa Jomvu Interchange	10+600 - 11+200	<b>2.5948</b>	65,000,000	168,662,000
Kwa Jomvu Interchange	11+300	<b>1.1799</b>	135,000,000	159,286,500
Kwa Jomvu-Dogo Kundu	12+900 - 14+200	<b>2.7406</b>	32,000,000	87,699,200
Dogo Kundu-Mariakani End	14+300 - 41+400	<b>55.8894</b>	45,000,000	2,515,023,000
<b>Total</b>		<b>69.9798</b>		<b>3,807,719,200</b>

## 15.2 RAP Budget per Location

The distribution of affected property per location shows that Mikindani location has received most impact considering the type of structures being affected. **Table 31** gives the affected property and cost per location.

**Table 33: Summary of Cost of Affected Structures, Businesses & Trees per Location**

No.	Sub-County	Location Name	Number of Property Holders	Number of Affected structures	Number of Affected Trees	Affected Crop Units	Number of Affected Businesses	Total (KShs)	Adults	Children	Total PAPS
1	Mombasa	Mwembe Tayari	1	1	0	0	0	85,905	1	0	1
2	Mombasa	Tononoka	3	4	161	0	2	649,975	1	0	1
3	Mombasa	Tudor	3	3	0	0	2	514,925	3	0	3
4	Mombasa	Majengo	6	6	0	0	6	311,830	6	0	6
5	Changamwe	Changamwe	95	102	2092	1	89	42,333,298	87	0	87
6	Changamwe	Miritini	60	90	48	1	53	55,715,665	59	1	60
7	Changamwe	Mikindani	184	315	320	11	138	609,524,513	216	62	278
8	Changamwe	Jomvu	168	236	342	2	156	169,133,514	157	16	173
9	Rabai	Rabai	220	394	3,921	27	131	410,477,676	268	75	343
10	Kaloleni	Mariakani	207	325	547	6	169	259,460,045	194	11	205
11	Affected Land							3,807,719,200			
12	Livelihood Restoration Programme							316,616,023			
	<b>Total</b>		<b>947</b>	<b>1,476</b>	<b>7,431</b>	<b>48</b>	<b>746</b>	<b>5,672,542,569</b>	<b>992</b>	<b>165</b>	<b>1,157</b>
<b>Provision for Vulnerable PAPs (Ksh)</b>								<b>2,080,000</b>			
<b>Gross Total (Ksh)</b>								<b>5,674,622,569</b>			
<b>Contingency (15% of Gross Total) (Ksh)</b>								<b>851,193,385</b>			
<b>Grand Total (KShs)</b>								<b>6,525,815,954</b>			

### 15.3 Flow of Funds

It will be the responsibility of KeNHA to channel payment directly to affected persons bank accounts with respect to land, houses, other structures and any allowances. KeNHA will also undertake monitoring of the compensation process carried out and a measure of its success or otherwise.



## 16 CONCLUSIONS AND NEXT STEPS

### 16.1 Summary of Key Findings

The proposed road project is in Mombasa and Kilifi Counties in the Kenyan coastal region. The road traverses mainly through an existing ROW which has been encroached. The RAP review process has proposed the reduction of properties previously affected through an analysis of optimal alignment necessary for the road design features as per the final road designs in order to minimise resettlement impacts and disturbances arising from the road project. However, even with the efforts to minimise impacts, the current RAP has estimated that a total of about 70ha of land will be acquired for the road development between Mombasa to Mariakani. This has increased because the interchanges will require additional land than was in the original design. The reduction on resettlement has not been very notable on land to be acquired because the reduction of impacts was mainly on trying to avoid large buildings constructed on the encroached road reserve.

The following are a summary of the findings:-

- Displacement of persons will mainly occur at various town centres along the road;
- The local community, stakeholders and PAPs showed significant support of the project
- Project affected persons expressed the need for transparent valuation and compensation process for the affected impacts.
- The community awareness of the proposed project is rated very high with many people expectant of the gains that will accompany its implementation. The PAPs are a mix of locals and immigrant from other counties who have settled in the project area for business purposes.
- All PAPs are willing to be relocate however, full compensation and resettlement assistance must be guaranteed
- Majority of the PAPs who will be relocated would wish that the relocation be close to their present business area to ensure continued access to clients, customers and suppliers.
- The informal small scale traders welcomed the idea of relocation as it will enhance their security of tenure thereby enhancing their livelihoods in the long run.
- A total of 947 property holders will be affected by the project. This will include 914 losing structures, 692 losing business, 146 losing trees and 34 losing crops,. The 947 affected property holders will loss both structures and businesses or structures and either trees/crops.
- 

### 16.2 Conclusions

The Proposed Dualling of Mombasa - Mariakani A109 Road is a viable project that will benefit the community by improving movement of people transportation and goods, through enhanced access to the to and from the coastal region of Kenya and increase in trade and economic activities in the region. Even though the proposed project will contribute to displacement of persons, loss of business and some disruptions during construction, there are however, numerous benefits that will arise and coupled with the implementation of the provision of the RAP, safeguard of the affected will be enhanced.

Where displacement or impact is unavoidable, appropriate mitigation measures will be put in place to reduce to a minimum or eliminate any undesirable effects of the project. There was prior awareness and knowledge of the project from the initial RAP community sensitization and consultation exercise.

After this study the project affected persons should all continuously be informed of the project progress and the timelines of the major activities like compensation offer presentation and negotiation, compensation payment, relocation and resettlement.

The Mombasa and Kilifi County governments and local communities in the proposed project area fully support the project but requested to be fully informed on the resettlement plans. The communities also requested to be engaged in the planning and implementation at all levels so that they can be sure to get first-hand information and details regarding compensation and resettlement including timelines. There is also need to involve the chiefs of the areas where the road has affected households and pieces of land in order to verify the legal owners before compensation to avoid family feuds and mistrust.

### 16.3 Next Steps

1. The Proposed Dualling of Mombasa - Mariakani A109 Road project is viable, important for the local community and to the country in general as it will ease the heavy traffic currently experienced from and to Mombasa City and the port of Mombasa. However, the study has established that there will be significant displacement of persons requiring compensation and resettlement.
2. KeNHA will undertake more awareness and disclosure of the updated RAP to enhance knowledge on the provisions to safeguard those that shall be affected by the project.
3. KeNHA will ensure that all affected persons are continuously consulted through the RAP implementation process. The PAPs should be fully compensated in a timely manner. The identification and acquisition of land for resettlement should be done with due consideration of the wishes of the affected persons and support given after resettlement to ensure that the project does not leave them worse off.
4. The entire project affected persons who will be displaced or relocated, will be informed in good time (given approximately 3 month to prepare them for relocation) and modalities of conducting resettlement counselling put in place.
5. KeNHA will negotiate for compensation for any land that may be affected by the project even without legal land documents.
6. KeNHA will engage further in the process of formulation of livelihood restoration plan to include the following:-
  - a. Based on the approach described in Section 10 of this report, KeNHA will prepare a livelihood restoration plan upon approval of the updated RAP report.
  - b. The livelihood restoration plan will comprise of a set of activities to be undertaken during the detailed design and road construction phase. The livelihood restoration plan shall include proposed livelihood restoration measures for project affected persons as well as necessary administrative procedures, institutional responsibilities, provisions for continued consultation with the PAPs & other stakeholders and measures for monitoring & evaluation.
  - c. The Plan will also contain provisions to ensure that PAPs will be able to make informed decisions regarding their participation in certain livelihood restoration measures.
  - d. The overall concept of measures will reflect a vulnerability analysis and related findings pointing to the specific needs of vulnerable groups. The needs for these groups will either be through provision of additional support mechanism or through the targeted design of program measures.
  - e. The livelihood restoration plan will be publicly disclosed at the level of the stakeholders and on KeNHA's website.

## 17 REFERENCES

National Atlas of Kenya, Fourth Edition (1991).

Feasibility Study, ESIA and Detailed Engineering Design for Dualling of Mombasa – Mariakani (A109) Road, AECOM RoA (PYT) Ltd. and CAPE CONSULT

Environmental and Social Impact Assessment (ESIA) Study Report for Dualling of Mombasa – Mariakani (A109) Road by AECOM RoA (PYT) Ltd. and CAPE CONSULT, 2014

Resettlement Action Plans Study Report for Dualling of Mombasa – Mariakani (A109) Road by AECOM RoA (PYT) Ltd. and CAPE CONSULT, 2015

AfDB's Integrated Safeguards System - Policy Statement and Operational Safeguards, December 2013

AfDB's Involuntary Resettlement Policy, 2003

Environmental and Social Handbook, EIB, 2013

The EIB Statement of Environmental and Social Principles and Standards<sup>1</sup>, 2009

Public Roads and Roads of Access Act (Cap. 399)

The Land Act 2012

The Land Adjudication Act, Cap. 284

[The Land Control Act](#) Cap 302

The Land Planning Act, CAP 303

The Local Government Act, CAP 265

The Physical Planning Act, CAP 286

The Traffic Act Cap. 403

The Valuers Act Cap 532

Republic of Kenya, National Development Plan

World Bank Resettlement Handbook.

World Bank. 1993. The World Bank and the Environment.

World Bank. 1991. Environmental Assessment Sourcebook. Volume I. Policies, Procedures and Cross-Sectoral Issues. Environment Department. Technical Paper No. 139.

World Bank. 1991. Environmental Assessment Sourcebook. Volume II. Sectoral Guidelines.

Environment Department. Technical Paper No.140.

World Bank. 1991. Environmental Assessment Sourcebook. Volume III. Guidelines for Environmental Assessment of Energy and Industry Projects. Environment Department. Technical Paper No.154.



**18 COLOPHON**

KeNHA/Reviewing & Updating of RAP for the Proposed Dualling of Mombasa - Mariakani  
 A109 Road Project  
 Pan-16-037

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Client	: Kenya National Highways Authority
Project	: Consultancy Services for the Reviewing & Updating of RAP for the Proposed Dualling of Mombasa - Mariakani A109 Road Project
File	: Error: Reference source not found
Length of report	: 117 pages
Author	: PANAFCON Ltd.
Project Manager	: Joshua Oyieko
Project Director	: OKELLO, Richard O.
Date	: February 2017
Name/Initials	: oro/im

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## ANNEXES

## Annex 1: Sample of PAP Household Questionnaire

**Annex 2: Minutes of Consultation Meetings**



**Annex 3: Consultation Meetings Attendance Registers**

**Annex 4: List of PAP Committees**

**Annex 5: Various issues raised during the public sensitization meetings**

**Annex 6: Financial Training for Sustainable Use of Cash Compensation**

**Annex 7: Project Impacts**

**Annex 8: Issue likely to be addressed in the GRM**

**Annex 9: Industries Removed from the Mombasa – Mariakani Road RAP**

**Annex 10: Beaconsing & Pegging Survey Report**



**Annex 11: Draft Grievance Form**

**Annex 12: Land Acquisition Kenya\_Gazette\_Vol.\_CXVII\_-\_No.\_141\_of\_2015**

**Annex 13: Sample of Compensation Award letter**

**Annex 14: CAP Signed Entitlement Matrix**

**Annex 15: Final Review CAP Report-21 May 2016**

**Annex 16: CAP Implementation Schedule 2016**

**Annex 17: Persons Paid in Jomvu and cheque numbers**

Annex 18: Roles and Responsibilities ~~of the~~of the Community Liaison Officer



**Annex 19: Project Maps (included separately)**

**Annex 20 : Livelihood Restoration Framework for Mombasa Mariakani Road**