



**AFRICAN DEVELOPMENT  
BANK GROUP**

**PROJECT:** EAST AFRICAN COASTAL CORRIDOR DEVELOPMENT  
PROJECT: BAGAMOYO – TANGA – HOROHORO/  
LUNGA LUNGA – MALINDI ROAD PROJECT: PHASE 1

**COUNTRIES:** KENYA AND TANZANIA

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**RAP SUMMARY FOR THE PROPOSED UPGRADING OF MOMBASA -  
MTWAPA – KWA KADZENGO-KILIFI (A7) SECTION, KENYA**

*Date: May 2019*

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|---------------------|---|
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## 1. INTRODUCTION

**1.1** The Government of the Republic of Kenya, through its implementing agency, the Kenya National Highways Authority (KeNHA) and support of the African Development Bank (AfDB) is undertaking review of the Mombasa-Mtwapa-Kadzengo-Kilifi (55 Km) Section of the A7 Highway which previously underwent Feasibility Study and Detailed Design as part of the Multi-national Lunga Lunga-Mombasa-Malindi (A7) Road Project. Towards this, KeNHA commissioned a consortium led by Uniconsult Engineering Consultants Ltd to undertake the Consultancy Service for Review of the Feasibility Study, Environmental and Social Impact Assessment, Resettlement Action Plan and Detailed Engineering Design of Multinational Malindi – Lunga Lunga/Tanga–Bagamoyo Road Corridor Development with specific focus on the upgrading of Mombasa – Mtwapa – Kwa Kadzengo - Kilifi (A7) Section.

**1.2** As part of ongoing Feasibility Study for the Project and in keeping with both Kenyan and international requirements for sustainable development the Project was subjected to Africa Development Banks Operational Safeguards which picked displacement from property and livelihoods as a key possibility in the Project. Subsequently, a Resettlement Action Plan (RAP) has been prepared to guide mitigation of displacement impacts.

**1.3** The Resettlement Action Plan is designed to meet objectives as follows;-

- i) To identify and assess potential environmental and social impacts of the proposed project.
- ii) To identify all potential significant adverse environmental and social impacts of the proposed project.
- iii) To identify and quantify different categories of Project Affected Persons (PAPs) who would require some form of assistance, compensation, rehabilitation or relocation.
- iv) To provide guidelines to stakeholders participating in the mitigation of adverse social impacts of the project including compensation and rehabilitation for affected people.
- v) To verify compliance with the environmental regulations and industry's standards including the AfDB's Operating Strategies.
- vi) To generate baseline data for monitoring and evaluation of how well the mitigation measures will be implemented during the project cycle

**1.4** This RAP has been prepared consistent with the applicable policy provisions of Kenyan Government and AfDB's Operating Strategies to minimize the land acquisition and displacement, livelihood and associated impacts. Basically, this RAP presents an inventory (register) of people likely to be affected by development of the target bridges, a register of the assets that are likely to be displaced by the project and the proposed compensation package.

## 2. POLICY AND LEGAL FRAMEWORK

**2.1** The RAP study has been undertaken in accordance with the relevant Kenya legislations that trigger land acquisition, resettlement and compensation including the AfDB policy on involuntary resettlement as follows.

- The Constitution of Kenya
- The Land Act 2012;

- The Land Registration Act 2012;
- National Land Commission Act 2012
- The Environment and Land Court Act 2011;
- The Roads Act of 2007
- AfDB’s Operating Strategies for Environmental and Social Considerations 2010.

**2.2** This RAP has been prepared in line with the Integrated Safeguards System of the AfDB designed to promote the sustainability of project outcomes by protecting the environment and people from the potentially adverse impacts of projects. The RAP process therefore has aspired to secure aims of the ISS namely;-

- Avoiding adverse impacts of project on the environment and affected people, while maximising potential development benefits to the extent possible;
- Minimising, mitigating, and/ or compensating for adverse impacts on the environment and affected people when avoidance is not possible; and
- Helping the GOK to strengthen local safeguard systems and develop the capacity to manage environmental and social risks

### 3. SOCIAL IMPACTS

#### 3.1 Potential displacement of assets

**3.1.1. Land assets:** From inventory of PAPs undertaken (Table ES01), development of the 56.1Km Road Project inclusive of the Second Mtwapa Bridge is likely to affect a total of 378 land parcels accounting for 19 hectares of land. With the exception of the first 4 kilometres of the Project which traverse very high density settlements, the Project traverse is essentially through low density settlements which explains the low number of plots traversed in Kilifi in spite of the County accounting for 76% of the road length.

**Table 1: Distribution of landed PAPs by administrative jurisdiction**

| County        | Road Length (Km) | Total acquisition |           |             |
|---------------|------------------|-------------------|-----------|-------------|
|               |                  | Parcels           | Hectares  | Acres       |
| Mombasa       | 13.5             | 255               | 15.2      | 37.5        |
| Kilifi        | 42.6             | 123               | 3.8       | 9.4         |
| <b>Totals</b> | <b>56.1</b>      | <b>378</b>        | <b>19</b> | <b>46.9</b> |

Source: This Study

**3.1.2. Total structures:** The entire road project will displace a total of 388 structures 359 (92.5%) are single storied and mainly semi-paramant. The bulk of displacement is encountered between Km 0+800 to Km 4 + 200 where the project traverses the three informal settlements of VOK, Ziwa La Ngombe and Bombolulu in Mombasa County. The rest of the traverse is through land held by institutions and corporate players such as Bamburi, Shanzu Teachers training College, Shimo la Tewa Prison among others.

**Table 2: Stratification of permanent structures by nature of build**

| Road section | NS         | SS        | 2S       | 3S       | 4S       | 5S       | Totals     | Share (%)  |
|--------------|------------|-----------|----------|----------|----------|----------|------------|------------|
| Mombasa      | 274        | 16        | 5        | 0        | 0        | 0        | 295        | 76.0       |
| Kilifi       | 85         | 8         | 0        | 0        | 0        | 0        | 93         | 24.0       |
| <b>Total</b> | <b>359</b> | <b>24</b> | <b>5</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>388</b> | <b>100</b> |

*Key: NS-Non-storied, 1-5S-Total Storeys*

### 3.2 Potentially displaced population

**3.2.1. Total Displacement:** Four (4) categories of PAPs can be recognised in the Projects Area of Influence namely; - (i) Property Owners (both titled and non-titled), Business Tenants-BT (loss of livelihoods and means to livelihood); Residential Tenants-RT (means to livelihood-shelter) and employees (means to livelihood). A total of 1531 PAPs falling in the 4 categories are likely to be displaced as enumerated in Table 3 below. Property owners are the single largest category at 40.4% followed by business tenants at 37.4%. Essentially however, tenants (both residential and traders) comprise majority of the PAPs at 51.8% which goes to confirm the strategic role of the A7 road as an economic enabler in the North Coast area.

**Table 3: Distribution of PAPs by category**

| PAP Category        | Total tally | Share (%)  |
|---------------------|-------------|------------|
| Property owners     | 618         | 40.4       |
| Residential tenants | 221         | 14.4       |
| Business tenants    | 572         | 37.4       |
| Employees           | 120         | 07.8       |
| <b>Total</b>        | <b>1531</b> | <b>100</b> |

Source: This Study

**3.2.2. Geographic spread of displacement:** Mombasa County accounts for the largest share of PAPs at 76.3% with Kilifi accounting for the remainder 23.7%. As well, the Mombasa section of the traverse recorded the highest share in all PAP categories but commands highest proportion of tenants at over 82%.

**3.2.3. Displacement of livelihoods:** Project development will displace 572 business tenants and 120 employees accounting for 45.2% of all PAPs while a total of 221 residential tenants and their families are likely to suffer loss of shelter.

**3.2.4. Displacement of Common Property Resources:** A total of 19 CPRs will be impacted. Of these, religious institutions are leading at over 36.84% followed by GOK Institutions (Police Station, GK Prisons, Law Courts, Shanzu Teachers Training College, Institutions of learning, among others) where main losses will mainly include displacement of perimeter fencing, gates and access roads.

3.2.5. *Mosques:* Assets belonging to three mosques are likely to be affected. While road expansion will only clip external walls for Masjid Sheikh Zayed, it is likely to affect the main structure for Masjid Sunnah and Masjid Taqwe, with the latter also losing its Madrassa.

3.2.6. *Cemeteries:* One public cemetery located on LR IMN/I/1410 at Km 1+580 on the RHS and locally identified as Makaburini is potentially affected by road expansion. Within this Cemetery which is property of Mombasa County Government, eight (8) graves located within the Children Section will be displaced in road expansion.

3.2.7. *Public Schools:* A total of 5 schools, three of which are public are likely to be affected. They stand to lose fences, and sections of their grounds abutting the road project.

3.2.8. *Displacement of trees and crops:* A total of 7260 assorted trees are likely to be displaced from the reserve of the 56.1-kilometer-long Mombasa-Mtwapa-Kadzengo-Kilifi Road of which, the naturally regenerating/colonising neem tree recorded the highest presence at between 17.4 to 21.4% occurrence.

## 4. SOCIO-ECONOMIC PROFILE OF PAPS

4.1 *Sample composition:* A total of 480 respondents representing the four (4) PAP categories were and equivalent to 31.4% of the entire PAP population was used in the study. With the exception of employees, the sample represented between 29 to 35% of each PAP category. In line with the observed trend whereby Mombasa accounts for the highest number of PAPS, the sample for socio-economic survey displayed a similar trend and in general, 75% of respondents were picked from Mombasa County with rest coming from Kilifi County.

**Table 4: Stratification of sample by PAP Category**

| PAP Category        | Total tally | Share (%)  | Sample size | Representation (%) |
|---------------------|-------------|------------|-------------|--------------------|
| Property owners     | 618         | 40.4       | 204         | 33.0               |
| Residential tenants | 221         | 14.4       | 64          | 29.0               |
| Business tenants    | 572         | 37.4       | 200         | 35.0               |
| Employees           | 120         | 7.8        | 12          | 10.0               |
| <b>Total</b>        | <b>1531</b> | <b>100</b> | <b>480</b>  | <b>31.4</b>        |

Source: This study

4.2 **Age patterns among respondents:** All participants in the socio-economic survey were of age 20 years and above and were physically present in the traverse area during the questionnaire survey. The age category of 31 to 40 years emerged dominant (Fig 3.3) followed by the 41 to 50 years category implying that, the bulk of respondents, and by extension residents of the traverse, are aged 30-50 years. 352 (74%) respondents are aged below 50 years and are within productive age group and the project area will be potential labour market during project construction.

4.3 **Patterns among PAP categories:** Age dynamics vary greatly among PAP categories with Residential and Business Tenants form majority of the youthful population of 40years and below. Beyond 30 years age set however, the population of both categories declines sharply and is near absent at age 60years. Beyond this age, both categories have either relocated or become property

owners. Population of property owners is quite low within the youthful age categories but rises steadily to peak at age 40 years beyond which, it is both the dominant and actually only category feasible in the traverse area. This is reflective of the Kenyan pattern of economic progression whereby, individuals endeavor to save earnings and acquire property and economic stability with age.

**4.4 Gender stratification of respondents:** The male gender is overall dominant at 58.9% of sample and also leads all categories with the exception of Residential Tenants. The latter is probably in keeping with the Kenyan trend whereby many ladies are housewives who stay behind to mind families while husbands go out to earn the livelihood.

**4.5 Religion of respondents:** Christianity is the dominant religion in the traverse area (Table 3.10) followed by Islam and Hinduism.

**4.6 Length of residence:** General trends: The bulk (87.3%) of respondents and by extension, the local population has lived in the project area for less than 30 years (Table ES07) with 56.2% having less than 10 years of residence. The remaining small minority making 12.7% of the population and mainly comprising of property owners have lived in the project area for periods ranging from 30 to over 80years.

**Table 5: Analysis of length of residence amongst respondent categories**

| Respondent category | Length of residence (years) |             |             |            |            |            |            |            | Tally        |
|---------------------|-----------------------------|-------------|-------------|------------|------------|------------|------------|------------|--------------|
|                     | 1-10                        | 11-20       | 21-30       | 31-40      | 41-50      | 51-60      | 61-70      | >70        |              |
| Property owners     | 34                          | 27          | 40          | 25         | 13         | 6          | 4          | 5          | 154          |
| Residential tenants | 84                          | 20          | 4           | 4          |            | 2          |            |            | 114          |
| Business tenants    | 143                         | 48          | 7           | 2          |            |            |            |            | 200          |
| Employees           | 8                           | 2           | 1           |            | 1          |            |            |            | 12           |
| <b>Total</b>        | <b>269</b>                  | <b>97</b>   | <b>52</b>   | <b>31</b>  | <b>14</b>  | <b>8</b>   | <b>4</b>   | <b>4</b>   | <b>479</b>   |
| <i>Share (%)</i>    | <i>56.2</i>                 | <i>20.3</i> | <i>10.9</i> | <i>6.5</i> | <i>2.9</i> | <i>1.7</i> | <i>0.8</i> | <i>0.8</i> | <i>100.0</i> |

Source: This Study

**4.7 Trends specific to PAP categories:** Tenant PAPs form the majority in the 1-20 years residence category but drop drastically after 15 years. None of the tenants has lived in the area for more than 25 years. On the contrary, property owners show a low but consistent and prolonged pattern of residence and are the only visible group beyond the 50 years mark which, as observed elsewhere above possibly points to ancestral land ownership. Indeed, the fact that Kilifi County dominates for residence periods in excess of 50 years (see inset) is indicative of ancestral land ownership.

**4.8 Household characteristics:** Head of Household: The question on composition of households attracted only 409 respondents probably implying that some respondents are single and outside of any kind of family set up. This notwithstanding, the male gender dominates among heads of households at 83.4% of total count.

**4.9 Mean household size:** The mean household size across all PAP categories was observed to be 5.9 but ranges from 4.75 to 7.13. Mean which is slightly higher than the national average of

5. 9. Household size seems variable for property owners sub categories but is stable and near uniform for tenants and employees.

**4.10 Education of attainment:** Majority (94.7%) of the respondents have been to school as only 5.4% reported having no formal training. As well, 67.3% of respondents have attained secondary school education and above. Generally, secondary school is the most common education level accounting for 40% penetration followed by primary level at 30.5%.

**4.11 Education achievement across gender:** Analysis of respondents' data reveals that the female gender dominates in only one category- that with no formal education while males dominate in all cadres of education. Male Business Tenants lead in most cadres of education followed by male property owners. Female Business Tenants dominate in the primary and secondary cadre but are overtaken by residential counterparts at the Post-Secondary Cadre implying that, female residential tenants have undergone professional/on job training.

**4.12 Occupation of respondents:** Business/Trade is the dominant occupation in the corridor directly accounting for 74.5% of respondents and by extension, the population within traverse. Further, a high prevalence of tenancy trade further goes to confirm the esteemed position of the A7 highway as an economic in the area and disruption of such scenario through road expansion has to be managed to the lowest level possible so as to maximize on net gains from the road. Observed unemployment is high at 10.4% though slightly lower than the national average of 11.5% computed for year 2018 (<https://www.google.tradingeconomics.com>). Road construction is expected to provide measures to reduce unemployment and avoid anything that compounds unemployment in the area.

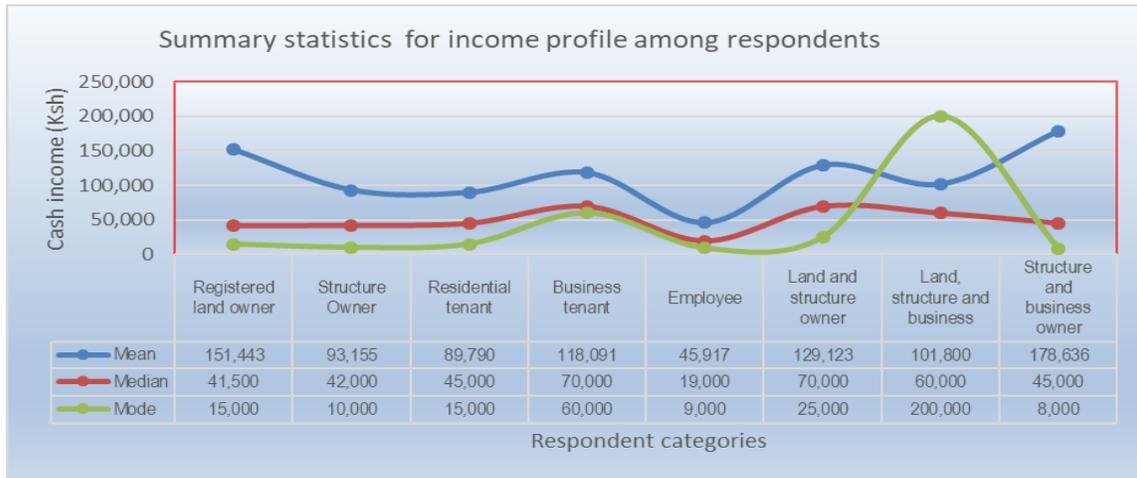
**4.13 Residence and work in the project area:** Information on the respondents' place of residence and work is crucial in validating claims on socio-economic impacts of the proposed development. With the exception of employees who largely work and live in the same place, all other categories have divergent patterns as follows:-

- While 86.8% of property owners work in the traverse area, proportionately less (63.4%) live in the same area meaning that the reminder 13.4% commute to work daily.
- The same situation is displayed by business tenants whereby 94% work in the project area with only 55.7% being resident implying that 34% commute to work.
- While all residential tenants reside in the area, a significant 83% also work from the same area.
- The employee segment of respondents largely live and work in the area at 83.3 and 90% respectively.

Significantly, over 83% of the local population live and work within the traverse area and are therefore the primary stakeholders to the Road Project.

**4.14 Income profile:** Income levels display high variability: Fig ES01 traces trends in summary statistics for income amongst diverse categories and subcategories of respondents. A high dispersion in the mean, median and modal income especially as displayed by property owners is indicative of very high variability with implication that a single figure is ineffective in describing income levels. Furthermore, mean values for income that are apparently elevated beyond the mode

or median are probably skewed upwards by occurrence of a few but exceptionally high entries. All these militate against forcing compressing income data for the traverse into a single average value.

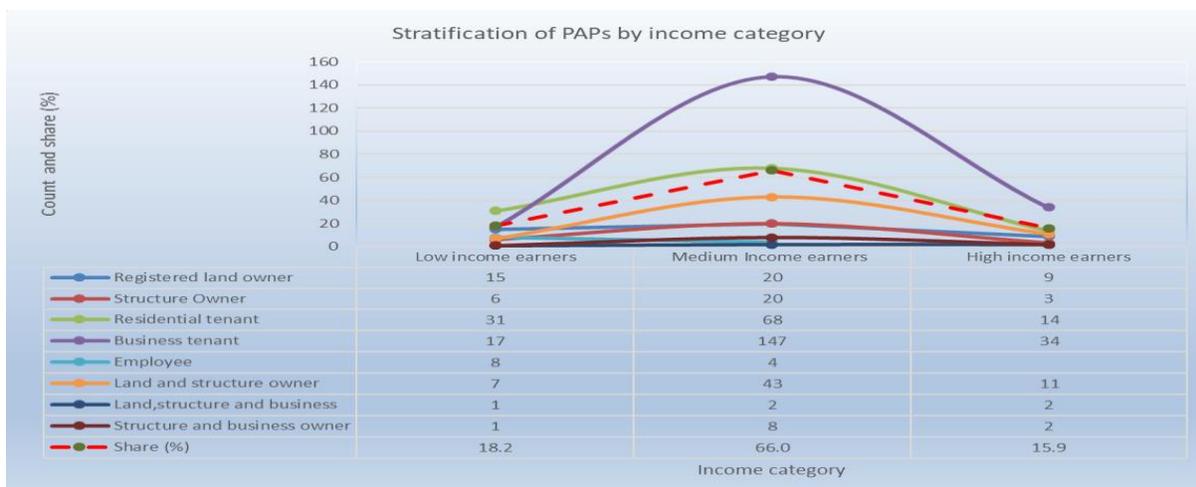


**Fig 1:** Analysis of income patterns among respondents  
Source: This study

**4.15 Middle class earners dominate the traverse:** For ease of treatment, respondents have been lumped into low, middle- and high-income categories based on the Kenya National Bureau of Statistics categorization the middle class, as anyone spending between KShs 23,670 and KShs 199,999 per month. Assuming everyone spends what they earn the KNBS definition means the middle class Kenyan/Kenyan family is one whose gross monthly salary is between 26,000 and 270,000 per month (approximately).

**4.16** Based on the Kenyan categorization, respondents were lumped into three income sectors of KShs 0 to 26,000 for low income, KShs 26, 000 to 200,000 for middle income and above KShs 200, 000 for high income. An analysis of income patterns within categories and subcategories of respondents (Fig 3.10) reveals that the middle-income category dominates the traverse accounting for two thirds (66%) of potentially affected people. Low- and high-income earners account for 18.2 and 15.9% presence respectively.

**4.17** All respondent categories display a parabolic distribution dominated by a majority middle income category in the middle and high and low incomes on both ends. The Business Tenants category remains dominant accounting for half of both middle income (31.1%) and high income (7.2%) earners respectively again confirming trade to be the main economic driver within the traverse.



**Fig 2: Stratification of respondents by income classes**

Source: This study

**4.18 Income profile and gender of respondents:** Analysis of monthly income level by gender of respondents revealed that, women are low income earners compared to males. The mean monthly income for female is 99,353 KShs compared to 124,729 KShs recorded for males. The most common monthly income for female is 30,000 KShs which is half of male common monthly income.

**4.19 Status of well-being:** Status of well-being among respondents was analyzed through comparison of pa capita income against the national poverty line pegged at a dollar (Ksh 100) per day equivalent to a monthly household income of KShs 18,000 for an average sized household. Upon screening, 73 respondents within the low-income bracket were found to fall below this cutoff implying that 15.4% of the population possibly subsists below the poverty line.

**Table 6: Analysis of status of well-being**

| Respondent category              | Low income earners  | Medium Income earners | High income earners | Total |
|----------------------------------|---|-----------------------|---------------------|-------|
| Monthly income                   | 5,000-24,000  | 24,000-200,000        | >200,000            |       |
| Count per category               | 86  | 312                   | 75                  | 473   |
| Share (%) by category            | 18.2  | 66.0                  | 15.9                | 100   |
| Poverty cutoff in Kenya          | Monthly income of Ksh 18, 000 equivalent to daily pa capita income of Ksh 100 for a HHS of 6. |                       |                     |       |
| Indicative prevalence of poverty | Count of 73 out of 473 respondents equivalent to 15.4% of all respondents                     |                       |                     |       |

Source: This Study

## 5. RESETTLEMENT MEASURES, ELIGIBILITY, ENTITLEMENT AND CUT OFF DATE

**5.1 Measures to minimize displacement:** The overall objective of the AfDB policy on involuntary resettlement is to avoid, or when avoidance is not possible, to minimise and mitigate negative impacts of projects on the environment and affected people.

**5.2** The following strategies were adopted to reduce on the Project Affected Persons (PAPs) and generally the cost to Resettlement Action Plan (RAP);

- Restricting the Right of Way (ROW) to existing Road Reserve and taking extra width were required to accommodate Construction Width, Services (Water, Electricity, etc.), Bus Bays, Footbridges and Grade-separated Intersections.
- Excluding the provision for BRT or Similar modes of Transport because the Transport Studies undertaken in the area had not provided strategic planning with such networks.
- Optimisation of Horizontal alignment in respect of existing road development.
- Kengeleni area adopted Viaduct structure in order to avoid affecting many buildings and Historical monuments.
- Between Km 4.6 and Km 11.2, this is the section along Bamburi Haller Park and Nature Trail: Generally, no service road provided on the Left Hand Side save for the approaches to the Grade-separated Intersections.
- Use of retaining walls to limit extended construction width along Bamburi Haller Park and Nature Trail.
- Along Mtwapa Town utilised covered drains beneath the footpaths. Open drains require more space. Also reduced the outer shoulder width from 1.5m to 0.5m.
- Between Kwa Kadzengo and Kilifi section; generally restricted the road improvement to existing Road Reserve. Deviation only occurring at the new Bongolo Bridge and its approaches. Also Single carriageway adopted for the section.

**5.3 Eligibility Criteria and Entitlement Matrix:** The key resettlement impacts include Loss of land; Loss of structures; Loss of livelihood; Loss of trees and crops, Loss of Graves; Loss of Community proprietary resources; Historical and archaeological sites and Assistance to vulnerable groups. In line with the assessment of resettlement impacts during the RAP study, the proposed entitlement matrix is as presented in the table below:

| #                            | Type of Loss  | Unit of Entitlement | Entitlements  |
|------------------------------|---|---------------------|---|
| A. Loss of Agricultural Land |   |                     |   |
| 1                            | Part of land lost and residual is viable <sup>1</sup> . | Title holder        | 100% cash compensation at replacement cost for the portion surrendered.<br><br>15% cash top-up in compulsory acquisition  |
|                              |   | Tenants             | Cash compensation for standing tree crops<br><br>Advance notice to vacate.  |
|                              |   | Informal Settler    | In good faith compensation for land as per Article 40(4) of national constitution<br><br>Cash compensation for standing tree crops<br><br>Advance Notice to vacate. |

<sup>1</sup> Non arable land either because of rockiness, slope exceeding 55%, water logging, or cannot afford space adequate for housing and economic utilization.

| #  | Type of Loss   | Unit of Entitlement          | Entitlements   |
|--|--|------------------------------|--|
| 2  | All land lost or residual land is economically non-viable        | (a) Title holder             | 100% cash compensation at replacement cost for the lost portion.<br>15% cash top-up in compulsory acquisition.   |
|  |  | (b) Tenants                  | Cash compensation for standing tree crops<br>Advance notice to vacate  |
|  |  | Informal Settler             | In good faith compensation for land as per Article 40(4) of national constitution<br>Cash compensation for standing tree crops<br>Advance Notice to vacate.  |
| <b>B. Loss of Residential/Commercial/Industrial Land</b> |  |                              |  |
| 1  | Partial loss of land but residual is viable <sup>2</sup>         | Title holder                 | 100% Cash compensation for loss at replacement cost.<br>15% cash top up in compulsory acquisition  |
|  |  | Tenant/Lease holder          | Cash compensation for standing tree crops<br>Advance notice to vacate.   |
|  |  | Informal Settler             | Cash compensation for standing tree crops<br>Advance notice to vacate.   |
| 2  | Entire loss of land or partial loss where residual is not viable | Owners                       | 100% Cash compensation for entire land holding at replacement cost<br>15% cash top-up in compulsory acquisition<br>Residual land reverts to community  |
|  |  | Tenants/ Lease holders       | Replacement cost for standing assets<br>Advance notice to vacate   |
|  |  | Informal Settler             | Replacement cost for standing assets,<br>Possibility of land grant where possible <sup>3</sup><br>Advance notice to vacate   |
| <b>C. Loss of Structures</b>                             |  |                              |  |
| 1  | Partial loss but residual viable                                 | Legal User with valid titles | Cash compensation at replacement cost for affected portion calculated on market value without depreciation;<br>Repair costs for an affected structure equivalent to 25% of the compensation<br>Right to salvage material |

<sup>2</sup> Land can still be exploited economically for residential, commercial or industrial uses as per local zoning class.

<sup>3</sup> Some of the encroachers do not know of any land and are too frail to fend for themselves. Unless resettled, displacement would spell doom for them.

| #  | Type of Loss  | Unit of Entitlement         | Entitlements   |
|--|---|-----------------------------|--|
|  |   | Owner without titles        | Cash compensation at replacement cost for affected portion based on market value without depreciation.<br>Repair costs for unaffected structure at 25% Right to salvage material.  |
|  |   | Informal Settler            | Cash compensation at replacement cost for affected portion based on market value without factoring depreciation.<br>Repair costs for unaffected structure at 25% of compensation<br>Right to salvage material  |
| 2  | Fully affected/ part affected and remaining structure is non-viable | Land owner with valid title | Cash compensation at replacement cost of the affected unit based on market value without depreciation plus a house building allowance at 25% of compensation.<br>Right to salvage materials.<br>Advance notice to vacate   |
|  |   | Tenant/ Lease Holder        | Cash compensation for remaining lease/ deposits<br>Advance notice to vacate  |
|  |   | Informal user of building   | Advance notice to vacate   |
| D. Loss of Standing Tree Crops             |   |                             |  |
|  | All Cultivators   |                             | Compensation for any non-agricultural trees, shrubs/ permanent grass cover based on economic value for tree and vegetation.<br>Cash compensation based on income for entire life-cycle in case of permanent agricultural crops.<br>Cash compensation at gross yield value for temporary crops e.g. cassava |
| E. Loss of community proprietary resources |   |                             |  |
|  |   |                             | In kind replacement for affected resources   |
| F. Assistance to vulnerable groups         |   |                             |  |
|  |   |                             | Socio-department of KeNHA to consider other assistance over and above compensation package to cushion them against impact of such disability. To be treated on merit basis.  |
| G: Loss of Livelihood                      |   |                             |  |
|  | Landlords   |                             | 3months cash hand-out worth of gross rent  |
|  | Businessmen   |                             | 3 months cash hand-out calculated at gross daily income  |

| #                                      | Type of Loss                 | Unit of Entitlement | Entitlements  |
|--|------------------------------|---------------------|---|
|  | Business                     |                     | 3 months cash hand-out net monthly profit   |
|  | Estate Developer             |                     | Reimbursement of lost income for entire premises<br>replacement cost rate<br>Right to salvage materials |
| H. Graves                              |                              |                     |   |
|  | Individual graves            |                     | Negotiated re-imbursement for translocation costs<br>including option for physical translocation        |
|  | Communal graveyards          |                     | Negotiation of available options  |
| I. Historical and archaeological sites |                              |                     |   |
|  | Historical areas             |                     | Assessment by National Museum and Archaeologist   |
|  | Archaeological /sacred sites |                     | Negotiate transfer or realignment   |

**5.4 Cut off date:** In order to determine the eligibility of the persons entitled to compensation this RAP established different cut off dates as per the table below. Sensitization on the implication on the cut off date was undertaken through consultations from June 2018 to October 2018. Consequently, any claim for compensation by the affected people after the set cut-off date will not be eligible for compensation.

| Meeting                        | Cut off - Date                  | Target                          | Attendance |
|--------------------------------|---------------------------------|---------------------------------|------------|
| Jambo travellers hotel- Mtwapa | 27 <sup>th</sup> June 2018      | Leaders for Kilifi County       | 92         |
| Baobab Resort- Nyali           | 28 <sup>th</sup> June 2018      | Leaders in Mombasa County       | 52         |
| Kongowea Community Hall        | 28 <sup>th</sup> June 2018      | Public Baraza                   | 233        |
| Mtwapa Community Ground        | 27 <sup>th</sup> June 2018      | Public Baraza                   | 101        |
| Mtwapa Professional Forum      | 14 <sup>th</sup> September 2018 | Plenary Session                 | 50         |
| Dissemination meeting          | 31 <sup>st</sup> Oct 2018       | Leaders from Mombasa and Kilifi | 75         |
| <b>Total</b>                   |                                 |                                 | <b>603</b> |

## 6. ASSET VALUATION AND COMPENSATION

6.1 Asset valuation recognized three parameters namely:-land area to be acquired for the RR, structures falling within the RR and trees and crops falling under the RR. Following the collection of the baseline data, market surveys for structures, land and crops, a compensation policy framework was developed setting the framework for valuation. As a principle, valuation in this RAP adopted the Full Replacement Cost Approach Method with the twin goals of restoration and rehabilitation to standards equal to or higher than original.

6.2 On compensation, the AfDB involuntary resettlement policy provides for replacement cost valuation for assets methodology. The constitution of Kenya provides for just and prompt compensation. To address this gap, the valuation methodology adopted in this RAP is in line with AfDB requirements of full replacement cost.

## 7. GRIEVANCE REDRESS MECHANISM

7.1 The grievance redress mechanism is a tool that enables effective communication among the stakeholders for providing a timely and effective channel to address any complaints from the aggrieved persons. The mechanism provides procedures for resolution of grievances in the spirit of mediation between parties which should comply with the spirit of AfDB and GoK standards.

7.2 The grievance redress mechanisms is designed with the objective of solving disputes at the earliest possible time which will be in the interest of all parties concerned and therefore implicitly discourages referring such matters to the Environment and Land Court which would otherwise take a considerably longer time.

## 8. LIVELIHOOD RESTORATION

8.1 The prepared RAP aims at restoration of the project affected person’s livelihoods and income streams to ensure that the lost livelihoods are restored to pre displacement levels. This RAP has proposed a transitional support or cash equivalent for owners of buildings whose tenants will move out, covering the would be losses for two to three months after displacement to facilitate restoration of livelihoods and standards of living to pre-displacement levels as the building owners repair the remaining portions of the property or relocate and develop alternative sites elsewhere. The same is provided for business tenants. This aspect is captured for consideration by NLC during the valuation, verification and validation phase as highlighted elsewhere in this report.

8.2 The RAP is also proposing partnerships between the project and the counties of Kilifi and Mombasa in ensuring traders are either allocated spaces in the existing markets like Kongowea or new infrastructure is laid out where none exists to ensure trader’s livelihoods are improved.

## 9. COSTS AND BUDGET

9.1 *Gross Budget:* A summary of the Gross RAP Budget is shown in the Table ES04 with a breakdown provided in Table 7 below. A Total of KShs **3,242,915,769.23** will be required in the entire compensation process.

**Table 7: Gross RAP Budget**

| Cost Item               | Allocation (KShs)       |
|-------------------------|-------------------------|
| Gross displacement      | 3,059,354,499.28        |
| Operation Costs         | 30,593,544.99           |
| Contingency             | 152,967,724.96          |
| <b>Gross RAP Budget</b> | <b>3,242,915,769.23</b> |

Source: This Study

## 9.2 Direct Costs

**Compensation for displacement:** Direct Costs have been computed based on the entitlement as applied to the Assets Register to yield the Costed Assets Register as summarised in Table 8. Cost schedules applied in determination of direct costs have been generated through a Replacement Cost Study. A total of KShs 3,059,354,499.28 has been identified under this vote, of which compensation for land is the largest share accounting for 46% followed by loss of business at 28.3%.

**Table 8: Summary and geographical distribution of components of the Direct Costs**

| Lot      | Structures | Area (m <sup>2</sup> ) | Wall length (m) | Total for Structures (Ksh) | Total for Wall (Ksh) | Total for 2 mosques (Ksh) | Land aquisition (acres) | Costs to land (Ksh) | 15% Top-up of CLA (Ksh) | Loss of bussiness (Ksh) | Costs to trees | Costs to other assets (Ksh) | Gross displacement costs (Ksh) |
|----------|------------|------------------------|-----------------|----------------------------|----------------------|---------------------------|-------------------------|---------------------|-------------------------|-------------------------|----------------|-----------------------------|--------------------------------|
| Lot One  | 208        | 23273                  | 18266           | 1240653630                 | 36532860             | 52000000                  | 37.5                    | 1125000000          | 168750000               | 717654223               | 9999034        | 33750000                    | 2604686490                     |
| Lot Two  | 65         | 7372                   | 1697            | 993668400                  | 14743636             | 0                         | 9.4                     | 282000000           | 42300000                | 179413556               | 1932000        | 5640000                     | 1338352036                     |
| Sum      | 273        | 30645                  | 19963           | 401570225                  | 51276496             | 52000000                  | 47                      | 1407000000          | 211050000               | 897067778               | 11931034       | 39390000                    | 3059354499                     |
| Share(%) |            |                        |                 | 13.1                       | 1.7                  | 2                         |                         | 46.0                | 6.9                     | 29.3                    | 0.4            | 1.3                         | 100                            |

Source: This Study

## 9.3 Indirect costs

This RAP has allowed for three categories of indirect costs as namely;-

- **RAP Implementation Costs/Operation costs:** A sum of KShs 30,593,544.99 equivalent to 1% of Direct Costs has been provisioned to be drawn by KeNHA in implementing the RAP. Expenses envisaged include field costs, capacity building for RAP structures, setting up of a Project Implementation Team, among others. The Exchequer should be approached to provision the funds alongside the Direct Costs Budget.
- **Contingency Costs:** An item of KShs 152,967,725 equivalent to 5% of the total costs has been allowed to cater for contingencies in costs and unknown impacts.
- Assistance to Vulnerable groups:

Additional measures will be pursued as follows;-

- Creating of special programmes:** While ordinary PAPs will undergo training on modalities of coping either the displacement, elderly and sick PAPs will not be available for such. It will thus require the Resettlement Officer to tailor make special programmes to reach out to such people and help them understand and cope with the shock of displacement. If not properly cushioned, such PAPs may find the shock to be too much to handle.
- Monitoring management of proceeds from compensation:** If left alone, some PAPs have no capacity to manage monies accruing from compensation and would end up losing the money without replacing lost assets. The Resettlement Officer will require to network with PAPs to establish modalities of how such PAPs can be assisted to re-place lost assets without being exploited.

- c. **Project related job opportunities:** Severely affected persons will be prioritized in gaining employment in the works linked to the Project. KENHA will ensure that this is included in the contractors' specifications wherever possible.
- d. **Assistance through Corporate Social Responsibility (CSR) Programme:** The CSR programme should aim at addressing community felt needs as documented during in the socio-economic survey conducted for this RAP, among which is poverty alleviation. With this in focus, KENHA will explore means of remaining engaged in communities adversely affected by the road upgrading project with possible entry points as follows:-
  - Support to local community infrastructure projects.
  - Support to local reforestation and conservation groups

## **10. INSTITUTIONAL, ADMINISTRATIVE AND MONITORING FRAMEWORK**

10.1 This RAP will be implemented as part of the Mombasa-Mtwapa-Kadzengo-Kilifi Project which is a project of the Government of the Republic of Kenya with the financial support of the African Development Bank-AfDB. As a project within KeNHA, implementation will be mainstreamed into the administrative and management infrastructure of this Authority with the Head Office assuming the project management role. A GRM has been put in place to resolve all grievances emanating from land acquisition in Project Development.

10.2 Procedure for RAP Implementation: Implementation Phase activities will entail the following: -

### **Due process by KeNHA through MOTIHUD**

In complying with NLC requirements for Compulsory Land Acquisition in Kenya, KeNHA will take action as follows: -

- i) Section 107(1) of the Land Act 2012 requires the acquiring body to obtain prior approval from their respective Cabinet Secretary before the Commission commences the acquisition process
- ii) Cadastral drawings showing how the infrastructure excises each land parcel, the parcel list table detailing land parcel numbers, total area of land parcels and acreage affected by the infrastructure for each parcel. These drawings shall be submitted to the Commission for scrutiny and records
- iii) Provide a listing for parcel numbers indicating the plot reference number, registered owner and affected acreage column in acres (for easy appreciation by project affected persons). This should be submitted in both soft and hard copy
- iv) Official searches of affected land parcels. The Commission shall assist where necessary.
- v) The Environmental Impact Assessment Report (EIA) and appropriate approvals/certification for the project.
- vi) The Resettlement Action Plan (RAP) report.
- vii) Acknowledgement on availability of funds to allow prompt compensation as provided in the Constitution. The Commission will request the entities to remit compensation money into the Land Compensation Fund (Section 153 of the Land Act 2012) to be administered

by the Commission. This is in the purview that in previous acquisitions, the compensation payments were delayed as opposed to the promptness required by the Law

- viii) All applicants will have to take the Land Acquisition and Committee sub-committee members on a site tour for general appreciation of the project in respective locations that will be affected. This will enable informed decision making.
- ix) A final survey for vesting of the acquired land to the National or County Government will have to be done by the acquiring authority. The Commission can assist in this exercise at costs borne by the acquiring body.

10.3 Due Process by the NLC: This is the process that will trigger land acquisition for the Road dualling Project. However, to save on time, it is recommended for the Land Acquisition process to start and possibly end long before Construction Stage. Due process will follow as presented below:-

10.4 Gazetting of all target parcels: Upon receipt of the application for acquisition from KeNHA, the NLC and KeNHA will arrange field visits to familiarize and confirm the, the final Alignment following which, the Assets register will be cross-checked on the ground to ascertain the final list of PAPs and the status of their assets. The NLC will then issue a Notice of Intention to Acquire and publicize the dates and venues for public inquiries.

10.5 Public Inquiries: On appointed dates, the NLC will open public inquiries in which anybody with claims on target properties will present evidence and be cross examined under oath. At the close of the inquiry, the NLC will finalize the List of PAPs and proceed to revalidate the valuation.

10.6 Making of awards: Upon revalidation, it is also expected that prior to payment, all those entitled to payment under a PAPs account will have been brought together to agree on monies due to them and on the mode of disbursement. This caution is issued as many households were observed to request that assets be recorded under one brother and this is likely to bring family conflicts once compensation is released. The LPCs will come in handy in fostering consensus among composite PAPs.

10.7 Final Award and Signing of Contracts: Upon finalization of the assets register, and revaluation by the NLC, the final compensation sum will be computed and adjusted for inflation and other processes. Based on this sum, offers /contracts will be issued to PAPs who will sign their approval witnessed by their respective chairmen of LPCs and the area chief. Within this contract, each PAP will undertake to remove affected assets within one month of accepting payment. The PAPs will then be required to open bank accounts through which, payments will be made directly to PAPs.

10.8 Preparation of PAPs by KeNHA: Kenya is replete with people who squandered entire proceeds from compensation/ terminal benefits or even credit and ended up destitute and miserable. This normally is associated with ignorance and shock reaction to exposure to apparently huge amounts of money instantly. To forestall such incidence in the case of road upgrading project, the PMU will mount counseling sessions for all PAPs to empower them cope with the expected proceeds. Indeed, this RAP recommends that as part of the training, each PAP will be assisted to

develop a budget for the expected payment! The reality of how little the anticipated payments are, is likely to cut down on adventures.

10.9 Mobilization of LPCs institutions: Once funding has been procured, the RO will move to mobilize the LPCs by ascertaining that there is one for each location Kongowea, Kisauni, Bamburi and Mtwapa, and that they have been appropriately constituted, and are adequate. Following this, the RO will arrange training schedules with a view to focusing activities of the PAPs and such training will cover aspects such as leadership qualities, roles, responsibilities and limits of the LPC, grievance registration procedures, approach to conflict resolution, need for impartiality, etc. Upon successful training, LPCs will be equipped with standard stationary including grievance registers, foolscaps, filing material etc.

10.10 Mobilization of the GRC: The PMU will finalize constitution of the GRC and follow-up approval with the PS. This will be followed by induction meetings during which the GRC will be guided to establish procedures for grievance redress. A secretariat for the GRC will be established within the PMU with the RO as Secretary.

10.11 Removal of Economic Assets: From encounters with potential PAPs during entry point discussions and subsequent inventory of individual assets, this RAP can confirm a 100% support to the resettlement process. All households expressed willingness to remove the assets and pave way construction activity in which case no resistance is anticipated. Thus in line with the contract for compensation, each PAP will be expected to shift their assets within one month of receiving payment.

10.12 Removal of non-economic Assets: Some assets such as shrines and graves may prove difficult to remove by individuals and where such cases occur, the individuals will be assisted by the contractor upon successful completion of requisite cultural rites.

**Table 9: RAP implementation schedule**

| Activity                                 | Time |   |   |   |      |   |   |   |      |   |   |   |         |
|--|------|---|---|---|------|---|---|---|------|---|---|---|---------|
|  | 2019 |   |   |   | 2020 |   |   |   | 2021 |   |   |   | 2022-24 |
| Year                                     |      |   |   |   |      |   |   |   |      |   |   |   |         |
| Quarter                                  | 1    | 2 | 3 | 4 | 1    | 2 | 3 | 4 | 1    | 2 | 3 | 4 |         |
| RAP preparation                          | █    |   |   |   |      |   |   |   |      |   |   |   |         |
| Verification of property/asset ownership |      |   | █ |   |      |   |   |   |      |   |   |   |         |
| Valuation and issue of awards            |      |   |   | █ |      |   |   |   |      |   |   |   |         |
| Bank account opening                     |      |   |   |   | █    |   |   |   |      |   |   |   |         |
| Payment of compensation                  |      |   |   |   | █    |   |   |   |      |   |   |   |         |
| Issuance of vacate notice                |      |   |   |   |      | █ |   |   |      |   |   |   |         |
| PAPs consultation and communication      | █    |   |   |   |      |   |   |   |      |   |   |   |         |



- Assess resettlement efficiency, effectiveness, impact and sustainability, drawing
- Lessons as a guide to future resettlement policy making and planning; and
- Ascertain whether the resettlement entitlements were appropriate to meeting the objectives, and whether the objectives were suited to PAP conditions.
- Undertake any other assessment relevant to the resettlement process.

## 12. CONCLUSION AND RECOMMENDATIONS

12.1 **Overview:** This study set out to prepare a legally anchored framework to guide resolution of all displacement impact occasioned by the GOK and AfDB funded project to develop the Mombasa-Mtwapa-Kadzengo Road to dual capacity. Development of the Project was guided by an overriding goal of minimizing displacement impact coupled with formulation of a RAP to resolve any inevitable displacement.

12.2 **Displacement impact:** A major observation of this RAP Report is that by far, the greatest impact of the Project Design Works is the pre-emptive minimization of displacement through selection of an alignment that traverses the least populated areas, position manifested by the fact that, though the 20.8-kilometre long which will traverse and acquire 54.2 hectares of land in a traverse where population densities sometimes exceed 12,000 persons per square kilometre, the total potential displacement was computed at only 3,566 people.

12.3 The RAP Team invested a lot of time investigating and documenting all potential PAP categories inclusive of their potentially affected assets and livelihoods to map out the full picture of loss. As an outcome, the documentation revealed that over 86% of all PAPs especially those in Mombasa Mainland South occupy land that is formerly government owned but now in transition. And given that none of the occupiers hold Title Deeds as proof of ownership, they are fearful of possible acquisition without compensation. As such, though an Entitlement Matrix was prepared under auspices of this RAP towards restitution of observed loss categories, compensation for land should target all occupiers irrespective of tenure status.

12.4 Most of the PAPs will only suffer partial displacement of land-based assets while the non-affected portions remain viable in which case, a resettlement site was not considered necessary for investigation under the RAP. All such potentially displaced people have been engaged either in person all collectively during public barazas and, except for one family, all are united in support of the Project and are unanimous in favour of cash compensation provided that such payment is just, adequate and prompt to enable them to relocate affected assets and move on with their lives.

### 12.5 **Recommendations:**

- Fair, just and prompt compensation: This RAP recommends that fair and just compensation be paid promptly for all livelihoods, shelter and assets marked for displacement by the Project. Article 40(4) of the Constitution should be invoked to allow compensation for land and developments to non-title deed holders and squatters who have no access to any other land and shelter.

- In all cases, compensation will be paid upfront of site hand-over to contractors in order to allow all aggrieved parties adequate time to amicably resolve disputes. Payments should further be extended to compensate for all project neighbouring assets which, though not directly displaced are likely to be damaged by construction activity. This includes all assets within detours, diversion points and on the edge of construction areas.
- **The need for PAP revalidation before compensation:** PAPs and properties are dynamic and property trading is very vibrant within the traverse area. As such, and to safeguard interests of new purchasers, asset inventory as conducted for this RAP should be revisited at the time of compensation.
- **Management of the time lag between the RAP process and actual compensation:** The RAP Process served to arouse expectation for prospective monetary gains amongst PAPs which are subsequently quite high. It is important that such expectations be toned down through regular release of information especially on project timelines.
- More severely, soaring expectation is likely to stimulate property market in the neighbourhood with the consequence of pushing up market prices for land to way above current levels. As such, there is a possibility that, if compensation is delayed, the Compensation Bill will skyrocket on account of a thriving property market. All efforts should be made to effect payment in the course of 2019 in order to mitigate upward spiralling of the Compensation Bill.

## **13. REFERENCES AND CONTACTS**

### **13.1 Reference**

GOK (2019) RESETTLEMENT ACTION PLAN PROPOSED UPGRADING OF MOMBASA-MTWAPA-KWA KADZENGO-KILIFI (A7)

### **13.2 Contacts**

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# 14.PROJECT ROAD MAP

