Resettlement Action Plan Report

Preliminary and Detailed Engineering Design for the Dualling of Mombasa - Mariakani (A109) Road

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Acronym

AFDB..............African Development Bank
CBO................Community Based Organisation
CSOs..............Civil Society Organisation
DFI...............Development Finance institutions
ESIA................Environmental and Social Impact Assessment
GOK..............Government of Kenya
GRC...............Grievance Redress committee
Ha...................Hectares
HIV/AIDS...........Human immunodeficiency virus and Acquired immune deficiency syndrome
KARI..............Kenya Agriculture Research Institute
KeNHA...........Kenya National Highway Authority
Km..................Kilometres
M&E...............Monitoring and Evaluation
M.....................Metres
MDGs...............Millennium Development Goals
NEMA...............National Environment Management Authority
NGOs...............Non-Governmental Organisation
NLC...............National Land Commission
PAFs...............Project Affected Families
PAPs..................Project Affected Persons
PMU..................Project Management Unit
PRSPs...............Poverty Reduction Support Programmes
RAP..................Resettlement Action Plan
RC...................Resettlement Committee
ROW.................Right of Way
SPAFs...............Significantly Project Affected Families
WID..................Women in Development
EXECUTIVE SUMMARY

Introduction

The Government of Kenya, through the Kenya National Highways Authority (KeNHA) has proposed to carry out improvements on the Mombasa to Mariakani section of the A109 road. The proposed improvements will include dualling of the sections that are currently single carriageway and constitute constrictions to free traffic flows. The project road traverses an area that is both urban character and highly built-up and with residential neighbourhoods of high and medium density housing; commercial activities and low level industrial activities with conspicuous storage facilities. The second section of the project road traverses an area that is predominantly peri-urban with two trading centres at Mazeras and Mariakani that straddle the project road. African Development Bank (AfDB) has expressed interest to finance the proposed Road Project. This summary therefore provides highlights on project description; the project location and affected sites; objectives of Resettlement Action Plan; public consultations; legal and institutional framework; social economic survey and PAP census; eligibility criteria; potential impacts and mitigation measures; income restoration program; implementation arrangements; implementation process; RAP implementation activities and schedule; grievance redress mechanism; costs and budget; monitoring and evaluation; and conclusions and recommendations.

Project Description

The project road is approximately 41km stretch with asphalt concrete surface, mainly 2-lane single carriageway with two sections that are dual carriageways. The project road is characterized by very heavy traffic with traffic jams in sections with limited capacity. The project road is part of the Northern Corridor and connects through Nairobi to the countries within the Great Lakes Region, Sudan and Ethiopia. The A109 Mombasa-Mariakani road is situated in Mombasa and Kilifi Counties of Coastal Kenya. The project road forms part of the 500 km Mombasa-Nairobi highway. The road starts at the junction of Kenyatta Avenue (A109) and Digo Road (A14) within Mombasa City. It runs in a Northerly direction through Changamwe, Miritini, Mazeras, Mariakani, before terminating just past Mariakani Weighbridge. The main economic activities include tourism, shipping, commerce and subsistence farming. The project road experiences traffic congestions in most sections which have a large influence to the flow of the high traffic experienced between Mombasa and Mariakani. A summary of the scope of works is dualling of section up to Mariakani weighbridge; rehabilitation of the existing carriageways; grade separation at the current Changamwe roundabout; improvements in urban drainage, service roads and pedestrian walkways; construction of pedestrian footbridges at key centres especially Shimanzki Junction, Miritini Interchange, Mikindani Junction, Mazeras, and
Mariakani; and replacement of flex beam guardrails on the median of Miritini – Mazeras section with RC Median.

The Project Location and Affected Sites

The project road is located within the Counties of Mombasa and Kilifi but the eastern part of Kwale County (Kasemeni Division) is within the immediate impact of the road. The road provides currently the only connectivity to Moi International Airport on the West Mainland of Mombasa, Mombasa Port berths expansion on the West Mainland into Mwache Creek and the interior of the Kenya and greater region. Among the areas traversed by the project road or are adjacent to the road are shown in the table below:

**Table 1: Administrative Units traversed By the Project Road**

<table>
<thead>
<tr>
<th>County</th>
<th>Sub-County</th>
<th>Location</th>
<th>Sub-Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mombasa</td>
<td>Mombasa</td>
<td>Majengo</td>
<td>Majengo</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Railway</td>
<td>Railway</td>
</tr>
<tr>
<td></td>
<td>Changamwe</td>
<td>Changamwe</td>
<td>Changamwe</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chaani</td>
<td>Chaani</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mikindani</td>
<td>Mbirikani</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Jomvu</td>
<td>Jomvu Kuu</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Miritini</td>
<td>Miritini</td>
</tr>
<tr>
<td>Kwale</td>
<td>Kinango</td>
<td>Kasemeni</td>
<td>Mwadudu</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Mazeras</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mwatate</td>
<td>Mwatate</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mwavumbo</td>
<td>Mwabira</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Kalani</td>
</tr>
<tr>
<td>Kilifi</td>
<td>Rabai</td>
<td>Rabai</td>
<td>Mazeras/Mgumo Patsa</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Kaliangombe/Jiba</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mariakani</td>
<td>Mitangoni</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Mariakani</td>
</tr>
</tbody>
</table>

*Source: Provincial administration; 2014*

Objectives of Resettlement Action Plan

The objectives of Resettlement Action plan are:

a) To raise awareness of the project and its consequences among the public in general and those who will be directly affected by it in particular;
b) To estimate the cost necessary for compensation, resettlement and land acquisition;
c) To prepare Resettlement Action Plan (RAP) that sets out strategies and schedules to mitigate adverse effects. The RAP sets the parameters and establishes entitlements for project affected persons (PAPs), the institutional framework, mechanisms for consultation and grievance resolution, the time schedule, budget and proposed monitoring and evaluation system. The agreed entitlement package includes both compensation and measures to restore the economic and social base livelihoods and wellbeing of those affected, respectively.

A detailed social assessment was carried out for the people found trading or living within the road corridor as defined by the boundary posts erected by the road authority. Eligibility has been presented and an Entitlement Matrix has been prepared to define categories of PAPs and types of compensation measures envisaged. The scope of the resettlement action plan will ensure that all guiding principles of the various lenders are adhered to. Specifically, The African Development Bank’s Involuntary Resettlement Policy (2003) stipulates that the borrower shall prepare a full resettlement action plan for any project that involves the displacement of a significant number of people (200 or more persons) with the attendant loss of assets, access to assets or reduction in their economic and livelihood; and that compensation shall be based on full replacement costs.

Public Consultations

An effective resettlement planning requires continuous participation and thorough consultations with a wide range of project affected persons and stakeholders in the general area of the project. These include individuals or groups who will be positively or negatively affected by the project including potential host communities.

Comprehensive consultations have been held with various stakeholders and the project affected persons from the reconnaissance stage through the public consultations, the project affected persons census along the road; a socio-economic survey and an assets inventory. The consultations held along the road corridor were aimed at seeking views of the local communities along the project road on various aspects of the design. Secondly, the public forums served to create awareness to the local community and particularly the potential project affected persons on how the project would impact on their daily lives during and after the improvement. The communities were encouraged to form Interim Committees (Ad-Hoc) inclusive of the potential project affected persons, the youth and women in consultation with the Chiefs of their areas to engage in internalizing the proposed project.
Prior to conduct of the socio-economic survey, meetings were held with the government officials and other opinion leaders among the community to sensitize them on the project and its effects on the socio-economic aspects of the community. The issue of the project affected persons as a result of the project was highlighted and the participants appraised on the mitigation measures availed by the project.

Public consultations were held at various locations as determined by administrative boundaries for ease of administration and management of the stakeholder composition and record keeping for future reference and analysis. The list of public officers and civil society to be involved in the process was exhaustively compiled. A special forum was arranged for the Civil Society groups and the vulnerable groups including youth, women and people with disabilities.

**Legal and Institutional Framework**

The RAP is prepared in accordance with the Kenya Government legislations and AfDB guidelines and safeguard policies that govern preparation of Resettlement Action Plans. The relevant national legislations and AfDB policies and guidelines considered among others are as follows:

a) The Constitution of Kenya 2010;
b) Land Act No.6 of 2012;
c) The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012;
d) Land Adjudication Act; Cap 283
e) HIV/AIDS Prevention and Control Act (Act No.14 of 2006);
f) Urban Areas and Cities Act, 2011;
g) Kenya Roads Act, 2007;
h) Traffic Act Cap.403;
i) Public Roads and Roads of Access Act, Cap 399;
j) Physical Planning Act Cap 286;
k) AfDB Environmental Policy, 2004;
l) AfDB Involuntary Resettlement Policy, 2003;
m) AfDB Gender Policy, 2001;
n) Bank Group Policy on Poverty Reduction, 2004;
o) Policy and Guidelines on Cooperation with Civil Society Organizations (CSOs), 1999.
p) AfDB’s Integrated Safeguard System, 2013
Social Economic Survey and PAP Census

A comprehensive census of the project affected persons with a socio-economic status survey and an assets inventory, is an important component in the planning for resettlement of the affected persons. The project road corridor traverses the well planned urban setting within Mombasa Island where the road reserves are dedicated in the urban plans for road purposes. Areas of West Mainland (Changamwe-Miritini) are haphazardly developed with mixed developments and the road corridor is not well delineated. The road corridor between Miritini and Mariakani is rural in character except at the trading centres of Mazeras and Mariakani. Fifty (50) interviewers accompanied by the Village Leaders identified through the Office of the Chief were engaged to conduct the census of the PAPs and the concurrent socio-economic survey of the project affected persons. The socio-economic survey on the people within the road corridor between Mombasa Island (Digo Road Junction) and Mariakani Weighbridge was conducted between 14th-19th July 2014. 323 interviews were conducted along the Road corridor and 488 asset owners were identified and the assets separately recorded from the socio-economic record.

Emphasis was placed in the interviews to determine the vulnerable groups comprising people with disabilities, elderly persons, orphans, female-headed households and the youth. From the data collected along the road corridor, 6 main sources of livelihoods were identified from the household responses. The dominant income generating activities along the proposed corridor include business and wage employment both in the formal and informal sectors. Various descriptions of what the people along the corridor do for a living were indicated and a total of 38 activities were mentioned by the respondents although all fell into six major categories. The income generating activities were categorized into six (6) main activity categories as shown below:

Table 2: Occupation of the people within the road reserve

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business/ Traders</td>
<td>187</td>
</tr>
<tr>
<td>Wage employment</td>
<td>12</td>
</tr>
<tr>
<td>Farming</td>
<td>15</td>
</tr>
<tr>
<td>Skills/ Construction</td>
<td>19</td>
</tr>
<tr>
<td>Food and catering</td>
<td>8</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>68</td>
</tr>
</tbody>
</table>
On the basis of the initial findings from the census data of the PAPs along the proposed road alignment, a sample survey was conducted covering the PAPs. Land that was found vacant was included in the assets inventory as the owners would also constitute part of the PAPs. This was conducted to collect data on their socio-economic profile and discern the main source of livelihood and other supplementary sources of income.

The cut-off dates for the project affected persons census and assets inventory was agreed to be 30 July 2014. It was also agreed at the consultative forums that the Ad hoc Committee would continue to sensitize the people and those who did not meet the cut-off date would be dealt with in their claims the grievance redress process by the Committee.

**Eligibility Criteria**

For the proposed road Project the following groups are entitled to compensation and/or assistance under the project:

- **Project Affected Persons (PAPs)** - These include people and households regardless of their ownership status as squatters etc., that will face their livelihoods adversely affected and/or lose their right or title on land, house, habitat, water resource or any asset possessed, due to the project implementation.

- **Project Affected Families (PAFs)** – All members of a project affected household residing under one roof and operating as a single economic unit, who are adversely affected by the project or any of its components.

- **Significantly Project Affected Families (SPAFs)** – The affected families who lose all of their land and residences because of the project intervention.

- **Displaced Family** – Any tenure or interest holder on a property and his/her family members, who on account of acquisition of the property for the project purpose becomes a displaced person.

- **Squatters** – People who have occupied land for purpose of their livelihoods violating the law and are not entitled to compensation for lost land under this policy. But if displaced they are entitled to resettlement assistance.

**Vulnerable Groups** – Distinct groups of social and economically distressed people who might suffer disproportionately from the effects of displacement. These may be ethnic minority, women and child-headed households, impoverished youth, the most poor (based on the poverty line), the disabled and elderly.
Potential Impacts and Mitigation Measures

Negative Impacts

The proposed improvement of the road that will entail road widening to accommodate additional lanes will accentuate displacement of people who have depended on the road corridor for their livelihoods. Others to be affected will include people with land ownership claims whose land will be compulsorily acquired for incorporation of road junctions. Some of the envisaged negative impacts along the road corridor segments will include:

- Loss of assets such as business structures, property walls/fences;
- Loss of means of livelihoods and
- Loss or compromised means of access to social amenities and homes.

Mitigation for Negative Impacts

a) Loss of Assets

In the implementation of the road improvement and up-grading to dual carriage-way, it is estimated that 673 informal businesses (Hawkers) will be displaced from the road reserve and will require to be assisted to relocate to sites provided by the County Governments. KeNHA will assist by providing improved access roads to the market stalls developed by the County Governments. The County Governments of Mombasa and Kilifi have been consulted over the matters and as potential members of the Project Management Unit and Resettlement Committee. Secondly, they are mandated under the law to control and regulate trading activities within their areas of jurisdiction. Development and management of markets is the responsibility of a County Government including the licensing of business activities. During consultations with the County Chief Officers in June 2014, 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 Mazeras and Mariakani when the road project starts. They 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 for sustainability.

Some of the trading activities along the road corridor were considered not possible to be accommodated by the Counties in the market facilities and were requested to identify appropriate sites that would accommodate the displaced persons. These activities include:
garages, furniture shops, building materials and hardware, car sale yards, car wash, metal fabrication and lorry parks within the road reserve. The PAPs have been engaged in discussing the options available for their relocation.

The details of the impacts to the eligible project affected persons are shown in the table below.

**Table 3: Eligibility**

<table>
<thead>
<tr>
<th>Eligibility</th>
<th>Entitlement</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individuals with legal rights to land</td>
<td>• Right to compensation and loss of land and assets at replacement cost&lt;br&gt;• Development assistance of over and above compensation measure&lt;br&gt;• Support after displacement until livelihoods are adequately restored&lt;br&gt;• Provision of assistance and accommodation</td>
<td>KeNHA and NLC</td>
</tr>
<tr>
<td>Individuals with no formal legal rights but claim to such land or assets</td>
<td>• Right to compensation and loss of land and assets at replacement cost&lt;br&gt;• Development assistance of over and above compensation measure&lt;br&gt;• Support after displacement until livelihoods are adequately restored&lt;br&gt;• Provision of assistance and accommodation</td>
<td>KeNHA, NLC, RC and Ad Hoc committee</td>
</tr>
<tr>
<td>Individuals who have no recognizable or known to the land they occupy</td>
<td>• Assistance and allowances as appropriate</td>
<td>KeNHA, NLC, RC and Ad Hoc committee</td>
</tr>
</tbody>
</table>
Income Restoration Program

The objective of income restoration activities is to ensure that no PAP shall be worse off than he or she was before the project. Restoration to pre-project levels of income is an important part of rehabilitating individuals, households and socio-economic and cultural systems in affected communities.

There are two types of Resettlement programs that aim at preventing impoverishment and restoring incomes and livelihoods of PAPs; land-based programs that provide the displaced person/family with alternative land and non-land based income generating activities such as small business, enterprise development, vocational training, employment, credit, etc., which will help the PAPs to restore any lost income opportunities, or improve their income generating capacity.

For the PAPs along the Mombasa-Mariakani Road Corridor, the second resettlement program is most appropriate since the land they are occupying is not theirs and therefore they will not lose land but the businesses and structures they have on it.

The identified opportunity therefore is to ensure that the PAPs who get spaces in the formal markets benefit by use of the already available infrastructure. The following options will be applied as income restoration measures in the project.

a) Provision of vocational training;
b) Encouraging and assisting the PAPs to form self-help groups;
c) Creation of awareness to access credit facilities; and
d) Improvement of sites for carrying out business activities.

A comprehensive training programme of the PAPs shall be done to assist them in re-gaining income sources. The overall objective is to provide counselling and promote business development and growth, employment creation and poverty alleviation. The proposed training program is aimed at building their capacities through economic empowerment, self-development, and improved environmental management. It is hoped that the beneficiaries will acquire skills to enable them move on and relocate businesses elsewhere, open new businesses and enhance their management and businesses practices for the sustainable development of their enterprises. The training to empower the PAPs will be a function of the RC in collaboration
with designated NGO/CBO who will be a member of the Committee. The needs of the PAPs have been identified during the socio-economic survey and informs the areas to be addressed.

11. Implementation Arrangements

The Ministry of Transport and Infrastructure through Kenya National Highways Authority (KeNHA) shall be the overall supervisor of the resettlement process. Arrangements shall be made whereby KeNHA shall be responsible for the disbursement of funds to the PAPs through Resettlement Committee (RC). The RC shall consist of not more than 15 members as shown in the Table below. The project Resident Engineer and a Contractors’ representatives shall be co-opted members of the Resettlement Committee once the Contract falls in place.

**Table 4: Members of Resettlement Committee**

<table>
<thead>
<tr>
<th>S/No.</th>
<th>Organization</th>
<th>Appointing Office/Authority</th>
<th>Number of Appointees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kenya National Highways Authority</td>
<td>Director General</td>
<td>3</td>
</tr>
<tr>
<td>2</td>
<td>County Governments of Kilifi and Mombasa</td>
<td>County Engineer</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Director Social Services</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Director County Planning</td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>Administration</td>
<td>County Commissioner</td>
<td>1</td>
</tr>
<tr>
<td>4</td>
<td>Ministry of Lands, Housing and Urban Development</td>
<td>National Lands Commission, Chairman County Land Management Board</td>
<td>1</td>
</tr>
<tr>
<td>5</td>
<td>Community Based Organisation</td>
<td>Chief Officer of One Identified Organisation</td>
<td>1</td>
</tr>
<tr>
<td>6</td>
<td>Representatives of PAPs</td>
<td>Representatives elected by PAPs by location including vulnerable groups</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>15</strong></td>
</tr>
</tbody>
</table>

NGOs/CBOs with experience in social development and poverty alleviation programs and a verifiable track record should be included as partners in the resettlement plan implementation. Selected NGOs should be engaged to support site-level resettlement plan implementation in coordination with RC personnel.
Implementation Process

Kenya National Highways Authority (KeNHA), County Government of Mombasa and Kilifi, Ministry of Lands, Housing and Urban Development shall through Resettlement Committee (RC), oversee the implementation of RAP. Among the responsibilities of the Committee are:

(a) To ensure that appropriate agencies that are mandated to plan and implement compensation, income restoration, and rehabilitation programs are identified as early as possible in Project preparation;
(b) To ensure compliance with the Resettlement Plan and Environmental Management plan; and
(c) To acquire the required land and pay compensation to the PAPs during the pre-construction period, and taking over the completed facilities for operation and maintenance during the post-construction period.

The following four components will form part of Implementation of RAP:

1. Notification;
2. Verification of properties of affected persons and estimation of their type and level of losses;
3. Preparation of entitlement persons for Land Acquisition; and
4. Relocation and resettlement of the PAPs.

RAP Implementation Activities and Schedule

Once the Resettlement Plan obtains approval from the government/funding body and implementation budget is secured, the implementation of RAP will proceed in the following sequence:

1. KeNHA, County Governments and Ministry of Lands, Housing and Urban Development shall establish a Resettlement Unit by constituting the members as shown in table above;
2. Training of the RC staff on Project-associated resettlement and rehabilitation responsibilities;
3. Selection of NGOs/CBOs working with the affected communities;
4. Grievance redress through grievance committee;
5. Implementation of RAP - Disbursement of compensation (allowances and assistance), Income Restoration, Resettlement activities;

6. Removal of private properties (salvage) and reconstruction of residential and business structures. The time scale for the core activities of the resettlement process is estimated to take fourteen (14) months although the key structures and committees will remain in place until the end of the project implementation. This takes into account important variables such as conflicts / grievance resolution and any other unforeseen circumstances.

**RAP Implementation Schedule**

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Time in months</td>
<td>5 6 7 8 9 10 11 12 1 2 3 4 5 6</td>
<td></td>
</tr>
<tr>
<td>A Schedule for Informal Sector</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Inventory Survey (Census) for PAPs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Working Group / Task Team Set-up</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Notice &amp; Agreement with PAPs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 Implementation of Resettlements &amp; Compensations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6 Clearance of Road Reserve (Demolition &amp; Levelling)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7 Grievance Redress</td>
<td>Vocational Training for PAPs</td>
<td></td>
</tr>
<tr>
<td>8 Monitoring (Quarterly Report to KeNHA/GoK)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9 Additional Budget Allocations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B Schedule for Formal Sector</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Working Group / Task Team Set-up</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Road Reserve Confirmation Survey</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
In order to deal with the grievances that may arise during the implementation of RAP, there is need to incorporate a grievance redress process within the RC. The grievance redress process will be carried out by a sub-committee within RC which will hear the complaints and provide solutions, and reduce unnecessary litigation by resolving disputes through mediation. Project Ad–hoc Committees have been already formed at locational level to prepare and enlighten the communities on the project impacts and negotiate with the project proponent on any matter that may be of interest at the implementation stage. These are envisaged to transform themselves and contribute membership to the GRC and the RC.

The PAPs shall play a role in the committee through representatives headed by a Chairperson elected by the PAPs who will carry out the following as regards redressing grievances:

(a) Hear the grievances of the PAPs and provide an early solution to those they are able to;
(b) Immediately bring any serious matters to the attention of the RC; and
(c) Inform the aggrieved parties about the progress of their grievances and the decisions of the RC.

Grievance Redress Sub–Committee shall be formed within the RC. This shall address the following main issues:

(d) Register the grievances raised by the PAPs; and
(e) Address the grievances forwarded by the RC/PAPs representatives.
Grievance Redress Sub-Committee shall try as much as possible to arrive at a compromise for complaints raised. This may be obtained through series of conciliation, mediation and negotiation exercises conducted with the PAPs. If PAPs accept the recommendations made by the committee, the committee along with PAPs representative in the committee will hold mediations meetings at the appointed places and time.

![Grievance Redress Mechanism](image)

**Dispute procedure**

Once a complaint is received at the project office, it is registered and given a reference number for ease of following up. The Office will evaluate the application and determine whether the issue can be handled administratively or the Committee has to meet over the matter.
Where the Committee has to be convened, all its proceedings are recorded and minutes prepared of the deliberations. The minutes have to be confirmed at the next meetings and authenticated by the full sitting. All the signed minutes and the resolutions of the GRC are implemented as agreed and without delay so as not to impact negatively on the project implementation plan. Some issues may arise in-course of the project implementation and these are dealt with as they arise. In the event that the grievance cannot be resolved by the various committees, the aggrieved may elect to seek redress from the court of law.

The dispute procedure is shown in chapter 4.5.2 Figure 8

**Costs and Budget**

The total cost to mitigate the social impacts for the road sections is as shown below. The budget to mitigate the impacts and offer support for restoring livelihoods. The values indicated are estimates, the government valuer will ascertain the values and revise accordingly shortly before any definite compensation can be processed.

**Table 5: Compensation and resettlement plan cost**

<table>
<thead>
<tr>
<th>Item for Compensation</th>
<th>Unit measure</th>
<th>Amount (KShs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value of land</td>
<td>Ha.</td>
<td>500m</td>
</tr>
<tr>
<td>Value of Structures/Buildings</td>
<td>M²</td>
<td>36m</td>
</tr>
<tr>
<td>Value of trees/crops</td>
<td>Age</td>
<td>10m</td>
</tr>
<tr>
<td>Public facilities</td>
<td>M²</td>
<td>15m</td>
</tr>
<tr>
<td>Accommodation/Transport allow</td>
<td></td>
<td>7m</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>563m</td>
</tr>
<tr>
<td>15% (disturbance)</td>
<td></td>
<td>84.5m</td>
</tr>
<tr>
<td>Total compensation cost- (KShs)</td>
<td></td>
<td>647.5m</td>
</tr>
<tr>
<td>Cost for RAP implementation</td>
<td></td>
<td>30.2m</td>
</tr>
<tr>
<td>Grand Total</td>
<td></td>
<td>677.7 m</td>
</tr>
</tbody>
</table>

**Monitoring and Evaluation**

A Monitoring and Evaluation (M&E) program is required to be developed to provide feedback to Project management that will ensure that the programs remains on schedule and successful.
Monitoring provides both a working system for effective implementation of the RAP by the Project managers, and an information channel for the PAPs to assess how their needs are being met. Monitoring shall be conducted in two ways: by an external expert and internally by the RC. An agency will carry out monitoring and evaluation of RAP implementation. The agency shall begin the work right from the implementation of RAP and will meaningfully and realistically monitor and evaluate the resettlement programs on a periodic basis so that all the vital activities are successfully implemented. Monitoring and evaluation will be useful in formulation of corrective measures by identifying the problems and difficulties faced by the PAPs and bringing them to the notice of the RC.

The committee shall carry out the following:

- Verify results of internal monitoring by RC;
- Assess whether resettlement objectives have been met; specifically, whether livelihoods and living standards have been restored or enhanced;
- Assess the resettlement efficiency, effectiveness, impact and sustainability, drawing lessons for future resettlement activities and recommending corrections in the implementation process; and
- Ascertain whether the resettlement entitlements were appropriate to meet the objectives and whether the objectives were suited to PAPs conditions.

The agency shall be knowledgeable in matters relevant to the activity and shall serve for the full duration of the project with an extension of period to carry out a final audit as specified in the schedule or as may be revised in future.

Conclusions and Recommendations

This Resettlement and Action Plan will be implemented by compensating the individuals affected by the proposed road upgrading activities. The compensation and assistance allowances will enable the PAPs to relocate and pave way for the road construction. In compliance with both the national regulations and the AfDB policy and procedures, all PAPs will be resettled and compensated before the construction activities commence.
1.0 GENERAL OVERVIEW

1.1.1 Background

The Kenya National Highways Authority (KeNHA) in its mandate to construct and maintain national highways with a view to spur economic growth has decided to improve the Mombasa-Mariakani Road section of the Northern Corridor (A109) to a dual carriage-way. The earmarked section is approximately 41.0km long. The project road section is characterized by heavy traffic with traffic jams that slow down traffic movements into or out of Mombasa. Mombasa County is the main port Town (Kilindini Harbour) with the largest and busiest port along the Eastern African coastline north of South Africa. The port of Mombasa handles import and export cargo for Eastern and Central African countries such as DR Congo, Burundi and Rwanda; South Sudan and northern Tanzania.

The project road traverses a densely populated area characterized by mixed land uses with high density residential developments, heavy and light industrial activities (manufacturing, warehousing and container storage facilities). The proposed road improvement project is approximately 41km long from Digo Road/Kenyatta Avenue junction to Mariakani Weigh-Bridge. Currently, the road is single carriage-way with two (2) short sections built as dual carriage-way. Detailed description of the project is presented in section above. The African Development Bank (AfDB) has expressed interest in funding the improvement and dualling of the Mombasa-Mariakani Road project.

The traffic composition within this road section comprises long distance heavy commercial trucks, public service and private vehicles with a component of local traffic serving the immediate hinterland. Mombasa City is the second biggest town in Kenya after the City of Nairobi. The distance between the two (2) towns is approximately 480kms without any significant centre in-between. The port of Mombasa is being expanded with new berths along Mwache Creek of West mainland. The main access to the harbour for heavy commercial vehicles is through Changamwe round-about and Makupa Causeway that form part of the project road.

Mombasa City is the centre of tourist industry with arrivals and departures through Moi International Airport located in Port Reitz in the West Mainland. Access to the Airport is through Changamwe and Makupa Causeway. Due to the high traffic volumes between Kenyatta Avenue and the Airport there are a lot of disruptions for traffic flow to and from the airport causing a lot of inconveniences.

Due to lack of space on the Island for further industrial and warehousing facilities expansion with competing commercial and residential developments, the Changamwe/Miritini areas have become the first phase for relocation. Much of the residential population in this area is still dependent on the existing facilities and employment opportunities on the Island and the port area, hence the high commuter traffic at peak hours.
There is no direct connection between up-country and the north coast, therefore all vehicular traffic destined to the north coast of Mombasa has to pass through Makupa Causeway and the Island (part of the project road) to access the north coast with its numerous tourist hotels. With the completion of the Southern Bypass through Mwache Creek, traffic from the south coast destined for the harbour and the north coast is envisaged to divert to the project road.

1.1.2 Project Location

The project road is located within the coastal region of Kenya starting at the centre of the port town on the Island of Mombasa and terminates at Mariakani Weigh Bridge, 41km along the Northern Corridor within the County of Kilifi. 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.

Figure 2: Project Location
The project road constitute a primary artery for access into the out-lying areas of Kwale (Kinango Sub-County) and Kilifi (Rabai sub-county) serving the residential satellite towns of Mazeras, Kaloleni and Mariakani in Kilifi County and Mazeras (Kinango). The road serves the administrative centre of Kinango in Kwale County through Mazeras. The road corridor serves the emerging industrial developments and container storage facilities that are relocating from Mombasa Island. The major road transporters have developed garages and truck parking areas along the road corridor mainly between Miritini and Mariakani. See Map 1- Project Location Map.

Figure 3: Digo Road to Changamwe Round about
Figure 4: Changamwe to Mazeras

Figure 5: Mazeras to Mariakani
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. There is an influx of new industries and truck parking between Mazeras and Mariakani. The areas between the Island and Miritini are heavily populated while the areas between Miritini and Mariakani are sparsely populated except at the trading centres of Mazeras and Mariakani.

1.1.3 Objectives of Resettlement Action Plan

In light of the anticipated implementation of the road project, it is imperative to establish the basis of preparing a resettlement action plan to lay a basis for mitigating the impacts of the resultant displacement from the project. A reconnaissance conducted along the project road confirmed that displacement will take place along the road corridor and therefore a resettlement plan has been prepared to guide the project proponent in addressing the issues that will arise at implementation stage. The main objective of the Resettlement Plan is among others to:-

(i) Identify the affected persons in order to determine those likely to be adversely affected by the project works, the severity and extent of the impacts. An assessment of the impacts on their assets, infrastructure and livelihoods within the road reserve of the road sections will be made including their income and assets survey;

(ii) Identify the poor and vulnerable groups so as to develop strategy to ensure that they proactively benefit from the project benefits;

(iii) Review the legal and other institutional framework;

(iv) Develop mitigation measures in consultation with the affected people;

(v) Prepare detailed entitlement matrix and an implementation plan;

(vi) Prepare a resettlement budget; and

(vii) Put in place a Monitoring and Evaluation and reporting system for the Resettlement Plan.

The overall objective of the resettlement plan is to identify and develop a mitigation plan to ensure that all kinds of adverse impacts are exhaustively identified so that the community as a whole benefits from the project during and after construction of the road.

1.1.4 AfDB Statements on Involuntary Resettlement

The African Development Banks’ statement on Involuntary Resettlement is stipulated in the Banks’ document entitled “Guidelines on Involuntary Displacement and Resettlement in Development Projects” (2003). The guidelines stipulate that when people must be displaced; it is to be ensured that they are treated equitably and they share in the benefits of the project that involves their displacement. Effort should be made to minimize disruptions to their livelihoods, ensure that the displaced persons receive resettlement assistance to improve their living standards. Close attention should be paid on the displacement of disadvantaged groups.
such as female headed households, elderly people, the poor and the marginalized communities. The borrower should set up mechanism to monitor the performance of the Resettlement Plan. The guidelines further recognize that the borrowing country has laws and regulations dealing with various issues pertaining to displacement and compensation for loss of assets and rights that need not be violated. The borrower should be encouraged to take a long–term view of the in–adequate provisions to improve on the inherent gaps to achieve equity.

1.2 PROJECT DESCRIPTION

1.2.1 Current Road Condition

The existing road between Mombasa Island and Mariakani is a single carriage–way except partial dualling between Miritini and Mazeras; Changamwe round about and Shimanzi round about. The road corridor between Digo Road junction and Makande Round About 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. Along–side 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 with concentrations 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

1.2.2 Proposed project Improvements

The existing single carriage–way sections of Mombasa-Mariakani Road project will be upgraded to dual carriageway and the design concept will be 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) Cycle track on each side where applicable;
(v) Footpaths on each side; and
(vi) Bridges, flyovers and footbridges,
(vii) Interchanges at appropriate locations and improved roundabouts as may be necessary.

In accordance with the detailed design concepts, the following components are being considered in the design of the road section.

(i) The road will be widened to 2 x 2 lane dual carriage way with service roads;
(ii) Footpaths will be integrated as appropriate;
(iii) Improved junctions will be incorporated at Changamwe, Jomvu and at Mazeras
(iv) Cattle crossings will be provided near the slaughterhouse at Mgumo Patsa (Kibaoni)
(v) Existing drainage structures to be improved and provide appropriate outfalls with minimal conflicts.

The detailed design for the proposed junction improvements will trigger land acquisition for the additional space. Modern construction techniques will however be adopted to reduce the amount of horizontal land requirements by substituting embankments with retaining walls where embankments will be necessary at valley crossings. No re-alignment is envisaged in the design necessitating land acquisition. The only additional land required is to accommodate street furniture and amenities such as foot bridges, bus stops, drainage system and foot paths.

The general design approach has been adopted with view to maximize use of existing road reserve, currently 36.5m (although this is to give a road reserve of 40m for design purposes) wide. Although the design speed adopted is for the road category, the operational speeds will be lower as the road traverses a heavily populated urban area where noise and gas emission from the traffic are matters of concern.

1.2.3 Administrative Setting

Mombasa-Mariakani Road project is located within Mombasa, Kwale and Kilifi Counties. The road project traverses four (4) sub-Counties running within proximity of Kinango Sub-County of Kwale County. The road traverses twelve (12) locations and sixteen (16) sub-locations. The road runs from the South-East in a North-Westerly direction. A summary of the current administrative units traversed by the project road is presented in the table below:-
Table 6: Administrative Units Covered By the Project Road

<table>
<thead>
<tr>
<th>County</th>
<th>Sub-County</th>
<th>Location</th>
<th>Sub-Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mombasa</td>
<td>Mombasa</td>
<td>Majengo</td>
<td>Majengo</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Railway</td>
<td>Railway</td>
</tr>
<tr>
<td></td>
<td>Changamwe</td>
<td>Changamwe</td>
<td>Changamwe</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chaani</td>
<td>Chaani</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mikindani</td>
<td>Mbirikani</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Jomvu</td>
<td>Jomvu Kuu</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Miritini</td>
<td>Miritini</td>
</tr>
<tr>
<td>Kwale</td>
<td>Kinango</td>
<td>Kasemeni</td>
<td>Mwadudu</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Mazeras</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mwatate</td>
<td>Mwatate</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mwavumbo</td>
<td>Mwabira</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Kalani</td>
</tr>
<tr>
<td>Kilifi</td>
<td>Rabai</td>
<td>Rabai</td>
<td>Mazeras/MgumoPatsa</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Kaliangombe/Jiba</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mariakani</td>
<td>Mitangoni</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Mariakani</td>
</tr>
</tbody>
</table>

Source: Provincial administration; 2014

1.2.4 Population and Demography

1.2.4.1 Population

The population for the Counties of Mombasa, Kilifi and Kwale is 1,131,458 (2009). However, since some parts of the county have no direct relationship to the project road, only the population of the sub-locations that are within the immediate area to the road corridor will be taken into account in appreciating the impacts of the road improvement. It is appreciated that the road corridor is an inter-state serving a large catchment area than the national or regional boundaries. However, the community living along the road and depending on it for their daily living are directly affected by the traffic jams occasioned the reduced capacity. The population of the immediate out-lying areas to the project road is 284,946 as shown in the Table 8 below.
<table>
<thead>
<tr>
<th>Sub-County</th>
<th>Location</th>
<th>Sub-Location</th>
<th>Population (2009)</th>
<th>Male</th>
<th>Female</th>
<th>No. of Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mombasa</td>
<td>Majengo</td>
<td>Majengo</td>
<td>30,920</td>
<td>14943</td>
<td>15977</td>
<td>6,933</td>
</tr>
<tr>
<td></td>
<td>Railway</td>
<td>Railway</td>
<td>8,388</td>
<td>4580</td>
<td>3808</td>
<td>2,110</td>
</tr>
<tr>
<td>Changamwe</td>
<td>Changamwe</td>
<td>Changamwe</td>
<td>11,013</td>
<td>5584</td>
<td>5429</td>
<td>2,914</td>
</tr>
<tr>
<td></td>
<td>Chaani</td>
<td>Chaani</td>
<td>58,238</td>
<td>31268</td>
<td>26970</td>
<td>19,492</td>
</tr>
<tr>
<td></td>
<td>Mbirikani</td>
<td>Mbirikani</td>
<td>17,520</td>
<td>9664</td>
<td>7856</td>
<td>5,937</td>
</tr>
<tr>
<td></td>
<td>Jimba</td>
<td>Jimba</td>
<td>38,776</td>
<td>19974</td>
<td>18802</td>
<td>10,294</td>
</tr>
<tr>
<td></td>
<td>Miritini</td>
<td>Miritini</td>
<td>25,934</td>
<td>13644</td>
<td>12290</td>
<td>8,159</td>
</tr>
<tr>
<td>Kinango</td>
<td>Kasemeni</td>
<td>Mwamududu</td>
<td>2,280</td>
<td>1080</td>
<td>1200</td>
<td>353</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mazeras</td>
<td>8,705</td>
<td>4284</td>
<td>4421</td>
<td>1,680</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mwatate</td>
<td>10,791</td>
<td>5052</td>
<td>5739</td>
<td>1,601</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mwavumbo</td>
<td>6,074</td>
<td>2830</td>
<td>3244</td>
<td>881</td>
</tr>
<tr>
<td>Rabai</td>
<td>Rabai</td>
<td>Mazeras/Mguom/Pat</td>
<td>15,909</td>
<td>7669</td>
<td>8240</td>
<td>3,723</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Kaliangombe/Jimba</td>
<td>9,342</td>
<td>4518</td>
<td>4824</td>
<td>1,545</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mariakani</td>
<td>29,866</td>
<td>15179</td>
<td>14687</td>
<td>6,895</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>284,946</td>
<td>14566</td>
<td>13927</td>
<td>74,298</td>
</tr>
</tbody>
</table>

**Source: Kenya National Population Census (2009)**

The population of the areas in consideration is estimated (2014) at 330,330 assuming an annual growth rate of 3.3% per annum. The population density per square km is highest in Majengo sub-location (21,361) followed by Chaani sub-location (13,793) while the lowest density is in Mwamududu Sub-location (141).

The immediate catchment area of the project road has a total of 74,298 households of which 80.8% are male headed and 19.2% are female headed. The average size of a household is 3.8 persons. In the project area, population distribution varies widely depending on proximity to Mombasa Central Business District.
1.2.4.2 Religion and ethnic Composition of the PAPs

The composition of the PAPs is mixed with the local sub-tribes being dominant among the business communities. Besides the Miji Kenda community members, the Kambas were the next large community. Some of the respondents decline to disclose their ethnic grouping.

### Table 8: Ethnic Composition of the Respondents (PAPs)

<table>
<thead>
<tr>
<th>Ethnic Group</th>
<th>Number</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Akamba</td>
<td>45</td>
<td>13.9</td>
</tr>
<tr>
<td>Arab</td>
<td>7</td>
<td>2.1</td>
</tr>
<tr>
<td>Indian</td>
<td>2</td>
<td>0.6</td>
</tr>
<tr>
<td>Miji Kenda</td>
<td>92</td>
<td>28.4</td>
</tr>
<tr>
<td>Kikuyu</td>
<td>40</td>
<td>12.3</td>
</tr>
<tr>
<td>Taita</td>
<td>15</td>
<td>4.6</td>
</tr>
<tr>
<td>Meru</td>
<td>19</td>
<td>5.9</td>
</tr>
<tr>
<td>Luo</td>
<td>12</td>
<td>3.7</td>
</tr>
<tr>
<td>Luhya</td>
<td>6</td>
<td>1.9</td>
</tr>
<tr>
<td>Kalenjin</td>
<td>4</td>
<td>1.2</td>
</tr>
<tr>
<td>Kisii</td>
<td>1</td>
<td>0.3</td>
</tr>
<tr>
<td>Somali</td>
<td>12</td>
<td>3.7</td>
</tr>
<tr>
<td>Blanks (Un-Disclosed)</td>
<td>68</td>
<td>21.0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>323</strong></td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

Among the respondents, Christianity is the dominant religion compared to Islam among the respondents. There are 193 Christians and 104 Muslims among the respondents and 26 people could not disclose their religion.

1.3 Scope of the Resettlement Action Plan (RAP)

1.3.1 Objective of the RAP

The objective of this assignment is to prepare a resettlement action plan that complies with the safeguards policies of the AfDB on involuntary resettlement. The policy requires that in the event of project that is recipient of their funding and has the potential to displace more than 200 persons due to land acquisition, a full Resettlement Action Plan has to be prepared. The proposed road improvements have been assessed to displace 1352 persons who earn their livelihoods along the road and their dependants. The purpose of this resettlement action plan is therefore to:
Define clearly the project affected persons, their eligibility for compensation, the assets to be compensated and the cut-off date for eligibility

Provide a socio-economic basis for identification of entitlements and strategies for minimising the impacts on the project affected persons

Establish rates for compensation on loss of assets and the methodology of determining the values

Establish land acquisition and compensation process and establish a dispute resolution mechanism to address any grievances arising from the displacement

Identify any gaps between AfDB guidelines and the laws of Kenya on matters addressing issues of involuntary displacement and suggest how the gaps can narrowed to meet the Banks criteria

1.3.2 Scope of the Resettlement Action Plan

The scope of the resettlement action plan has ensured that the integrated social safeguards guidelines of the African Development Bank’s Policy on Involuntary Resettlement, i.e. Involuntary Resettlement Policy (2003); have been adhered to. To ensure that this has been complied with, the preparation process has:-

- Has identified the project affected persons along the road corridor and an assets inventory has been carried out for all the identified project affected persons. The inventory has included affected land, structures, trees and crops, livelihoods and cultural assets
- Public consultations have been held with the PAPs and the community in general, stakeholders and members of the civil society have been consulted through assistance of the local administration
- Kenyan legal provisions have been compared with the AfDB policies to identify any gaps and necessary recommendations to harmonise the two have been incorporated in the resettlement plan
- The land acquisition schedule and the resettlement plan have been prepared with the necessary budget to facilitate the implementation.

1.4 METHODOLOGY

The information for formulation of the 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:

(i) Analysing the secondary data information contained in official reports;
(ii) 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 PAP was conducted by trained assistants (See Annexure 1 and 1A); and
(iii) 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.

1.4.1 Literature Review

The development of the resettlement action plan was complemented by reviewing of relevant literature on land use and settlement patterns within the immediate area of influence by the road sections. From the empirical evidence, it was evident that a large number of the local population was operating businesses along the road reserves for their livelihoods. It was also evident that some of the buildings along the road corridors were not symmetrical, and there were strong indications of encroachments onto the dedicated road corridor in the urban plans.

The project road traverses an urban and peri-urban area within the County of Mombasa and its environs. The latter peri-urban area falls mainly within the County Governments of Kwale and Kilifi. These areas are experiencing very high population growth trends within the Mombasa City County and a lot of industrial development within the peri-urban area. The review therefore was to:

(i) Review the Development Plans influencing land uses within the project area and also the space dedicated for road purposes and accessibility aspects;
(ii) Identify and harmonize any differences in resettlement and compensation guidelines between the Kenya Government legislations and the AfDB Guidelines on Involuntary Resettlement and other Social Safeguards;
(iii) Establish the land use rights in the project area since the land is held on development leases from the government; and
(iv) Review legal and policy framework on compensation and resettlement.

In this respect, the following documents were reviewed: District Development Plans for Kwale and Kilifi (2008 – 2013); Development Plans covering land use in Mariakani and Mazeras Towns,
Survey Plans for developments along Mombasa-Mariakani Road, Informal Businesses Reports. Various Statutes dealing with land use planning and licensing of businesses; The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012; The Lands Act, 2012 etc. were reviewed as they are relevant for a resettlement plan.

The review of literature also covered the AfDB Policies and Guidelines on Involuntary Resettlement (2003); Gender Policy; Bank Group Policy on Poverty Reduction; Policy and Guidelines on Cooperation with Civil Society Organizations and Handbook on Stakeholders Consultation and Participation on ADB projects. The literature review provided sources for baseline data collection on population characteristics as compiled by the National Bureau of Statistics as regards poverty levels, demography of the project areas, community resources, political and social resources, institutional structures, etc.

1.4.2 Socio-Economic Survey

The collection of socio-economic data for the potential project was conducted through a structured questionnaire administered in the field by enumeration clerks. Interviews were conducted for all the people within the road reserve to establish their income levels and household characteristics.

A census and an assets inventory of all were carried out to collect data for compiling a register of potential project affected persons. The land considered for the assets inventory was based on the design of the new road alignment and the areas earmarked for acquisition. The survey included categorization of the human activities along the road corridors and all the economic features that would be displaced by the proposed road improvement.

1.4.3 Stakeholder Consultations

The stakeholder consultations and public forums on the project entailed presentation of the project proposals at public meetings convened as stipulated in the Constitution of Kenya.
(2010), National Environment Management Authority (NEMA) guidelines and Physical Planning Act, Cap 286 requirement for public participation in every planning intervention. The meetings were publicized in the media and at local administration forums for grass-root contact.

Besides the public forums, focus group discussions were held with selected groups such as women, youth, trader’s associations, residents associations and civil society groups. Public institutions along the road corridor were consulted for any perceived impacts unique to their operations for purpose of influencing the final design of the road, provision of street furniture and other amenities. Special attention was paid in discussions with the chief officers of the County governments along the road corridor that responsible for development control, regulation of trading activities and provision of social facilities within their areas of jurisdiction. Meetings were held with other government departments represented in the area and have one role or another to play in the realization of a smooth resettlement plan. These forums were held jointly with the team dealing with ESIA consultations. The details of the venues and the attendance lists are provided in Annex.

Figure 6: Consultations locations

The meetings were attended by the local leaders and any potential PAP along the road corridor. This could be discerned from the bias in the comments during the discussions. They were mainly based on the compensation both in quantum and whether this would be done before the project takes over the affected land. Some of the questions also sought to know whether
those people who are affected and do not have elsewhere to carry-on with their livelihoods would be compensated.

1.4.4 Field Activities

The field activities were undertaken at different visits to the project area informally.

- The field activities for the preparation of the RAP entailed the sensitisation of the potential project affected persons on the impacts of the project, enlightening them on the nature of information that will be required when the detailed surveys will be undertaken and an encouragement to seek the support of the people in designing a reliable resettlement plan. This was undertaken on a one-to-one basis besides the public forums where the design was presented to the public.
- Delineation of the RoW was undertaken (appreciated since already marked with posts by KeNHA) and established that the corridor was adequate for the proposed cross-section.
- Recruitment and training of the clerks with a briefing to the Village Elders and the Chief to facilitate effective conducting of the interviews and collecting the data required. The Elders were to oversee that the clerks were assisted by the respondents and give the exercise an official approval. An experienced supervisor monitored the data collection and offered any necessary clarifications to the respondents. A census of the project affected persons was done as comprehensively as possible with proxies offering information where the head of the family was not available or if the property was unoccupied, the Village Elder would contact the land owner by cell-phone and the information would be recorded promptly.
- An assets inventory was compiled for each of the project affected persons within the road corridor as defined by the posts erected along the road boundary. At Mazeras and Mariakani Trading centres, all properties fronting the road corridor were recorded as it had been established that the road corridor was narrower that 40m and it had been determined that any land acquisition would be confined to 2m on either side of the road.
- Consultations were held with stakeholders who are mainly policy makers in sectors related to infrastructure, coordination and governance. The County governments were particularly singled out because some of the interventions to mitigate the impacts on the PAPs depended very much on their playing their roles through land use planning and provision of social services such as markets for the displaced hawkers.
- During the public forums, the public were explained not only the design concept but also on mitigation measures of compensation for loss of assets and livelihoods, arrangements to address any grievances that might arise, their opportunity to influence and identify appropriate benefits through the corporate social responsibility through the project. They were encouraged to form ad-hoc project committees to internalise the
project components and if need be, consult among themselves and articulate their concerns effectively

- The data collected in the field has been analysed and the results used in the compilation of the resettlement plan.
2.0 POTENTIAL IMPACTS AND MITIGATION MEASURES

2.1 Improvement Impacts at the Community level

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.

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.

2.2 Project Affected Persons

Analysis of the data on the census of the project affected persons along the road corridor and the socio-economic survey reveal that there were 488 households along the road who had right of livelihood by operating business along the road corridor. These people had 864 dependants making a total of 1352 PAPs. The latter are operating outside the road corridor. 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.

2.3 Loss on incomes

In the improvement and up-grading to dual carriage way of the project road, 192 informal businesses (See Table 10) will be affected through displacement from the road reserve. All the
PAPs except land owners whose land will be required for road realignment are trading within the road reserve, with particular significance at Changamwe, Miritini/Kwa Jomvu, Mazeras and Mariakani. The County governments is responsible for the planning and development control under the Urban Areas and Cities Act (No 13 of 2011) have been consulted and made aware of the need for harmonizing the mitigation interventions for the project affected persons. The income levels of the project affected persons are

Table 9: Type and number of activities within the road

<table>
<thead>
<tr>
<th>Trade Activities by Category</th>
<th>Number of activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kiosks</td>
<td>Food</td>
</tr>
<tr>
<td></td>
<td>Miraa</td>
</tr>
<tr>
<td></td>
<td>Mpesa</td>
</tr>
<tr>
<td></td>
<td>Stall</td>
</tr>
<tr>
<td></td>
<td>General</td>
</tr>
<tr>
<td>Shops/Hotels</td>
<td>General</td>
</tr>
<tr>
<td></td>
<td>Bar/Guest house/lodging</td>
</tr>
<tr>
<td></td>
<td>Barber</td>
</tr>
<tr>
<td></td>
<td>Hotels</td>
</tr>
<tr>
<td></td>
<td>Grocery</td>
</tr>
<tr>
<td>Businesses (General)</td>
<td></td>
</tr>
<tr>
<td>Garages/spare shops</td>
<td></td>
</tr>
<tr>
<td>Timber yard</td>
<td></td>
</tr>
<tr>
<td>Furniture shops</td>
<td></td>
</tr>
<tr>
<td>Residence</td>
<td>Home</td>
</tr>
<tr>
<td></td>
<td>Rental</td>
</tr>
<tr>
<td></td>
<td>Rental and shop</td>
</tr>
<tr>
<td></td>
<td>Rental and diesel pump</td>
</tr>
<tr>
<td>Tree Nurseries</td>
<td></td>
</tr>
<tr>
<td>Fuel pumps</td>
<td></td>
</tr>
<tr>
<td>Miscellaneous</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>192</td>
</tr>
</tbody>
</table>

Their role in the provision of space for the traders is under constant discussions for the trading activities are an important source of income for the County and need to be properly managed for sustainability.

During the consultative forums, it transpired that the County governments have embarked on an exercise to remove hawkers from the road corridors and restore them back into the markets
that the traders abandoned. When consultative meetings were held with the County Chief Officers in Mombasa, Kilifi and Kwale, it was impressed upon them that the proposed project will trigger a major re-adjustment in the location in human activities. There are 529 assets comprising mainly of structures (393), fences (39) and trees (97) which have been identified in the assets inventory exercise that was carried out concurrently with the socio-economic survey. The income levels of the project affected persons are reflected in Table 16 to form basis of determining assistance for the PAPs to move with full cognisance that the reported incomes are exaggerated. No documentary evidence was tendered and for the type of businesses identified, the incomes would not be sustainable.

2.4 Loss of land

The proposed improvements are confined within the existing road corridor of 60m except where it has become necessary to create new junctions with slip roads that extend beyond the existing road corridor. The proposed re-alignment at Bonje will require land to accommodate the new pavement. As a result, approximately 25.0 ha will be acquired and compensation will be paid to the land owners.

2.5 Loss of structures

The structures affected by the proposed improvement include the temporary structures erected within the road reserve to provide shelter to the informal traders. Others include the kiosks where trading activities are carried out within the road corridor. Some of the kiosks are extensions of the private buildings abutting the road corridor.
Plate 2: Affected Walls, mosque, and the new kiosks under construction

Table 10: Affected Properties within the Road Project

<table>
<thead>
<tr>
<th>Item</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kiosks</td>
<td>42</td>
</tr>
<tr>
<td>Buildings- Temporary (Makuti, polythene, mud/mangrove posts),</td>
<td>390</td>
</tr>
<tr>
<td>- Timber sections</td>
<td>1</td>
</tr>
<tr>
<td>Public buildings (Mosques, Church)</td>
<td>3</td>
</tr>
<tr>
<td>Trees</td>
<td>96</td>
</tr>
<tr>
<td>Total</td>
<td>532</td>
</tr>
</tbody>
</table>

2.6 Loss of trees and crops

Very few trees were enumerated within the road corridor except where by the project affected person with support of the Village Elder desired that it be included as part of his assets. There are no farms either within the road reserve but the KARI farm is adjacent to the corridor. The valuation of trees and crops is a specialist area with guidelines being given by the agriculture expert and the forester on trees. The factors considered in the valuation of the trees is its commercial value and whether is mature (fruit bearing or not). Valuation for crops takes into account the acreage of the crop and the yield per acre in the general area.

2.7 Impact on vulnerable groups

The analysis of the data reveals that some of the project affected persons qualify to be categorised as vulnerable. These would be people with physical dis-abilities and impairments; aged people (in this category taken to be people above the age of 70 years); people living below poverty line and widows and families headed by children. From the survey, 196 households were male headed while 124 were female headed. From the socio-economic survey, 12
persons, comprising of 9 men and 3 women of whom 2 female were widows and 1 man who were widows fell in this category.

In view of this, it is recommended that the Resettlement Committee through the community provide additional assistance to the group to resettle them. They should be provided with modern kiosks at convenient location where they can continue with their businesses besides the allowances they would be paid together with the other project affected persons.
3.0 ORGANIZATIONAL RESPONSIBILITY

Whereas Kenya National Highways Authority is the project proponent and will be responsible for ensuring that the plan is implemented as agreed with the lenders, other Government agencies will be directly involved in the implementation of this resettlement plan. Included in this category of agencies are also the County governments. Each of the agencies has its role to play in the process as mandated in its responsibilities vested by various laws and the Constitution of Kenya. These institutions include:-

3.1.1 Ministry of Infrastructure and Transport
The Ministry is responsible for the roads sector and is responsible for procuring resources from the National Treasury for the overall project. The Ministry is also responsible for harmonising the resettlement with other government policies on the same subject.

3.1.2 The National Land Commission
The Commission is responsible for compulsory land acquisition and payment of the compensation money to the affected persons. The Commission process the request from the project promoter. The Commission handles the gazetting, inspections of affected properties. They prepare the awards and facilitate the taking of possession of the subject-matter land upon payment of the awards to the affected persons. The National Land Commission has established County offices that will be directly involved in matters arising from the land acquisition if the affected persons are not satisfied with the awards.

3.1.3 County Government
The County is responsible for ensuring that the plan is acceptable to the local residents as it supplements the County’s capital programmes. The County government is also responsible for regulating trade and providing markets within its area of jurisdiction. The informal traders that will be displaced from the road corridor were previously operating within the County markets in Mombasa and Kilifi Counties.

3.1.4 The local CBOs and other Civil Society
Member groups of the civil societies working in the area in related fields. Their responsibility is to ensure that the resettlement plan is implemented as suggested and in the event of any departure or change in circumstances, the project affected persons are not adversely affected. The group will also have a role to sensitise the people and empower them to realise maximum benefits from the project. They will be involved in the training and counselling of the project affected persons.
3.1.5 The office of the County Commissioner

The office particularly at the location level is best suited to mobilise the people as it has grass-root networks. It has the clout to chair meetings and settle disputes as it commands the general public support. The Chief knows all the residents of his area and has the advantage to give reliable information on various aspects of the plan for efficient implementation. It has vast experience in dealing with matters of dispute that need not be referred to the Courts of law.

3.2 Implementation process

KeNHA as the project proponent will set-up the Resettlement Committee to oversee the implementation of the RAP. This will entail verifying the details of the PAPs and facilitating the payment of any compensation or assistance benefits. The Committee will mobilise the PAPs and keep them informed of the various stages of the project implementation. The Committee will also create awareness among the communities living along the road corridor. Among the responsibilities of the Committee are:

(i) To ensure that appropriate agencies that are mandated to plan and implement compensation, income restoration, and rehabilitation programs are identified as early as possible in Project preparation;
(ii) To ensure compliance with the Resettlement Plan and Environmental Management Plan; and
(iii) To acquire the required land and payment of compensation to the PAPs during the preconstruction period, and monitoring the completed road facility and ensure that the objectives of the resettlement plan have been achieved.

The following four components will form part of Implementation of the RAP:

(i) Notification;
(ii) Verification of properties of affected persons and estimation of their type and level of losses;
(iii) Preparation of entitlements for affected persons by Land Acquisition; and
(iv) Relocation and resettlement of the PAPs.

3.2.1 Notification

In this first stage, all the PAPs without legal titles will be notified to leave the road corridor, for the PAPs who have legal titles the cut-off date will be the date of notification of acquisition.

3.2.2 Verification of properties of PAPs and losses

This is a second stage, which should be undertaken by the RC with assistance from the PAPs’ representatives and local NGOs. They should identify all PAPs and check records of addresses,
type of property, estimation of type and level of losses. The procedure should also include consultations for explaining the entitlement framework to the PAPs, methods of payment of compensation, assistance entitlements, grievance procedures and participation in implementation.

3.2.3 Preparation for clearance of the road corridor

In this third stage the PAPs are 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 Project transactions, and efforts will be made to continue with all the development activities. No physical relocation from the Mariakani – Mombasa Road should began before alternate arrangements have been made A sufficient notice will be provided to PAPs before relocation

3.2.4 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 will be shall be demolished by the owners who will be entitled to take with them the salvage material to their new site.

3.3 Membership and responsibility of Resettlement Committee

Implementation of resettlement plan and ascertaining compensation shall be undertaken by a Resettlement Committee. The membership of the RC shall be made up of appointees from the relevant government organizations’ with a maximum of ten (10) persons who shall be involved in the exercise for pre-construction and post-construction period. NGOs with experience in social development and poverty alleviation programs and with a verifiable track record should be included as partners in the resettlement plan implementation. Among the areas where the NGOs/CBOs will provide assistance are in:-

(i) Gathering and sharing information and avoiding potential problems;
(ii) Mobilization and motivation to PAPs to form community based organizations;
(iii) Planning and implementing income-generating schemes for the PAPs;
(iv) Developing information campaigns and community participation;
(v) Strengthening local institutions and community self-reliance; and
(vi) Delivering services to communities in a more efficient and cost effective manner.
Once the Resettlement Plan obtains approval from the Government/Funding body and the Implementation Budget is secured, implementation of the RAP may proceed in the following sequence:

(i) KeNHA, Mombasa/Kilifi Counties, Office of the County Commissioners and Ministry of Lands, Housing and Urban Development shall establish a Resettlement Unit by constituting the Committee membership at the KeNHA Office (Mombasa Region). The membership shall be drawn from the agencies involved in road development, land matters, governance and civil society and county government.

(ii) Training of the Resettlement Unit staff on Project-associated resettlement and rehabilitation responsibilities will be undertaken;

(iii) Selection of credible NGOs working with the affected community;

(iv) Grievance Redress Mechanism will be initiated through setting-up of Grievance Committee;

(v) Implementation of RAP - Disbursement of relocation assistance, Income Restoration, Relocation, Resettlement activities;

(vi) Demolition and clearance of the ROW

The duration for each of the above activities shall be guided by the RAP Implementation Schedule as shown in Table 22.

3.4 Organisation Structure for RAP Implementation

The overall responsibility of managing the implementation process of the project will vest under KeNHA who will constitute a Project Management Unit comprising of senior management staff. The Unit will coordinate the project with other government Ministries. The Unit will oversee the operations of the Resettlement Committee set-up for the purpose.

To facilitate the realization of the Resettlement Action Plan, KeNHA will set-up the Resettlement Committee that will comprise of other pertinent government agencies and an NGO of sound standing to oversee the implementation of RAP.

The Resettlement Committee will operate within the guidelines given by the Project Management Unit in cognisance of the national and Banks’ policies on resettlement. The Committee will operate within the project area to ensure contact with the project affected persons and internalise the emerging issues on the plan implementation. The Resettlement Committee

The Resettlement Committee will incorporate the work already being performed by the Ad Hoc Committee formed by the Community and the PAPs at the preparatory stage of the Project. The Ad Hoc Committee had been working with the Design Team and the Project Management Unit of KeNHA. The Ad Hoc Committee responsibility has been to articulate the communities’ views and disseminate the project goals and objectives to the community for consensus building. They have also acted as the link between KeNHA and the community on addressing any grievances that arise from the design aspects of the project.
This integration of the Ad Hoc Committees will be done through the setting-up of the Grievance Redress Committee (GRC) whose main responsibility shall be to address grievances arising from the project implementation. Due to the length of the project road (approximately 41km) and the fact that it traverses different Counties, it is imperative that the sub-Committees of the RC be constituted at locational level where there is more homogeneity and cohesion for efficient dispute resolution. The RC at the project level will maintain the co-ordination role for consistency. The details of the Grievance Redress Committee are discussed in Chapter 4.

**Figure 7: Project Management Unit and RAP Implementation**

- Inter-Ministerial Steering Committee
  - KeNHA; Min. Lands; County Governments;
  - National Co-ordination; Others.

- Resettlement Committee Unit
  (including Grievance Redress Committee)

- CBOs, NGOs,
- Vocational Training Manager
- Government Technical Staff
- Support service Unit
- Community Representatives
- (PAPs) representatives
3.4.1 Project Ad Hoc committee

During the sanitation and stakeholders consultation it became apparent that there was a big gap between the community and the project design and implementation process. The meetings had been convened under the hospices of the chief and the office of the county commissioner. The participants at the forums included among others businessmen, opinion leaders, church/religious leaders, youth and women leaders and the community in general. During the presentations it transpired that to bridge the gap on information flow and facilitate feedback on the presentations it was necessary to create an informal forum to form a contact point between the consultant/ client and the project beneficially (community).

It was therefore recommended to the meeting that they constitute a project Ad Hoc committee that can collect and articulate the views of the community on the project to the design team and the client. The membership of the ad hoc was to include among others the chief representative of all the groups including those who through the design plans had been identified as the PAPs. Some of the issues they were to deliberate on and advice the design team are on matters such as cultural assets, recommend appropriate assistance for PAPs who otherwise there are no clear guidelines.

This Ad Hoc committee would be formed at the location level to ensure homogeneity ease of access and facilitate interaction between the PAPs and the project implementation.

3.5 Implementation Schedule

Time scale for the resettlement process is estimated to last the duration of the project and start earlier during the design period at public consultations. This takes into account important variables such as creation of awareness one of the potential impacts and resolution of conflicts / grievance and cash flow from GoK/AfDB. Time schedule and summary of activities is presented in the Table 12 below.

Table 11: Proposed RAP Implementation Schedule

<table>
<thead>
<tr>
<th>RAP Implementation Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calendar Year</td>
</tr>
<tr>
<td>Time in months</td>
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<tr>
<td></td>
</tr>
<tr>
<td>A</td>
</tr>
</tbody>
</table>

Schedule for Informal Sector
<table>
<thead>
<tr>
<th></th>
<th>Inventory Survey (Census) for PAPs</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Working Group / Task Team Set-up</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Notice &amp; Agreement with PAPs</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Implementation of Resettlements</td>
<td></td>
</tr>
<tr>
<td></td>
<td>&amp; Compensations</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Clearance of Road</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reserve (Demolition &amp; Levelling)</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Grievance Redress</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Vocational Training for PAPs</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Monitoring</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(Quarterly Report to KeNHA/GoK)</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Additional Budget Allocations</td>
<td></td>
</tr>
</tbody>
</table>

**Schedule for Formal Sector**

<table>
<thead>
<tr>
<th></th>
<th>Working Group / Task Team Set-up</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Road Reserve Confirmation Survey</td>
<td></td>
</tr>
<tr>
<td></td>
<td>&amp; Installation of Beacons</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Asset Inventory / Evaluation</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Notice &amp; Agreement with PAPs</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Implementation of Compensations &amp; Land Title Transfer</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Clearance of Road Reserve (Demolition &amp; Levelling)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Grievance Redress</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Monitoring</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(Quarterly Report to KeNHA/GoK)</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Additional Budget Allocations</td>
<td></td>
</tr>
</tbody>
</table>
4.0 PUBLIC CONSULTATIONS AND COMMUNICATION

4.1 Consultation and community participation

An effective resettlement planning requires regular and thorough consultation with a wide range of project stakeholders in the general areas of the project. This wide consultation will include individuals and groups who will be positively or negatively affected by the project including potential host communities.

Comprehensive consultations have been held with various stakeholders from the reconnaissance stage through public consultations for baseline socio-economic household survey. At this stage for household survey, the data was cited for determination of the potential project affected persons within the road corridor. The consultations were aimed at seeking the views from the public along the project road on various aspects of design. Secondly, the public consultation forums served to create awareness to the local community on how the project would impact on their daily lives during and after the improvement.

Prior to the conduct of socio-economic survey, meetings were held with the government officials and other opinion leaders among the community to sensitize the on the project and its effect on social-economic aspect of the community. The issue of the project affected persons as a result of the project was highlighted and participants appraised on the mitigation measures available by the project.

The process of carrying out the assessment for the PAPs and their assets was also explained to create awareness and form a basis for subsequent discussions. Public consultations were held at various locations as determined by administrative boundaries for ease of administration and management of the stakeholder’s composition and record keeping for future reference and analysis. The list of public officials and civil society to be involved in the process was exhaustively compiled to be representative of their intervention on development matters in the project where they serve as a bridge of empowerment of local communities. A special forum was arranged for the civil society groups and also the vulnerable groups including youth, women and people with disability.

During the public and stakeholder consultations, the meetings were conducted in Kiswahili with the aid of the design plans displayed on walls of the meeting halls to illustrate to the participants the impacts and the alignment. This enabled them to identified with the project as individuals and appreciate if they are affected and to what extent.

**Table 12 : Schedule and dates of Public Consultation Meetings**

<table>
<thead>
<tr>
<th>Date</th>
<th>Venue</th>
<th>Time</th>
<th>County</th>
<th>Sub-County</th>
</tr>
</thead>
<tbody>
<tr>
<td>11/06/2014</td>
<td>Mariakani Milk Scheme, Mariakani</td>
<td>10.00 am</td>
<td>Kilifi</td>
<td>Kaloleni</td>
</tr>
<tr>
<td>12/06/2014</td>
<td>Kaliang’ombe Assistant Chief’s Office</td>
<td>10.00 am</td>
<td>Kilifi</td>
<td>Rabai</td>
</tr>
<tr>
<td>13/06/2014</td>
<td>Botanical Garden, Mazeras</td>
<td>10.00 am</td>
<td>Kilifi</td>
<td>Rabai</td>
</tr>
</tbody>
</table>
Table 13: Participation by Gender at public meetings

<table>
<thead>
<tr>
<th>Date</th>
<th>Venue</th>
<th>Males</th>
<th>Females</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2/06/2014</td>
<td>Mariakani Milk scheme, Mariakani</td>
<td>116</td>
<td>42</td>
<td>158</td>
</tr>
<tr>
<td>3/06/2014</td>
<td>Kaliang’ombe assistant chief’s office</td>
<td>68</td>
<td>30</td>
<td>98</td>
</tr>
<tr>
<td>4/06/2014</td>
<td>Botanical Garden, Mazeras</td>
<td>48</td>
<td>17</td>
<td>65</td>
</tr>
<tr>
<td>5/06/2014</td>
<td>Jomvu /Madavuni</td>
<td>52</td>
<td>19</td>
<td>71</td>
</tr>
<tr>
<td>6/06/2014</td>
<td>Chief’s office, Chaani</td>
<td>45</td>
<td>30</td>
<td>75</td>
</tr>
<tr>
<td>7/06/2014</td>
<td>Good News Church of Africa, Changamwe</td>
<td>80</td>
<td>52</td>
<td>132</td>
</tr>
<tr>
<td>9/06/2014</td>
<td>Assistant Chief’s office, Mbirikani</td>
<td>71</td>
<td>51</td>
<td>122</td>
</tr>
</tbody>
</table>

4.2 Results and Recommendations

The views of the stakeholders as expressed at the various meetings that were held jointly during the public consultative forums are summarized in Table 15 below. Majority of the meetings participants were initially of the view that the clearances that had been carried out along the road by the County governments to force the informal traders back into the established markets that they had abandoned, had been done because of the proposed road project. They were therefore reluctant to volunteer information and expressed that they were ready to vacate the road corridor for the project. They sought to be considered for alternative space and be given adequate notice rather than be forcefully evicted. Others felt that since they had land documents and/or official approvals to their developments, they should be compensated for affected land and developments even if they had encroached on the road reserve.
### Table 14: Comments and Responses during the PAPs Consultative Meetings

<table>
<thead>
<tr>
<th>S/No.</th>
<th>Comments/Issue</th>
<th>Remarks/Response</th>
<th>Integration of Comment in the design</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Since it is inevitable for the informal traders to vacate the road reserve for the much needed improvement, how soon would the construction start.</td>
<td>The date for notices to vacate will be determined by KeNHA as soon as the procurement procedures for the Contractor are finalized. The Notice issued by the Ministry of Roads in 2003 requiring removal of activities on road corridors is still in force. However, a notice would be issued to the affected persons when the time for construction starts.</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>People whose developments are too close to the road reserve and are considered to have encroached, what will happen to their developments.</td>
<td>The exercise to determine the properties that have encroached on the road corridors will be carried out by KeNHA to establish the extent of encroachment and the affected persons.</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>The people who were constructing along the road corridor were apprehensive about the proposed improvements and sought to know if they should stop their constructions and await the road construction.</td>
<td>They were informed that the forum could not address their plight but they could seek intervention of the County Government as regards development guidelines.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Compensation should be paid to all the affected persons who will be displaced by the road improvement.</td>
<td>The guidelines detailing the payment of compensation as detailed in the Constitution of Kenya and the relevant laws and any other policy.</td>
<td></td>
</tr>
<tr>
<td>S/No.</td>
<td>Comments/Issue</td>
<td>Remarks/Response</td>
<td>Integration of Comment in the design</td>
</tr>
<tr>
<td>-------</td>
<td>--------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>5</td>
<td>The participants sought to know whether the road could not be relocated elsewhere rather than improve it and displace them particularly at Mazeras</td>
<td>It was explained that the road reserve was part of the town plan and its expansion should have been accommodated with the developments. Provision of space for expansion had been neglected and developments took place without proper planning. Developments on the left hand side fell within a transportation corridor (road/rail)</td>
<td>The developments on the left hand side are within Mazeras Railway Station land and are held on temporary basis. KeNHA has been advised to liaise with KRC on accessing the land for purposes of acquisition. Otherwise, the road widening would be confined to the space available between railway land and the business premises to the right hand side.</td>
</tr>
<tr>
<td>6</td>
<td>A suggestion was made by the participants that the displaced persons be relocated elsewhere to continue with their livelihoods.</td>
<td>The participants were informed that alternative sites will be identified for their relocation in collaboration with the County government who have the mandate to regulate trade and developments within their areas of jurisdiction before the project is launched.</td>
<td>Further consultations with the County governments have pursued the possibility of the latter creating additional space within their existing markets within the vicinity of the traders to relocate them. KeNHA to improve accesses</td>
</tr>
<tr>
<td>7</td>
<td>The youth representatives raised issue on employment as they depended on the jua kali activities along the road for their sustenance. They had taken loans to finance their activities and would be in default if they were displaced without</td>
<td>They were informed that further consultations will be held with relevant agencies to work out sustainable relocation for their benefit. An exercise to document their assets and also record their census was planned to follow immediately and they were requested to co-operate with</td>
<td></td>
</tr>
<tr>
<td>S/No</td>
<td>Comments/Issue</td>
<td>Remarks/Response</td>
<td>Integration of Comment in the design</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>8</td>
<td>A participant observed the absence of the local leadership and County Government representative as they were responsible for the demolitions that causes the informal businesses a lot of losses</td>
<td>They were informed that efforts were being made to involve all the key players in the consultations as they will be involved in the resettlement exercise as a local authority. They were encouraged to form Project Ad-hoc Committee to articulate their concerns on the road impacts</td>
<td>The ad hoc committees already formed at locational level along the road. They are in contact with KeNHA and the Design Team on various issues prior to finalisation of the design. The ad hoc committees to transform into GRC Sub-committees</td>
</tr>
<tr>
<td>9</td>
<td>Issue of continued access to the business premises was raised and the participants sought to know how the design would deal with the problems created in the cut and fill sections to ensure continued access. Some businesses fronting the road sought compensation of developments they had carried out within the road reserve with approval of the Roads Authority</td>
<td>They were informed that the design had attempted to address the problems of access but other alternative means of access could not be ruled out including rear accesses to the business premises. Issues and details of compensation would be dealt with by the Valuers after the land acquisition is Gazetted</td>
<td>The design has provided for service roads with controlled accesses and under passes where there are challenges of accessing individual properties</td>
</tr>
<tr>
<td>10</td>
<td>It was observed that higher speeds are to be expected once the improvements are realized meaning higher accident rates. Currently some young children have to cross the roads to access school facilities and therefore, speed bumps should be considered.</td>
<td>They were informed that safe pedestrian crossings will be incorporated in the improvements. The issue will also be addressed through proper planning whereby social facilities are provided based on proper planning principles that mitigate conflicts in land use. Safe animal crossings will be provided</td>
<td>Safe crossings for pedestrians will be provided in consultations with the neighbourhoods communities as regards the location and type.</td>
</tr>
<tr>
<td>S/No.</td>
<td>Comments/Issue</td>
<td>Remarks/Response</td>
<td>Integration of Comment in the design</td>
</tr>
<tr>
<td>------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>11</td>
<td>Issue of lack of adequacy in social facilities in the areas was raised and the participants sought to know if the project could provide them as part of the project. These include markets, schools and health. They proposed that instead of the project promoting new health facilities along the road corridor as hinted, the project should refurbish and equip the existing health facilities along the road that are in-adequate and the users have to seek health care elsewhere as an alternative.</td>
<td>It was appreciated that explained that the project would consider such requests as part of the corporate social responsibility. The community was encouraged to detail their requests for the facilities to be considered for provision in conjunction with other agencies. Other agencies will be involved in identifying any public land that could be developed for the social facilities as land is an expensive component of the project and can lead to unnecessary delays.</td>
<td>The design has incorporated improvements of accesses to the existing facilities as well as proposed new ones in consultation with KeNHA as part of the CSR.</td>
</tr>
<tr>
<td>12</td>
<td>Environmental issues regarding dust and diversions during construction were raised including provision of street furniture and bus stops and terminals along the road.</td>
<td>They were informed that the design had made provisions for what would ensure that the road is user friendly. Issues of environmental nature were taken care of in the environmental management plan that the contractor will be required to follow strictly. A grievance redress mechanism involving the community will be formed to monitor and address emerging issues regarding the project.</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Issue of employment during construction for the community.</td>
<td>The participants were informed that there was a</td>
<td></td>
</tr>
<tr>
<td>S/No</td>
<td>Comments/Issue</td>
<td>Remarks/Response</td>
<td>Integration of Comment in the design</td>
</tr>
<tr>
<td>------</td>
<td>----------------</td>
<td>------------------</td>
<td>-------------------------------------</td>
</tr>
<tr>
<td>14</td>
<td>Issue of provision of safe crossings and other non-motorised transport facilities was raised.</td>
<td>They were informed that the design had made provision for non-motorised transport facilities as necessary particularly at the trading centres. However, land had posed a challenge to accommodate the facilities as would be necessary.</td>
<td>The design has provided for footpaths and cycle tracks in areas of high population concentrations</td>
</tr>
<tr>
<td>25</td>
<td>Issue of accommodating the use of the road by people with dis-abilities was observed.</td>
<td>They were informed that the design for foot bridges and road crossings would be sensitive to such needs as evident on Thika Road whereby even cyclists can wheel their bicycles through the foot bridges as ramps were provided.</td>
<td>The design for facilities within the project has incorporated the needs of people with dis-abilities</td>
</tr>
<tr>
<td>26</td>
<td>Issue of truck parking along the road was raised by one of the chief officers</td>
<td>It was suggested that the design should identify suitable sites for lorry parking and integrate them with the design to minimize conflicts.</td>
<td>The design has incorporated the desire to integrate truck parking in locations to be identified by the County governments along the project road.</td>
</tr>
</tbody>
</table>
It is evident along the road that the exercise of restraining encroachments along the road has been a continuous process with some of the properties still within the road corridor marked with an “X” to denote encroachment. (See photo of kiosks at Miritini – Plate 3).

Plate 3: Affected Kiosks at Miritini marked for removal “X”

4.3 Consultation Strategies

Different methods/techniques were used by the field team to collect information on the community along the project after the stakeholders’ consultations and participatory meetings. These included discussions (with notes taking), interviews and administration of questionnaires. Records will be maintained for the different types of stakeholders who will be categorized by virtue of their role in the community and at what stage they get involved in the project. The consultative meetings have been interactive and as open as possible for all the participants including the vulnerable groups such as the elderly, women and children, orphans and those considered to be living below the poverty levels. The local leaders were encouraged to pay special attention on these categories of PAPs for they will be considered for special assistance under the project.

The public meetings entailed among others:-

(i) Informing the project affected persons (PAPs) about the project and all its attributes and its’ effects on the community’s socio-economic and the environmental impacts.
(ii) Identify and confirm the project affected persons (PAPs and establish basis for compensation.
(iii) Provide advice and counselling to the potential project affected persons (PAPs) as regards compensation money or other options (compensation in kind).
(iv) Confirm the project affected person’s views and preferences on the compensation mode for the loss of assets and restoration of livelihoods.
(v) Establish complaints and grievance procedures.
(vi) The socio-economic profile of the project affected persons was collected through questionnaires for purposes of determining the basis for restoration of their
livelihoods and their assets. The questionnaires will then be analyzed to appreciate the respondents’ views on the road project.

Concurrent with the socio-economic survey and assets inventory exercise, random interviews were conducted within the community with people along the road. The purpose was to establish whether the general community although not directly affected by the displacement, if they were aware of the project and what their views about the project were. Majority had heard about the project and they welcomed its implementation. They felt that the traffic jam created by the heavy trucks at Mariakani Weighbridge was a problem to their free movement. They proposed that separate lanes be done during the construction to separate the trucks from the rest of the vehicles.

Different levels of consultation were adopted depending on the role the group played in the area. This was targeted purposely at the government and public servants and also members of the civil society in view of the important role that the ad hoc Committees already formed at the locational level are playing to galvanise the communities participation in the proposed project, the feedback they are providing to the design Team and the Client, it is proposed that the Ad Hoc Committees that have been formed be retained at the same level and be formalised by KeNHA through the Regional Managers office. This arrangement is to await the creation of the Resettlement Committees by the Project Management Unit.

4.4 Information Dissemination

The public was briefed in detail on all relevant facts on the project and salient information was disclosed to the stakeholders concerned in accordance with the AfDB guidelines. These conditions are consistent with the national policies regarding public participation in development of public projects. The affected persons whose records have been compiled have been consulted and informed regularly regarding the nature and attendant impacts (negative/positive) of the proposed project. They were also informed of the mitigation measures proposed to minimize the negative impacts.

The project affected persons will continue to be engaged through further awareness programs with the relevant stakeholders. They will be up-dated regarding nature of impacts on their livelihoods, assets, properties and grievance redress mechanism as well as compensation packages. The information pertinent on the project as regards the impacts will be published in official and national language for benefit of the project affected persons and the communities along the project road segments.

4.5 Grievances Redress Mechanism

The very fact that an individual has to lose his right to property or to a livelihood and has to adjust to some inconvenience for the public good, triggers discontent in human nature. This discontent arouses disaffection and resistance to an idea and the notion to feel unfairly treated
by the society. This perception would always lead to complaints in the event that an individuals’
expectation is not met as anticipated or promised in the loss or delay in compensation or to
receive a benefit to forgo a right.

In view of this, if there is any unwarranted change in the implementation process of the project,
it will trigger complaints from the PAPs. This will require to be addressed lest the project fails its
acceptance criteria by the general public. To deal with such emerging issues, a Grievance
Redress Committee will be constituted with a membership inclusive of representative of the
PAPs and a NGO at different levels.

4.5.1 Sources of Grievances

During the public consultations, the communities were advised to form ad-hoc project
Committees to acquaint themselves with the implications of the project and be able to
articulate their views to optimize anticipated benefits from the project implementation. They
were informed that the project was dependent on their acceptance and their being able to
effectively participate at every stage of the project development. They were informed that
some of the solutions to answers to drive the project were within their control particularly on
matters touching on culture and traditions that can impact negatively on the project.

Some of these issues that can cause delays and calls for dispute resolution mechanism include:

- Clerical errors in data entry that leads to delays in processing of compensation for the
  PAP
- Emerging issues such change in estate administration of affected properties causing
delays to payment of compensation
- Disputed ownership of an affected asset particularly where documentation is not
  reliable
- Rejection of a compensation award considered not adequate and representative of
  market value
- Change in mind of compensation mode by a PAP demanding for example land-for-land
  where only cash payment is preferred
- Handling of cultural issues where there are no clearly agreed precedents such as
  relocation of graves or payment for compensation in a polygamous marriage

The main function of the Grievance Redress Committee is to provide a forum for the PAPs to air
their dissatisfaction arising from the compensation or implementation process of the project.
This is an informal forum within the Resettlement Committee to fast-track addressing of
emerging issues in a project that can derail a smooth implementation of a project. The
Committee is to receive complaints from the PAPs through the project office either verbally or
in writing and they endeavour to address the issue to the satisfaction of the complainant. If the
matter cannot be addressed to the satisfaction of the complainant within the prescribed
period, the complainant then may have recourse to the Resettlement Committee. Failure to be
satisfied, the complainant reserves the right to seek redress from the Court of law that is
lengthy and costly in most cases.
The redress committee will compile registers of all complaints received from the PAPs at the project office, the actions taken and the decisions arrived at. Initially, the Resident Engineer and his staff with secretariat of the GRC will handle the complaint. Failure to arrive at a satisfactory answer, then the RE will refer the matter to the GRC that meets periodically. Whereas the GRC is constituted of people outside the Project Office of the Resident Engineer, the latter will be a co-opted member together with the Contractors representative for expeditious resolution of the complaints regarding the project.

4.5.2 Dispute procedure

The filing of grievances for accurate record keeping is important. The complainant if not able to write the complaint can be assisted by a local leader (preferably who is also a member of the to the Committee) to the complaints office to file the complaint that thereafter is entered into the register. Once a complaint is received at the complaints desk in the project office, it is registered and given a reference number for ease of following up. The Office will evaluate the application and determine whether the issue can be handled administratively or the Committee has to meet over the matter.

Where the Committee has to be convened, all its proceedings are recorded and minutes prepared of the deliberations. The minutes have to be confirmed at the next meetings and authenticated by the full sitting. All the signed minutes and the resolutions of the GRC are implemented as agreed and without delay so as not to impact negatively on the project implementation plan. Some issues that arise in-course of the project implementation are dealt with as they arise.

Initially, it is proposed that the Grievance Redress Committee should meet on scheduled days per week that the public is aware of to receive and address any complaints that are filed by the community and the PAPs. The Committee should also receive reports on any matters that have been dealt with administratively, having been considered not necessary to receive their participation. The frequency of the meetings will diminish as the issues to be addressed decrease and the meetings may now be scheduled on periodic basis over months (ie. Quarterly or half-yearly), until the project is completed. The guiding principle in addressing the complaints is that the matters must be addressed as expeditiously as possible and within the dispute resolution mechanism, not more than a week should be taken before a decision is communicated to the complainant.
4.6 Role of PAP’s Representatives in Grievance Redress Committee

The PAPs officials headed by a Chairman elected by the PAPs shall carry out the following responsibilities as regards redressing grievances:

(i) Hear the grievances of the PAPs and provide an early solution to those they are able to;
(ii) Immediately bring any serious matters to the attention of the RC; and
(iii) Inform the aggrieved parties about the progress of their grievances and the decisions made by the RC.

4.7 Grievance Redress Sub-Committee

Grievance Redress Sub-Committee shall be formed within the Project Resident Engineers Office. They shall address the issues in the following manner:-

(i) Register the grievances raised by the PAPs; and
(ii) Address the grievances forwarded by the RC/PAPs representatives.

Grievance Redress Sub-Committee shall try as much as possible to arrive at a compromise on complaints raised. This may be obtained through a series of mediation and negotiation/arbitration exercises conducted with the individual PAP. If the PAP accepts the recommendations made by the committee, the committee along with a PAP who is willing to take part in these proceedings may hold mediations at the appointed places.
5.0  SOCIO-ECONOMIC FEATURES OF THE PROJECT AFFECTED PERSONS

5.1 Sources of data

The census and socio-economic survey for project affected persons is an important component in the planning for resettlement of the affected persons. The objective of collecting the socio and economic data of the affected persons assists to know the social structure and distribution for purposes of planning the attendant resettlement. The objectives for the data collection include:

(i) Collection of population data detailing the individual and household characteristics from which the project affected persons will be assessed.
(ii) Identification of vulnerable and severely affected project affected persons
(iii) Identification of impacts of the proposed road project on the livelihoods of the PAPs
(iv) Identify concerns of the PAPs
(v) Identify the resettlement preferences of the PAPs.

The data required for this purpose was generated through analysis of official records in various government offices, consultative meetings with the government and county officers in the respective counties, meetings with stakeholders and the public meetings along the project road.

The national population census of 2009 was analysed to segregate the enumeration areas (location and sub-locations) that were within the immediate influence of the project road. This gave a population of 284,946 persons with 74,298 households and an average household size of 3.8 persons. Along the project road corridor, the population density varies widely depending on proximity to Mombasa Central Business District with the highest density in Majengo (21,361) and the lowest in Mariakani (166 persons per km$^2$).

5.2 Socio-economic characteristics of the PAPs

5.2.1 Sex and Age distribution of the respondents

A socio-economic survey was carried out along the whole length of the road corridor. The exercise took a team of forty (40) interviewers six (6) days to visit each and every household/family along the road and people trading within the corridor. The purpose was to carry-out a census for the PAPs and also collect their social and economic data based on structured questionnaire (See Annexe 1 for the questionnaire). The details of the survey are presented in Annexe 3 of this report.
Table 15: Distribution of Respondents by age

<table>
<thead>
<tr>
<th>Age (Years)</th>
<th>Socio-economic Survey (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; 20</td>
<td>1</td>
</tr>
<tr>
<td>21 – 30</td>
<td>49 (15.2)</td>
</tr>
<tr>
<td>31 – 40</td>
<td>95 (29.4)</td>
</tr>
<tr>
<td>41 – 50</td>
<td>65 (20.1)</td>
</tr>
<tr>
<td>51 – 60</td>
<td>57 (17.6)</td>
</tr>
<tr>
<td>&gt;60</td>
<td>43 (13.3)</td>
</tr>
<tr>
<td>Unknown</td>
<td>13 (4.0)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>323 (100%)</td>
</tr>
</tbody>
</table>

From the analysis of information collected in the socio-economic survey of the people living along the road corridor, it is evident that the population of the area is ethnically mixed. The communities living within the vicinity of the road project road represent a mixture of the tribes of Kenya as reflected in the sample household survey. See Table 8 for the population composition by tribe. However, the area is dominated by local sub-tribes of the Miji Kenda tribe who inhabit the coastal strip.

The population composition of the respondents in the project area depicts a composition of 198 men (61.3%) and 122 women (37.8%). Three (3) institutions were included in the census. The population composition within the communities is dominated by people in the age bracket of 21-30years (15.2%). 31-40 years (29.4%). Those over 60years account for 13.3% respectively. This is consistent with the population composition since the project road traverses an urban area being one of the cities. A similar pattern is reflected in the composition of informal traders within the road reserve. Majority of the PAPs indicated Miritini, Mariakani and Kaloleni/Rabai (Mazeras) as their areas of residence.

5.2.2 Income Distribution

The traders interviewed within the road corridor declined on average to disclose their income details. The information gathered from household survey conducted shows that people living in the general area had incomes ranging from 500/= to 557,400/= per month. These were subsistence farm employees and those operating businesses along the road corridor. The
information does not include the main industries along the road corridor. Majority of the respondents had monthly income below 100,000/= per month from their trading activities particularly those in formal businesses. However, for income restoration purposes, the high figures shown were not corroborated with any official supporting documents such as income tax returns or books of business accounts including records of business transactions on daily basis. The public had been advised during the sensitisation and consultations forums of the type of records that will be required to determine the levels of any assistance to be offered for them to vacate the road corridor.

Table 16: Income Distribution among the Respondents

<table>
<thead>
<tr>
<th>Income Range (KShs.)</th>
<th>No. of respondents</th>
<th>Percentage (%)</th>
<th>Expenditure</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 10,000</td>
<td>47</td>
<td>14.6</td>
<td>33</td>
<td>10.2</td>
</tr>
<tr>
<td>10,001 – 20,000</td>
<td>56</td>
<td>17.3</td>
<td>74</td>
<td>22.9</td>
</tr>
<tr>
<td>20,001 – 30,000</td>
<td>45</td>
<td>13.9</td>
<td>53</td>
<td>16.4</td>
</tr>
<tr>
<td>30,001 – 40,000</td>
<td>29</td>
<td>9.0</td>
<td>46</td>
<td>14.2</td>
</tr>
<tr>
<td>40,001 – 50,000</td>
<td>18</td>
<td>5.6</td>
<td>19</td>
<td>5.9</td>
</tr>
<tr>
<td>&gt;50,001</td>
<td>42</td>
<td>13.0</td>
<td>40</td>
<td>12.4</td>
</tr>
<tr>
<td>Blanks</td>
<td>86</td>
<td>26.6</td>
<td>58</td>
<td>18.0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>323</strong></td>
<td><strong>100.0%</strong></td>
<td><strong>323</strong></td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

A total of 323 respondents were interviewed along the project road corridor. The respondents were engaged mainly in informal businesses within the road corridor and comprised the activities shown in the table below. Trading were dominant within the road corridor and there is little farming recognisable even alongside the rural section of the road. In the road section at Bonje (between Miritini and Mazeras) where the road is proposed to be realigned, there are no settlements or farming that will be affected by the road project despite land acquisition. The business premises including kiosks dealt mainly with sale of basic household items for the neighbourhood communities.

Table 17: Distribution of individual Activities within the Road corridor.

<table>
<thead>
<tr>
<th>Trade Activities by Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kiosks</td>
<td></td>
</tr>
<tr>
<td>Food</td>
<td>10</td>
</tr>
<tr>
<td>Miraa</td>
<td>1</td>
</tr>
<tr>
<td>Mpesa</td>
<td>4</td>
</tr>
<tr>
<td>Stall</td>
<td>5</td>
</tr>
<tr>
<td>General</td>
<td>42</td>
</tr>
<tr>
<td>Shops/Hotels</td>
<td>General</td>
</tr>
<tr>
<td>---------------------------</td>
<td>------------</td>
</tr>
<tr>
<td></td>
<td>Bar/Guest house/lodging</td>
</tr>
<tr>
<td></td>
<td>Barber</td>
</tr>
<tr>
<td></td>
<td>Hotels</td>
</tr>
<tr>
<td></td>
<td>Grocery</td>
</tr>
<tr>
<td>Businesses</td>
<td>10</td>
</tr>
<tr>
<td>Garages/spare shops</td>
<td>2</td>
</tr>
<tr>
<td>Timber yard</td>
<td>1</td>
</tr>
<tr>
<td>Furniture shops</td>
<td>2</td>
</tr>
<tr>
<td>Residence</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>Rental</td>
</tr>
<tr>
<td></td>
<td>Rental and shop</td>
</tr>
<tr>
<td></td>
<td>Rental and diesel pump</td>
</tr>
<tr>
<td>Tree Nurseries</td>
<td>3</td>
</tr>
<tr>
<td>Fuel pumps</td>
<td>1</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>192</strong></td>
</tr>
</tbody>
</table>

### 5.2.3 Level of education of the respondents

The level of education among the households and the community has been determined through the questionnaires. The nature and the levels of incomes of the households and the PAPs have also been determined for purposes of appreciating the level of commensurate livelihood restoration and compensation for loss of income in the event of involuntary resettlement. Through the interviews, information was collected on the sources of income and the household expenditure. Other sources of income generation were identified in the data collection of the community and the PAPs along the road corridor segments. Distribution of education facilities within the community will be assessed and the school enrolment identified.

The difference in school enrolment between boys and girls will be important indicator of the level in gender inequalities along the road corridor segments. The area where the project road is situated is habited by mixed ethnic communities that have relocated into the area. In view of this, there is little co-relation between the existence of different levels of school facilities. However, the level of education prevalent in the area and the education levels of the PAPs were considered in the household survey and the census of the project affected persons along the road segments.
The above scenario was evident from the survey data of the enumerated PAPs along the road and in the household survey. (The findings are shown in Table 18 Above). Majority of the sampled population had attained a minimum of secondary school level of education.

### 5.2.4 Issues related to Gender, Poverty and Vulnerable Groups

The project road traverses an area with dominant urban characteristics within the Mombasa County and rural characteristics interspersed with urban characteristics within Kilifi County area. Secondly, the category of the road and its area of influence dominated by long distance trucking, has contributed to the gender and social characteristics. The gender issues and their cultural traits that manifest in social characteristics evident in such setting are addressed. Majority of the population in urban areas/centres is migratory in search of employment and livelihood opportunities. These opportunities are identified in non-agricultural employment and would be more service oriented.

**Table 19: Distribution of the respondents by gender**

<table>
<thead>
<tr>
<th>Level of Education</th>
<th>Women</th>
<th>Men</th>
</tr>
</thead>
<tbody>
<tr>
<td>Formal/Tertiary</td>
<td>122</td>
<td>198</td>
</tr>
<tr>
<td>Unknown</td>
<td>119</td>
<td>88</td>
</tr>
</tbody>
</table>

From the census of the PAPs within the road reserve and the socio-economic survey, the most common activities where women are involved is in business of various types including food kiosks and some had been engaged as mechanics. 122 women were enumerated with a high concentration in Miritini and Kwa Jomvu followed by Mariakani and Mazeras. The men were equally engaged in similar activities like the women but they were inclined into skilled activities such as garages, furniture sales, metal fabrication, transport for hire; to mention a few.

The survey shows that the women are well represented in the economic life in the area and their participation is almost equal to that of the male gender. During the public consultations
forums, the women were equally represented and were more vocal on issues of the community such as lack of schools and safety of the children accessing school facilities once the proposed roads are improved with faster speeds.

Of particular interest was the source of capital for the women trading within the road reserve. Majority of them obtained their capital from personal savings (67.6%) while only 28.6% obtained their working capital from loans. This included (4) women who had received financial support from Chama. None of the respondents disclosed to have received funds from the Women Development Fund for their businesses.

5.2.5 Position and Role of Women

During the PAPs census and the household survey, a detailed analysis of the data was carried out to discern the position of women in the project area and assess how they would be affected by the project. The survey revealed that the roles and relations between the men and women was representative of urban demography in general. The women were fewer among the traders within the road reserve (reflecting the challenges of participating in hazardous and irregular trading where they were vulnerable to eviction). In the household survey, the number of women compared favourably with the men in terms of levels of education and also incomes. See Annexure 5. The women comprised 41.6% of the respondents as compared to 58.4% being men. These figures are consistent with the cultural attribute of the community where-by women stay at home as men go out to eke a living.

The project road traverses both an urban and rural areas and therefore the gender issues are highly influenced by the urban dynamics in terms of competing for opportunities and harnessing the same for survival. There are few activities along the road corridors which would be considered gender specific. However, whereas both genders would be found engaging in sale of food in kiosks, the female gender was found hawking food to customers trading along the road. Sale of fruits such as ripe bananas, oranges and peeled pineapples and sweets to travellers along the road attracted both genders.

The women along the project corridors are actively engaged in economic activities that constitute the informal businesses along the road corridor. They are actively engaged in businesses including sale of spare parts for the garages within the road corridor that would be considered a male domain. They have access to both formal and informal credit facilities. The former includes micro-finances that have been set-up to proactively support women enterprises and also informal facilities including merry-go-rounds that are form of members of a group contributing to support one of their own. The women source their commodities for sale from the wholesale markets or from formal suppliers and distribute through retail.

The status of women in road project area is highly influenced by the cosmopolitan setting that they live in that has undermined the cultural barriers that exclude them from leadership roles in
the family and society and also control family resources. The level of exposure has created opportunities for the women to access all social facilities such as health care, education, ownership of property and participate in decision-making. The liberation of women is fully established in the urban setting and as manifest at the consultative forums, they are fully integrated in the development processes. Legal provisions including the Constitution (2010) have been put in place that empowers women to participate in various development activities as a right. Issues of gender are discussed in a separate Report chapter elsewhere in this report in greater detail covering the various dimensions including focus group discussions.

5.2.6 Diseases and health issues

Analysis of the data from the sample household survey on access to medical care and health facilities shows that most the respondents either attended the private hospitals at Mariakani or Bomu along the road or went to Coast General Hospital that is on Mombasa Island. The most common diseases that the respondents complained of included malaria, diarrhoea and stomach problems. These were identified as the major diseases with a total of 216 respondents out of 323 highlighting on them. The distribution of health facilities within the Counties is documented in the ESIA Report for the Project. However, none of the health facilities along the road would be affected in the road improvement. The respondents declined to respond on the issue of STI’s, HIV and AIDS. Boda Boda and public transport were the most common means of transport used by the respondents to go to hospital.

5.3 Future Consultations on the RAP

After the RAP has been disclosed to the public to create further awareness and confirm that the recommendations to address their plight has been incorporated, it will be necessary to maintain consultations with them to address any emerging issues. KeNHA should prepare suitable materials explaining the processes entailed at every stage of compensation, redress mechanism, rights of the PAPs and any pertinent issues that would enhance smooth implementation of the RAP.

The preparation of the RAP, the land acquisition or project implementation processes are not seamless activities. Therefore, the process of land acquisition will also provide another opportunity for the community and the PAPs to engage with the project proponent during the land acquisition process. The details of the parcels affected will be published in public areas and in official Gazette for them to review prior to land acquisition. The National Land Commission has given guidelines on the process from request by the acquiring authority to the taking of possession of affected land by the project. The process is attached at Annex. The community will be engaged in regular up-dates on the project progress as part of the monitoring and evaluation and to sustain their ownership of the project. Several meetings will be held as part of the RAP implementation process by the Resettlement Committee.
6.0 LEGAL FRAMEWORK

6.1 Introduction

A series of measures will be implemented in accordance with the national government and the AfDB Guidelines on Involuntary Resettlement with a view to ensure that adequate mitigation measures are put in place by the project proponent to deal with any negative impacts on the project affected persons. The relevant policies and legislation are discussed in this chapter.

6.2 The land tenure system

The land through which the project road traverses is private land where the land registration process has been completed or leases have been granted to current occupiers by the government or the former County Council of Kilifi in Mazeras and Mariakani Trading centres. There are also pockets of government land held by public institutions along the road corridor. The Kenya Railways Corporation owns the right-of-way land for the railway-line that runs adjacent to the road reserve for most of the road section including the Mazeras Station.

Land within Kilifi County that is adjacent to the road reserve is in the process of demarcation and registration and the landowners have been determined and entered into a register by the Committee. Some of the land along the road reserve is held by absentee landlords and it is currently occupied by squatters. While the private land is mainly agricultural in use, some of it that has been sold out and is currently being invaded by non-agricultural activities mainly development of container storage facilities and truck parking. The land has limited agricultural potential and it is used mainly for subsistence farming. Maize and cassava are the main crops inter-planted with beans. There are also palm and coconut trees mainly in the depressions visible along the road corridor.

6.3 Acts relevant to Resettlement

Besides the provisions in the Constitution of Kenya (2010) in respect of the right to settle anywhere in the country and the right to own property anywhere in the country, there are other specific laws dealing with the issue of depriving people their rights to land. The following provisions are illustrative of the social safeguards that are available to abate or redress issues of involuntary displacement. These include:-

6.3.1 Constitution of Kenya (2010)

✓ Article 24(1)(d) of the Constitution limits the rights of an individual if in his exercising the right, it prejudices the rights and freedom of other people;
Article 40(3) of the Kenyan Constitution (2010) gives the state the right to compulsorily acquire land and deprive any individual of his right to land for public purpose.

Article 40(6) is explicit on matters of property that has been unlawfully acquired;

Under sub-section 60 (1) g, communities are encouraged to settle land disputes through recognized local community initiatives consistent with the Constitution;

Sub-article 62(1) c, states that private land can be transferred to the state by way of sale, reversion or surrender;

Article 62 (1)(h) describes all roads and thoroughfares covered by an Act of parliament as public land and shall vest in the national government for the benefit of the people of Kenya; and

Article 66 empowers the state to regulate the use of land to achieve the objective of meeting public interest including land planning whereby transportation corridors constitute a major component.

6.3.2 Land Act, No.6 of 2012

The enactment of the Land Act (No. 6 of 2012) repealed the substantive law that has been the basis for compulsory land acquisition (Land Acquisition Act –Cap 295) (Repealed). The provisions of the repealed Act have however been incorporated in the Land Act, No. 6 of 2012 and gives the power of compulsory acquisition of land to the National Land Commission. It specifies the manner for determination and the award for compulsory acquisition to be served on the persons determined to have interest in the affected land.

According to Section 128 of the Act, any dispute arising out of any matter under the Act, which involves compulsory acquisition process, should be referred to the Land and Environmental Court for determination. Sections 107-133 of the Land Act specify the procedure to be followed in the process of compulsory land acquisition. Section 134 of the Act creates a Settlement Fund for land acquisition to provide shelter and livelihoods to people who are involuntarily displaced.

Part II section 8 provides guidelines on management of public land by the National Land Commission on behalf of both national and county government. This law, in section 8(b) stipulates that the Commission shall evaluate all parcels of public land based on land capability, classification, land resources mapping consideration, overall potential for the land use, and resource evaluation for land use planning. Section 8(d) stipulates that the Commission may require the land to be used for a specified purpose subject to such conditions, covenants, encumbrances or reservations as are specified in the relevant order.

In managing public land the Commission is further required in section 10(1) to prescribe guidelines for the management of public land by all public agencies, statutory bodies and state corporations in actual occupation or use. In these guidelines management priorities and operational principles for management of public land resources for identified uses shall be stated.
This in essence means that the Commission shall take appropriate action to maintain public land that has endangered or endemic species of flora and fauna, critical habitats or protected areas. As well the commission shall identify ecologically sensitive areas that are within public land and demarcate or take any other justified action on those areas and act to prevent environmental degradation and climate change.

Section 107 of the Act requires the national or county government after satisfying that it is necessary to acquire land for public development to apply to the Land Commission for the necessary land acquisition. Upon approval, the land earmarked for compulsory acquisition will be geo-referenced and authenticated at the national and county level (Section 110). According to Section 111 of the Act, just compensation shall be paid promptly to all persons whose interests have been affected by the land acquisition.

6.3.3 The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012

The provisions of this Act apply to all internally displaced persons that arise either through calamities, social conflict or development project and is guided by the Bills of Right under the Constitution of Kenya. Section 5 of the Act lists development projects among the displacement factors and outlines involvement of the affected persons through awareness, sensitization, training and education on causes, impact, consequences and prevention measures. Section 6 of the Act provides that displacements and relocation from development project will only be justified by compelling and overriding public interest. The procedures to follow are listed under section 22 such as to include:-

(i) Justification as to why the displacement is unavoidable and that there is no other feasible alternative.
(ii) Seeking free and informed consent from the affected person
(iii) Holding public hearing on project planning
(iv) Provision of reasonable notice time to allow the affected persons review and react to the displacement conditions; and
(v) Displacement process should reflect respect to human rights.

Relocation of the affected persons will be guided by the following factors:-

(i) Full information on the affected persons and ensuring their participation;
(ii) Identification of safe, adequate and habitable alternatives;
(iii) Availability of safety, nutrition, health, and hygiene as well as protection at the new location; and
(iv) Acceptability by the host communities in the new location (if re-location is implemented).
6.3.4 HIV/AIDS Prevention and Control Act (Act No. 14 of 2006)

Part 11, Section 7 of the Act requires that HIV and AIDs education be carried out at the workplace. The government is expected to ensure the provision of basic information and instruction on HIV and Aids prevention and control to:

(i) Employees of all government ministries, departments, Authorities, and other agencies and employees of private and informal sectors.

(ii) The information on HIV/AIDS is expected to be treated with confidentiality at the workplace and positive attitude towards infected employees and works.

6.3.5 Urban Areas and Cities Act, 2011

Section 5 of the Act state that a Municipality is eligible for a City status if it can satisfy that it has infrastructural facilities including but not limited to road, street lights, market and fire station, an adequate capacity for disaster management and has infrastructure that provide national and regional connectivity.

Section 26 (b) gives power to the Council of the City or a big Municipality to formulate and implement a master plan for urban and physical planning. This plan framework would form the basis for infrastructure development and provision of essential services including provision of water, sanitation, health care, education, housing, transport, disaster management system and facility for safe environment.

According to section 26 (c) the Council is expected to exercise control over land use, land subdivision, land development and zoning of public and private land for any purpose including agriculture, industry, commerce, market, employment centres, residential areas, recreation parks, entertainment, passage transport freight and the transit stations within the framework of spatial and master plans of City and Municipality.

Section 44 provides that for the Council to form partnership of social infrastructural services with companies within and outside the County. This includes the construction of roads, environmental conservations and preservation, construction of health centers and promotion of tourist and cultural events.

6.3.6 Kenya Road Act, 2007

On enactment, the Act vested the powers and functions of all urban Roads under the Public Roads and Roads of Access Act, Cap 399 on the Kenyan Urban Roads Authority. It empowered the Authority to manage and develop roads on all designated urban road reserves for the
benefit of the residents. It has powers to liaise and co-ordinates with other agencies involved with provision of space for road construction.

6.3.7 Traffic Act Cap. 403

Section 91 (1) of the Act makes it an offence for any person to encroach on a road reserve by making or erecting any building, advertisement sign or any other obstacles, deposits any matter whatsoever, alters or obstruct any drainage under control of highway authority without written permission from the authority. Section 91 (2) of the Act gives the authority the power to remove any such encroachment or obstruction and the culprit is liable for prosecution.

6.3.8 Public Roads and Roads of Access Act, Cap 339

The Act provides for development of roads in all areas for public use and grants the road authority the power to control and regulate the provision of accesses to any public road, due regard being on the safety of the traffic flow.

6.3.9 Physical Planning Act Cap 286

The Act provides for preparation of land use plans with a view to improving the affected land, securing suitable provision for transport, public purposes, utilities and services, commercial, industrial, residential uses among others. This is defined in the Section 16 of the Act. The process for plan preparation are included in the main Act whereby all plans have to be presented to the public and published in the local newspaper prior to approval by the Minister. Stakeholders have to be involved in the planning process and their views have to be incorporated in the land use plan. Once the land use category has been incorporated in a land use plan and it has gone through the approval stage, the dedicated land use vests in the authority responsible for the activity or service for benefit of the public as a whole. A restriction is implied of any re-allocation of the user to any other purpose as the land is deemed not available for allocation to any third party thereafter.

Section 24 of physical plan Act gives provision for the development of local physical development plan for guiding and coordinating development of infrastructure facilities and service within the area of authority of county, municipal and town council and for specific control of use and development of land. The plan shows the manner in which the land in the area may be used. Section 29 of the physical plan Act gives the county council powers to prohibit and control the use of land, building, and subdivision of land, in the interest of proper and orderly development of the area. The same section also allows them to approve all development applications and grant development permissions as well as to ensure proper
execution and implication of approved physical development plans. On zoning, the Act empowers them to formulate by-laws in respect of use and density of development.

Section 30 of the Act states that any person who carries out development within an area of a local authority without development permission shall be guilty of an offense and the development shall be invalid. The Act also gives the local authority power to compel the developer to rectify or comply with any condition within ninety days. If no action is taken, then the Council will restore the land and recover the cost incurred thereto from the developer. In addition, the same Section also states that no person shall carry development within the area of local authority without development permission granted by the local government. At the same time, sub-Section 5, re-enforce it further by providing that no license shall be granted under any written law for commercial use where no development permission had been granted by the respective local authority.

6.4 African Development Bank’s Safeguard Policy and guidelines


The overall goal of the Bank’s Policy on Involuntary Resettlement is to ensure that when people must be displaced they are treated equitably, and that they share in the benefits of the project that involve their resettlement. The Policy has the following key objectives:-

(i) 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-culture consideration such as culture or religious significance of land, the vulnerability of affected population, or the availability of in-kind replacement for assets, especially when they have important intangible implication. When a large number of people or a significant portion of the affected population would be subject to relocate or would suffer from the impacts that are difficult to quantify and to compensate, the alternative of not going ahead with the project should be give serious consideration;

(ii) To ensure that the displaced people receive resettlement assistance, preferably under the project, so that their standards of living, income earning capacity, and production levels are improved;

(iii) 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

(iv) 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 goals of this Policy that involve Involuntary Resettlement, the Plan shall be prepared and evaluated according to the following guiding principles:

(i) The borrower should develop a resettlement plan where physical displacement and loss of 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 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 development program, with displaced persons provided with sufficient resources and opportunities to share in the project benefits. Project planners should work to ensure that the affected communities give their demonstrable acceptance to the resettlement plan and the development program, and that necessary displacement is done in the context of negotiated settlement with affected community.

(ii) Additionally, displaced persons and host community should be meaning-fully consulted early in the planning process and encourage participation in the planning and implementation of the resettlement program. The displaced persons should be informed about their options and right 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. In order for consultations 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 the local people. As well, careful attention should be given in the organization 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 liners;

(iii) Particular attention should be paid to the need of disadvantaged groups among those displaced, especially those below the poverty line, the land less, the elderly, women and children, and ethnic, religious and linguistic minorities; including those without legal title to asset, female head of households. Appropriate assistance must be provided to assist the disadvantaged groups cope with the dislocation and to improve 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 increased risk of diseases;

(iv) Resettles should be integrated socially and economically into host communities so that any adverse impact on host communities are minimized. Any payment due to the hosts for land or other assets provided to resettles should promptly render. Conflicts between hosts and new arrivals may develop as increased demands are
placed on land, water, forests, services, etc., or if the new arrivals are provided services and housing superior to those of the host. These impacts must be carefully considered when assessing the feasibility and cost of any proposed project involving displacement, and adequate resources must be reflected in the budget for the mitigation of those additional environmental and social impact.

(v) Displaced persons should be compensated for losses at “replacement cost” prior to their physical displacement or before taking-over of the land and related assets or commencement of project activities, whichever occurs first; and

(vi) The total cost of the project as a result should be included in 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 displacement, which may disrupt productivity and social integration. The resettlement cost should be treated against economic benefits of the project and any other net benefits to new arrivals should be added to the benefit stream of the project.

The policy defines the affected population in a resettlement program, describes the modes of identifying their loss of assets/income resources or access to assets, eligibility and entitlements within the context of a resettlement plan.

6.4.2 AfDB Gender Policy

The policy is based on the premise that Africa has pronounced, region-specific gender characteristics that are of direct relevance to its economic and social development. It takes into account the international agenda, which calls for transformation, aimed at achieving full and equal partnership between men and women. Gender has become an issue for development intervention. First, inequalities continue to exist between women and men despite significant improvement in the absolute status of women and gender equality in most African countries. The following guiding principles form the basis of Bank’s assistance in the area of gender/women empowerment:

Gender analysis will be an integral part of all Banks’ policies, programmes and projects. Gender analysis will be conducted for all Bank intervention in order to design intervention that respond to the needs and priorities of both men and women. Experience has shown that women and men differ in the way they respond to and/or benefit from development and in the absence of specific attention to differences between women and men, planning for “the people” can result in the exclusion of women or men as participant or beneficiaries of planned change.
Attention will be paid to the co-operative relation between women and men
The concept of gender implicitly embodies a culture that entails cooperation and interdependence between men and women rather than separation. It is oriented towards an equitable and sustainable development with women and men as equal partners in decision making. Focus on women without taking into account their relations with men can undermine the objective of reducing disparities. Women do not live in isolation and by addressing them as such, development practitioners risk alienating must strive to empower both men and women to transform relations between them by taking into account the needs and interests of both genders and ensuring that all benefit equally from development.

Women’s economic empowerment will be considered as key to sustainable development
Women in Africa are active in a variety of economic areas. Moreover they often shoulder the primary responsibility for the well-being of the family. However, due to legal and customary barriers women lack access to credit and this impedes their effective economic participation. Experience has shown that providing credit services to women enhances productivity and promotes efficient lab our allocation. In addition, relative to men, women who possess economic means, invest more in education and health of their children. Measures will therefore be taken to support Regional Member Country (RMC) initiatives that target women entrepreneurs and producers in both formal and informal sectors and which adopt innovative lending policies and practices;

Women will not be considered to be homogeneous group.
Although they may face some common difficulty due to the manner in which a particular society defines gender, other important factors such as class, race, ethnicity and religion also contribute to their position in the society. Thus, activities targeting an in differentiated category “women” may provide opportunities to some women and at the same time leave other groups disadvantaged. Program and project will take account of difference between women; and

A strategic choice will be made on the use of the mainstreaming strategy/target input.
Targeted projects for women or men and gender mainstreaming are not incompatible responses. The question is one of strategic and operational choice depending on a particular situation. Targeted intervention may be required to address the disadvantages and limitations experiences by women as a consequence of the way the gender concept is conducted in a specific context. Thus projects should be designed to address gender disparities, or, to target issues which specifically affect women such as ownership of land, access to credit or legal literacy. Similarly, activities could target the special gender division of lab our and male responsibility in reproductive health issues.

This policy codifies the Banks’ formal commitment to the gender mainstreaming approach. It seeks to define a more systematic approach to planning of development interventions so that they can address the priorities of women as well as men for greater efficiency, effectiveness and sustainability unlike the former Women in Development (WID) policy. The focus of this policy is gender relations, which shape outcome for both men and women. With introduction of
the gender analytical framework, the fundamentally social nature and gender differences that result in inequalities between women and men gains greater visibility. The policy adopts the concept of “gender mainstreaming” as a key strategy for overcoming women’s exclusion from decision making and from access to any control over development resources and benefits.

6.4.3 Bank Group Policy on Poverty Reduction

The goal of the Bank’s poverty policy is to ensure that poverty in Africa is reduced. This involves development of strategies that facilitate national ownership, participation and an orientation towards improvements in the welfare of the poor, especially in the achievement of Millennium Development Goals (MDGs).

The objectives of the policy are to bring poverty reduction to the forefront of the Bank’s lending and non-lending activities and to support its Regional Member Country’s (RMCs) in their efforts towards poverty reduction. Support for country-owned Poverty Reduction Support Programmes (PRSPs) plays an important role in this respect. The following are the policy Guiding principles:-

(i) **Poverty Focus.** Poverty reduction has become the overarching goal of the Bank for the last four years. The realization of this goal requires a more focused analysis of the incidence, depth and causes of poverty in Africa. Such focus on poverty reduction instance, it is necessary to go beyond a general support for agricultural, human resource and private sector development by designing and implementing pro-poor policies within these broad areas.

(ii) **National ownership, participation and outcome orientation.** The principles of the new strategic framework form the basis for the policies discussed in this chapter. A number of policy measures such as support for national capacity building, promotion of the participatory approach development of new forms of partnerships and establishment of poverty monitoring systems relate directly to these principle.

(iii) **Internal policy coherence.** The importance of the priority areas and the cross-cutting issues has been discussed in the Banks sector specified policies. The purpose of the poverty policy is to strengthen existing sector policy prescriptions and to fill gaps on specific areas from standpoint of poverty reduction.

(iv) **Country-led partnership.** The policy also underscores the importance of a coordinated donor response to the demand from RMCs for supporting their PRSPs. A strong partnership ensures the consistency between the Bank’s poverty policy and the poverty reduction strategies of its RMCs as articulated in the PRSPs for African Development Fund (ADF) countries and similar planning documents for African Development Bank (AfDB) member countries.

(v) **Enriched conceptual framework.** The policy takes into account the new conceptual framework which expands the concept of poverty beyond income measures and its causes. It also addresses the economic and non-economic causes of poverty.
In many African countries, problem of poverty is exacerbated by episodes of frequent drought, crop failure and natural disaster like floods, political conflict and epidemics. For instance in many African countries, the number of internally and externally displaced people due to political conflict is quite high.

The Bank recognizes that the success of safety-net programs depends on a number of factors including fiscal affordability, the availability of adequate information on the potential beneficiaries and the administrative capacity to reach targeted groups. To this effect, the Bank will support provision of the following social protection related activities:

(i) Public program works that create employment for the able-bodied poor, particularly in rural areas;
(ii) Re-training of public employees that are retrenched as a result of adjustment programs;
(iii) Child feeding programs, especially for HIV/AIDS related orphans; and
(iv) Provide emergency relief including food aid in time of natural disasters.

6.4.4 Policy Guidelines on Co-operation with Civil Society Organizations (CSOs)

The policy reflects the Banks’ newly defined Vision and its commitment to:

(i) Stakeholder participation as a key strategy to achieve its objectives of poverty reduction and good governance.
(ii) Improved governance – a task area in which the Bank intends to play an active leadership role;
(iii) Expanding the range of civil society organization which the Bank may work, corresponding to the broader objectives, and overcoming limitations only on “NGOs”
(iv) Improved effectiveness on the ground by learning more about how its regional member countries (RMCs) can better work with civil society organizations;

Through public statements, consultative practices and lending decisions, the Bank has made clear its intention to engage the NGOs, and other organizations from the Civil Society. It has committed itself to Client – focused gender- sensitive and participatory approaches involving a broad range of stakeholders.

The Banks’ principal mandate is to lend to governments’ for development purposes in RMCs. The pursuit of improved co-operation with CSOs does not imply a shift in emphasis to by-pass the former in favour of the latter. The Bank acknowledges that governments’ role and function in promoting development for its people is irreplaceable and it cannot be substituted by the involvement of the CSOs but can only be enhanced.
One set of criteria cannot cover all circumstances, as performance requirements will vary depending on the nature of task to be performed. Specific selection criteria will need to be applied for specific cases. Nevertheless, for operational purposes, the following criteria may serve as a starting point by which to select an appropriate CSOs:

(i) Credibility and legitimate: Acceptability of the organization to relevant stakeholders;
(ii) Competence: Relevant demonstrated skills and proven track record;
(iii) Capacity for making judgment informed by lessons from experience (Based on working with different types of CBOs, government branches or aid institutions);
(iv) Legal status: Formal recognition or registration in the RMCs, in instances where the risk of opportunism is high, the CSO should be able to show proof that it has existed for at least one year prior to the onset of project identification.
(v) Appropriate organization capacity: Operating structure, scale, and material resources.
(vi) Representative and responsiveness: To local people; accountability to members/beneficiaries; gender sensitivity.
(vii) Internal governance, social management including accounting systems and transparency about them, a readiness to undergo audits, transparent leadership and decision making.

Where CSOs are selected as implementing partners of the Bank and RMC, the existence of sound and verifiable finance management and reporting systems will be applied as additional criteria.

6.4.5 Disclosure and Access to Information

This revised policy supersedes the AfDB Policy on disclosure of information dated October 2005. The Policy provides the Bank group with an improved framework within which to disclose information on policies and strategies and key decision made during project development and implementation.

Maximum disclose and access to information will increase public support for the Bank Groups Mission and enhance the effectiveness of its operations. The policy contains the following new elements:

(i) A strengthened presumption of disclosure, eliminating the positive list and emphasizing a limited negative list;
(ii) Introduction of an appeals mechanism;
(iii) Provision of simultaneous disclosure; and
(iv) Increased access to the broad range of stakeholders.
The policy aims to:

(i) Maximize disclosure of information within the Banks Groups possession and limit the list of expectations to reflect the Banks willingness to disclose information
(ii) Facilitate access to and share information on the Bank group’s operations with a broad range of stakeholders;
(iii) Promote good governance, transparency and accountability to provide leadership in this areas to RMCs;
(iv) Improve on implementation effectiveness and better co-ordinate the information disclosure processes;
(v) Give more visibility to the Bank Group’s mission, strategies and activities to stakeholders
(vi) Support the Bank Group’s consultative process in its activities and stakeholders participation in the implementation of the Bank Group financed projects
(vii) Ensure harmonization with other Development Finance Institutions (DFIs) on disclosure of information.

During the Rap implementation it is strongly recommended that KeNHA through the RC should embark on sensitization strategy that endeavours to keep the community and the PAPS fully informed on the progress being made in the implementation of the project. This strategy will include among others: Holding workshops and seminars for the PAPs and the community, distribution of materials and literature on the project, Audio and visual presentations including talk shows in the local FM stations. This should be conducted in a language understood locally by the community (vernacular)

6.4.6 Handbook on Stakeholders Consultations and participation on AfDB Funded Projects

Participation in development can be defined as the process through which people with an interest (stakeholders) influence and share control over development issues that affect them. Measures have to be taken to identify the relevant stakeholders and involve them in the process of formulating the project. This entails sharing with them the objective of the project and seeking their views for integration in the project design before decisions are concluded. It might be necessary to take the stakeholders through a process of training and thus empowering them not only to meaningfully to contribute to the project design but also for their future participation in the sustainability of the project.

According to the Handbook, many methods and technique have been developed to promote participation by stakeholders in development. Some of the methods and techniques used include:-

(i) Participatory stakeholders analysis
(ii) Participatory meetings and workshops
Participatory research /Data collection.
Participatory planning

In some instances, it might be necessary to combine the above techniques depending on the nature of the project at hand and the complexity of the stakeholders involved.

6.5 Analysis of Gaps between legal and policy Framework and AFDB policies

6.5.1 Gender.

- The Constitution of Kenya (2010), Section 60 (1) (f) seeks to eliminate gender discrimination in law, custom, and practices related to land and property.
- Section 81 (b) , 175 (c) and 177 (1) (b) provides for no more than two- third of elected members in elective bodies, representation in devolved government and special seats of elective assemblies to be male.
- Section 91 (1) (f) and 91 (2) (a) provides for observance of gender equality in the running and founding of political parties and similarly with the judicial service commission as provided for under section 172 (2) (b).The AfDB Gender Policy (2001) reinforces the provisions of the Constitution by providing specific direction on how gender issues are to be handled in the course of the project. This policy was therefore adhered to during public consultations and in the course of preparing this RAP Report.

Table 20: Recommendations to bridge gap between AfDB Policy Guidelines and Kenya law

<table>
<thead>
<tr>
<th>Kenya Law</th>
<th>AfDB Policy Guidelines</th>
<th>Comparison/Gaps</th>
<th>Recommendation to bridge gap</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation for land and developments acquired for public purpose is paid for at the prevailing market price and in monetary form including an element for disturbance except where the beneficiary opts for alternative land equivalent to the value ascertained</td>
<td>The policy recommends payment for compensation be land-for-land or at replacement cost</td>
<td>Payment of compensation in monetary form instead of in kind</td>
<td>Due to lack of suitable land to exchange, payment to be in cash including the disturbance allowance</td>
</tr>
<tr>
<td>Grievance redress mechanism is not adequately provided for</td>
<td>The mechanism is fully documented and the procedures laid down</td>
<td>The process of handling disputes on compensation have been legalistic, lengthy and formal</td>
<td>Need to create more awareness and fast track the dispute resolution mechanism recently introduced by the judiciary</td>
</tr>
</tbody>
</table>

6.5.2 Cooperation with civil society organization (CSOs)

While the constitution of Kenya 2010 recognizes public consultations before a project can be implemented, it does not stress on the co-operation and consultation of the Civil Society organizations. However, the AfDB Involuntary Resettlement Policy and Policy Guidelines on co-operation with Civil Society organizations stresses on the need to consult and cooperate with the CSOs. Efforts to identify the Civil Society groups in the project area became difficult due the bias in the areas that they prefer to operate in.

6.5.3 Encroachments

Section 91 (1) of the traffic Act Cap 403, makes it an offense for any person to encroach on a road reserve by making or erecting any building, placing and advertisement sign or other obstacle, deposit any matter whatsoever, alters or obstruct any drainage under the control of highway authority without written permission from the authority. Section 91 (2) of the law further gives the authority power to remove the obstruction, and the culprit is liable for prosecution.

Section 3.4.3 of the AfDB involuntary Resettlement policy provides for a third group of displaced persons who have no recognizable legal right on the land they are occupying in the project area. According to the Policy, this category of displaced persons, will be entitled to resettlement assistance in lieu of compensation for land to sustain and improve their former living standards (compensation for loss of livelihood activities, common property resources, structure and crops etc), provided they occupied the project area prior to a cut-off date established by the borrow and acceptable to Bank. At the minimum, under the Bank’s policy (with no contradiction to the borrower’s legislation), land, housing, and infrastructure should be provided to the adversely affected population, including indigenous groups, ethnic, linguistic and religious minorities, and pastoralists who may have usufruct rights to the land or other resources taken for the project. The cut-off date must clearly be communicated to the project affected population. Persons who encroach on the project area after the cut-off date are not entitled to any form of resettlement assistance.

7.0 INSTITUTIONAL FRAME WORK
Whereas Kenya National Highways Authority is the project proponent and will be responsible for ensuring that the plan is implemented as agreed with the lenders, other Government agencies will be directly involved in the implementation of this resettlement plan. Included in this category of agencies are also the County governments. Each of the agencies has its role to play in the process as mandated in its responsibilities vested by various laws and the Constitution of Kenya. These institutions include:-

7.1.1 Ministry of Infrastructure and Transport
The Ministry is responsible for the roads sector and is responsible for procuring resources from the National Treasury for the overall project. The Ministry is also responsible for harmonising the resettlement with other government policies on the same subject.

7.1.2 The National Land Commission
The Commission is responsible for compulsory land acquisition and payment of the compensation money to the affected persons. The Commission process the request from the project promoter. The Commission handles the gazetting, inspections of affected properties. They prepare the awards and facilitate the taking of possession of the subject-matter land upon payment of the awards to the affected persons. The National Land Commission has established County offices that will be directly involved in matters arising from the land acquisition if the affected persons are not satisfied with the awards.

7.1.3 County Government
The County is responsible for ensuring that the plan is acceptable to the local residents as it supplements the County’s capital programmes. The County government is also responsible for regulating trade and providing markets within its area of jurisdiction. The informal traders that will be displaced from the road corridor were previously operating within the County markets in Mombasa and Kilifi Counties.

7.1.4 The local CBOs and other Civil Society
Member groups of the civil societies working in the area in related fields. Their responsibility is to ensure that the resettlement plan is implemented as suggested and in the event of any departure or change in circumstances, the project affected persons are not adversely affected. The group will also have a role to sensitise the people and empower them to realise maximum benefits from the project. They will be involved in the training and counselling of the project affected persons

7.1.5 The office of the County Commissioner
The office particularly at the location level is best suited to mobilise the people as it has grass-root networks. It has the clout to chair meetings and settle disputes as it commands the general
public support. The Chief knows all the residents of his area and has the advantage to give reliable information on various aspects of the plan for efficient implementation. It has vast experience in dealing with matters of dispute that need not be referred to the Courts of law.

7.2 Implementation process

KeNHA as the project proponent will set-up the Resettlement Committee to oversee the implementation of the RAP. This will entail verifying the details of the PAPs and facilitating the payment of any compensation or assistance benefits. The Committee will mobilise the the PAPs and keep them informed of the various stages of the project implementation. The Committee will also create awareness among the communities living along the road corridor among the responsibilities of the Committee are:-

(iv) To ensure that appropriate agencies that are mandated to plan and implement compensation, income restoration, and rehabilitation programs are identified as early as possible in Project preparation;

(v) To ensure compliance with the Resettlement Plan and Environmental Management Plan; and

(vi) To acquire the required land and payment of compensation to the PAPs during the preconstruction period, and monitoring the completed road facility and ensure that the objectives of the resettlement plan have been achieved.

The following four components will form part of Implementation of the RAP:-

(v) Notification;

(vi) Verification of properties of affected persons and estimation of their type and level of losses;

(vii) Preparation of entitlements for affected persons by Land Acquisition; and

(viii) Relocation and resettlement of the PAPs.

7.2.1 Notification

In this first stage, all the PAPs without legal titles will be notified to leave the road corridor, for the PAPs who have legal titles the cut -off date will be the date of notification of acquisition.

7.2.2 Verification of properties of PAPs and losses

This is a second stage, which should be undertaken by the RC with assistance from the PAPs’ representatives and local NGOs. They should identify all PAPs and check records of addresses, type of property, estimation of type and level of losses. The procedure should also include consultations for explaining the entitlement framework to the PAPs, methods of payment of
compensation, assistance entitlements, grievance procedures and participation in implementation.

7.2.3 Preparation for clearance of the road corridor

In this third stage the PAPs are 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 Project transactions, and efforts will be made to continue with all the development activities. No physical relocation from the Mariakani – Mombasa Road should began before alternate arrangements have been made. A sufficient notice will be provided to PAPs before relocation.

7.2.4 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 will be shall be demolished by the owners who will be entitled to take with them the salvage material to their new site.

7.3 Membership and responsibility of Resettlement Committee

Implementation of resettlement plan and ascertaining compensation shall be undertaken by a Resettlement Committee. The membership of the RC shall be made up of appointees from the relevant government organizations’ with a maximum of ten (10) persons who shall be involved in the exercise for pre-construction and post-construction period. NGOs with experience in social development and poverty alleviation programs and with a verifiable track record should be included as partners in the resettlement plan implementation. Among the areas where the NGOs/CBOs will provide assistance are in:-

(vii) Gathering and sharing information and avoiding potential problems;
(viii) Mobilization and motivation to PAPs to form community based organizations;
(ix) Planning and implementing income-generating schemes for the PAPs;
(x) Developing information campaigns and community participation;
(xi) Strengthening local institutions and community self-reliance; and
(xii) Delivering services to communities in a more efficient and cost effective manner.

Once the Resettlement Plan obtains approval from the Government/Funding body and the Implementation Budget is secured, implementation of the RAP may proceed in the following sequence:-
KeNHA, Mombasa/Kilifi Counties, Office of the County Commissioners and Ministry of Lands, Housing and Urban Development shall establish a Resettlement Unit by constituting the Committee membership at the KeNHA Office (Mombasa Region). The membership shall be drawn from the agencies involved in road development, land matters, governance and civil society and county government.

Training of the Resettlement Unit staff on Project-associated resettlement and rehabilitation responsibilities will be undertaken;

Selection of credible NGOs working with the affected community;

Grievance Redress Mechanism will be initiated through setting-up of Grievance Committee;

Implementation of RAP - Disbursement of relocation assistance, Income Restoration, Relocation, Resettlement activities;

Demolition and clearance of the ROW

The duration for each of the above activities shall be guided by the RAP Implementation Schedule as shown in Table 22.

7.4 Organisation Structure for RAP Implementation

The overall responsibility of managing the implementation process of the project will vest under KeNHA who will constitute a Project Management Unit comprising of senior management staff. The Unit will coordinate the project with other government Ministries. The Unit will oversee the operations of the Resettlement Committee set-up for the purpose. To facilitate the realization of the Resettlement Action Plan, KeNHA will set-up the Resettlement Committee that will comprise of other pertinent government agencies and an NGO of sound standing to oversee the implementation of RAP. The Resettlement Committee will operate within the guidelines given by the Project Management Unit in cognisance of the national and Banks’ policies on resettlement. The Committee will operate within the project area to ensure contact with the project affected persons and internalise the emerging issues on the plan implementation. The Resettlement Committee

The Resettlement Committee will incorporate the work already being performed by the Ad Hoc Committee formed by the Community and the PAPs at the preparatory stage of the Project. The Ad Hoc Committee had been working with the Design Team and the Project Management Unit of KeNHA. The Ad Hoc Committee responsibility has been to articulate the communities’ views
and disseminate the project goals and objectives to the community for consensus building. They have also acted as the link between KeNHA and the community on addressing any grievances that arise from the design aspects of the project.

This integration of the Ad Hoc Committees will be done through the setting-up of the Grievance Redress Committee (GRC) whose main responsibility shall be to address grievances arising from the project implementation. Due to the length of the project road (approximately 41km) and the fact that it traverses different Counties, it is imperative that the sub-Committees of the RC be constituted at locational level where there is more homogeneity and cohesion for efficient dispute resolution. The RC at the project level will maintain the co-ordination role for consistency. The details of the Grievance Redress Committee are discussed in the next Chapter.

Figure 9: Project Management Unit and RAP Implementation

- Inter-Ministerial Steering Committee
  - KeNHA; Min. Lands; County Governments;
  - National Co-ordination; Others.

- Resettlement Committee Unit (including Grievance Redress Committee)

- CBOs, NGOs,

- Government Technical Staff

- Community Representatives

- Vocational Training Manager

- Support service Unit

- (PAPs) representatives
8.0 ELIGIBILITY

This chapter of the RAP report lays the basis on which the people conducting business within the road corridor qualify for compensation or assistance from the project to be able to continue with their lives un-interrupted or improved as is the objective of the project. The chapter therefore establishes a criteria for one to qualify for benefits under the resettlement programme.

8.1 Eligibility Criteria

According to section 4.1.4 of the AfDB Involuntary Resettlement Policy, the resettlement plan should have a clear definition of the project affected persons (PAPs) by socio-economic and gender category; household or family; the cut-off dates for eligibility for compensation; the assets to be compensated at replacement cost, and the development projects proposed. It is particularly important that the country national laws and legislation as well as local definitions of land tenure, rights to common resources and inheritance practices are recognized. The definition of the unit for compensation (family or household) should anticipate and accommodate the land and housing needs for elderly sons and daughters to establish their own households.

Further on section 4.1.5 states that the benefits offered by the resettlement program should be clearly established. This may cover, for urban resettlement activities, financial compensation; housing and service provision; transport, temporary accommodation and other short-term provisions required for relocation such as, credit facilities, training or job opportunity. In rural areas however, this may cover land-for-land, participation in training and access to material equipment, inputs and credit. In cases, where land is not the preferred option for some of the displaced persons, non-land-based options should be considered. These options should be built around creating employment opportunity or self-employment.

Moreover, resettlement offers a unique opportunity for addressing gender inequality in land ownership and control. For example, Bank staff should make sure that project planners are ensuring that replacement land is registered in the name of women and men, when applicable (case for instance of absence of formal legal rights to land or other assets) and in conformity with the borrower’s own laws and legislation, either by establishing independent ownership rights for women or jointly under both the husband and the wife’s name. For the proposed Mariakani- Mombasa Project the following groups are entitled to compensation and/or assistance under the project:

**Project Affected Persons (PAPs)**

These include land owners, households regardless of their ownership status as squatters etc., whose living will be adversely affected and/or will suffer loss to their right or title on land, house, habitat, water resource or any asset enjoyed due to the project implementation.
Project Affected Families (PAFs)
All members of a project affected household residing under one roof and operating as a single economic unit, who are adversely affected by the project or any of its components.

Significantly Project Affected Families (SPAFs)
Include affected families who will lose all their land, income or a residential house because of the project implementation.

Displaced Family
Any interest holder and his family members, tenant, Government lessee or owner of property, who on account of acquisition of his/her land or other property for the project purpose, has been displaced from such land or property.

Squatters
People who have occupied land violating the laws are not entitled to compensation for lost land under this policy. However, if displaced, they are entitled to resettlement assistance and loss of their developments.

Vulnerable Groups
Distinct groups of socially distressed people who might suffer disproportionately from the effects of resettlement. These may be ethnic minority/indigenous, women headed households, the most poor (based on the poverty line), the disabled, elderly and landless/families.

Therefore, in view of the above, the people trading or living alongside the existing road corridor are eligible to receive benefits from the project for any displacement they suffer if:

- They are owners of the structures that they operate in within the road corridor
- Their land parcels that abut the existing road are affected by the need to widen the road to accommodate the improvements and the land has to be acquired
- They own or can show evidence of ownership of trees and crops within the road corridor at the time of quantifying the displacement

8.2 Entitlements for the PAPs
The people who were trading or carrying some activity within the road corridor during the census for the project affected persons and were earning a living by being on the road as traders, are entitled to receive benefits for the displacement. The Banks guidelines and the Kenyan laws lay down the procedures to be followed to determine the beneficiaries. In this project, there are two (2) categories in consideration to receive benefits as an entitlement. These are:
- The hawkers for loss of their structures and
- Loss of business income.

They will also receive some allowance for transport to move their facility to the new sites that the County Governments of Mombasa and Kilifi are refurbishing for the purpose at Mazeras, Mariakani and within Miritini. The Table 21 below gives details of the Entitlement Matrix.

**Table 21: Entitlement Matrix**

<table>
<thead>
<tr>
<th>Asset/Impact</th>
<th>Affected persons</th>
<th>Responsibility</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>Titleholder</td>
<td>KeNHA and National Land Commission</td>
<td>Land parcels that will be affected in total along the project roads. The total area amounts 25.0 hectares of land. This includes parcels within the road reserve that bear survey numbers and purportedly registered/registrable. On the parcels of land, there are 820 buildings/structures inclusive of residential buildings, business premises, churches and public institutions. Cash payment for purchasing/acquisition of land will be at the current market prices</td>
</tr>
<tr>
<td></td>
<td>Land parcels to be acquired from the registered or registrable owners and those with proof of purchasers’ interest or squatters within the 40m road reserve</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Buildings/Boundary walls, Fences</td>
<td>All structures within any affected land parcel for domestic or commercial use along the corridor subject to be acquired</td>
<td>KeNHA and National Land Commission</td>
<td>Where the boundary walls constitutes part of the legal property affected by acquisition for land will be included as part of development for compensation. Pay replacement cost. Replacement cost including material and labour at current market prices without salvage value</td>
</tr>
<tr>
<td>Loss of incomes and</td>
<td>All PAPs losing</td>
<td>KeNHA,</td>
<td>Persons affected by</td>
</tr>
<tr>
<td>Asset/Impact</td>
<td>Affected persons</td>
<td>Responsibility</td>
<td>Remarks</td>
</tr>
<tr>
<td>-------------</td>
<td>------------------</td>
<td>----------------</td>
<td>---------</td>
</tr>
<tr>
<td>livelihoods</td>
<td>incomes and livelihoods. Includes landlords and tenants in business premises including kiosks where their activities will be displaced</td>
<td>Resettlement Committee and National Land Commission, Other State offices dealing with displaced persons.</td>
<td>displacement within the road reserve and have ownership rights to the space they occupy to derive their livelihoods. Includes tenants in business premises. The project will pay replace cost to rebuild the asset used for livelihood and a lump sum</td>
</tr>
<tr>
<td>Places of worship</td>
<td>All religious buildings and land affected</td>
<td>KeNHA, Mombasa County and National Land Commission</td>
<td>2 mosques and 1 church building within the road corridor. Pay replacement cost including material and labour at current market prices without salvage value</td>
</tr>
<tr>
<td>Vulnerable groups</td>
<td>PAPs above certain age to be determined from the survey and will include female-headed households, Households with incomes below poverty line, and households headed by people with disabilities.</td>
<td>KeNHA and Resettlement Unit through the Resettlement Committee.</td>
<td>They will need assistance from the project to relocate to new sites and may be considered to receive housing assistance by virtue of their advanced age or incapacity. To be vetted by GRC/PAPs</td>
</tr>
<tr>
<td>Trees</td>
<td>Commercial trees within the area acquired and within rod reserve</td>
<td>KeNHA and the RC, Agriculture Dept.,</td>
<td>All owners. Value based on crop and expected loss of income on crop production</td>
</tr>
</tbody>
</table>

Any land acquired for the proposed road improvement together with the developments thereupon will receive a further 15% of the value as a disturbance allowance. Because of the type of structures erected within the road corridor, it is recommended that KeNHA through the Ad Hoc Committee formed for purpose of participating in the project design, engage and work out a reasonable value to be paid for the temporary structures that will be displaced bearing in mind that the traders do not have any formal arrangement with the road Authority nor do they pay any rent for use of the space for income generation.
8.3 The cut-off date

The general public were informed during the public consultative meetings that the exercise of taking census of the project affected persons and the socio-economic survey that was done in June 2014, anybody who had any interest within the road corridor, should be available to register his/her interest for inclusion in the exercise. They had been informed that the register would be closed by a certain date that they concurred on as at 30th July 2014. However, they were also informed that it would not be prudent to embark on any new developments within the road corridor as that would be wastage of rare resources for the project may start even before they complete their constructions. They were otherwise advised to continue with their activities as they prepare to vacate the road corridor.

They were also informed that anyone who would not be captured even with the assistance of the local leaders during the census would be considered by the Grievance Redress Committee who would recommend his inclusion for entitlement assistance/allowance. The Village Elders had been deployed to ensure that all the people trading along the road who were their neighbours had been accounted for in the census. The neighbours provided useful information on those who were not at their trading spots during the census.
9. VALUATION FOR COMPENSATION AND RAP BUDGET

9.1 Valuation and Related Legal Issues

As it is crucial in the social safe-guards to protect the project affected persons from being adversely impacted by the project, a sound basis of valuation is necessary to ensure fair compensation. The process for land valuation for compulsory acquisition is governed by provisions of the Land Act.

9.2 RAP Valuation Process

Detailed valuation of assets along the project roads has been undertaken for estimate purpose. For a final valuation to be undertaken, it will be necessary for the land acquisition formalities to be completed in accordance with the provisions of the law governing compulsory acquisitions. This will entail the Gazetting of the affected properties, holding public inquiries to receive claims from the owners and any other interest holder. Secondly, the detailed design has to be completed to ensure that all the land affected to achieve the design specifications is identified for acquisition purposes.

During the intervening period, an inspection will be carried out to ascertain the condition of the premises affected for assessment purposes. Official searches would also be conducted to verify ownership and any encumbrances attached to the title. After the inquiries are held, an award is made to the registered owner after comparison of his claim and the official assessment by the government valuer. Option is provided to accept or reject the offer and recourse is provided to appeal on the quantum of the award for enhancement by the tribunal or the Environment and Land Court established by provisions of the Constitution of Kenya (2010).

9.2.1 Land Acquisition

The function of acquiring land compulsorily for public purposes is vested in the National Land Commission by the Constitution of Kenya (2010) and the Land Act. The Commission is responsible for arranging the Gazetting of land to give notice to the affected persons. It arranges for valuation inspections of the affected properties and issues the award after determining the claims submitted at the public inquiries. The National Land Commission acts on behalf of the project proponent in arranging for land acquisition and taking possession of the affected land after making the compensation payment to the land-owners.

The valuation process will provide compensation for loss of land and developments, loss of incomes to both lease-holder and the tenants. Payments will be made for restoration of loss of livelihoods. Other costs that will be considered for payment will include payment of transport
to the displaced persons. They will also be considered for assistance to be allocated on priority basis any facilities developed to support their continued livelihoods. A flat rate disturbance allowance (15%) will be payable to the property owners over and above the award for any inconvenience suffered as a result of the acquisition of land and developments.

9.2.2 Valuation Methodology

Valuation can be defined as the art or science of establishing the value (worth) of a particular interest in property for a specific purpose and at a particular moment in time; taking into considerations all the features of the property and also considering all the underlying factors of the market.

All valuation techniques rely on the collection and analysis of data such as social, economic, Government and Environmental attributes. Specific data include local market conditions and details of property transactions such as location, physical and functional form and legal characteristics. The value of the property is affected by the rights of enjoyment or compensation when such benefit may be alienated.

In Kenya, compensation for land requires that the value paid to include all the other miscellaneous expenses as well as the injurious affection due to the disturbance to them. Thus in such circumstances, the value paid is higher than normal market. Thus the factors that affect the value are those that affect the rights on land. These include location, legal rights and permitted land user.
The exercise was carried out together with the household survey to ensure that the project affected persons would physically identify all the assets to be affected within the delimitations of the project.

Basically there are five methods of valuation namely:

(i) Comparison Method: while it is true that no two properties can be the same, this method compares like properties. It is the most reliable and requires an active market while adjustments are made to fit specific properties. The limitation faced by this method is lack of data and sometimes misleading data.

(ii) Comparables may be biased where the seller may sell more or less depending on the needs at the time. Elsewhere the data given may not be correct because of personal secrecy. Thus in long run, valuers have been able to come up with values per square foot/meter that can be used in various regions and give a reasonable value. Adjustments are made depending on various factors.

(iii) Investment Method: This method of valuation is based on the expected future returns and its applicable where active investment market is available. Just like comparison method, investment method is limited due to lack of varied data.

(iv) Replacement Cost approach method: this is where the property value is assessed based on the cost of buying the site and constructing the building. It is based on the reproduction/replacement value.
(v) Profit method: this method is used in absence of sufficient rental or sales evidence and where the hypothetical purchaser would base his/her offer of profit from the business conducted from the property.

(vi) Residual method: this is applied to property with development potential either undeveloped or partially developed.

The above methods together with the above factors lead to the value of the property. It is important to note that the above methods can apply to the same property if the data was available. They however give varied values; experience and the knowledge of the existing property market are necessities for any property valuer to come up with appropriate value and not just the quantification and method of calculation.

The method that is found to be appropriate for this exercise is the replacement cost approach. The aim of carrying out the estimates of values is to ensure that the affected persons PAPs would not be worse off in their economic and social status when the project is implemented.

9.2.3 Basis for Valuation

The space that will be required for the road widening and realignment will be compulsorily acquired under the Land Act. The amount of award for compensation depends on:

(i) Area affected by the road
(ii) The value of interests in land can be affected by the road widening
(iii) The valuation is based on the principal of prevailing replacement cost which is normally determined by the various valuation methods used internationally.

9.2.4 Valuation of Structures

If structures are primarily for investments purposes, then the ‘income approach’ is sometimes used. However, the preferred method of valuation is the ‘replacement cost’ method. It is based on the theory that the replacement cost of an improved parcel can be estimated as the sum of the land value and the depreciated value of improvements. In other words - subtracting the land value from the overall value of the land and fixed structures gives the value of the structures. Replacement value requires the estimate of land value, accrued depreciation and the current cost of constructing of improvements. Depreciation is deducted from the current cost of construction to get an estimate of improvement value.

In carrying out replacement cost value three steps are required:

(i) Data collection: descriptive data on the improvement being valued
Determining an accurate cost of estimate: expenditure involved in completing a house based on replacement cost or reproduction cost. Reproduction cost is the cost of constructing an identical structure by using the same design and materials.

Replacement cost is the cost of constructing a substitute structure of equal utility using current materials, design and standards.

Estimation of accrued depreciation – which is the loss in value from replacement cost new.

9.2.5 Valuation of Crops

Compensation of crops is decided according to the gross market value of the lost crops. Gross market value makes full provision for owners’ crops or users input already expended (labour, seeds, fertilizer, etc) in the event that there is a crop in – ground at the time of acquisition. There are two determinant of gross or full market value which are market value for crops and the average annual yield of the crop. The price used to calculate compensation is the highest market price of the crop during the year. The average annual yield of the crop involves some degree of data collection and analysis.

9.3 Income and livelihood restoration

As a result of the proposed improvement on the road project and consequent displacement there will be diminishing income and disruptions in livelihoods of project affected persons therefore in addition to providing resettlement and compensation benefit further measures need to be undertaken for income and livelihood restoration some of these will include offering employment on the project affected persons or there proxies on construction work. The PAPs shall be considered also for any activity in the contract they are capable of performing and earn an income. Women and vulnerable groups will be given preference. The resettlement committee will monitor and co-ordinate this arrangement with office of Resident Engineer a special fund will be established through existing channels to provide funds for income generating activities for a period in excess of the contract period with special buys to the vulnerable groups. Occupational skills and training will be offered to the project affected persons as part of the income and livelihood restoration. The resettlement action plan will provide assistance to restore and supplement the affected businesses with financial or credit support for loss of income in the transitional period

10.0 RESSETTLEMENT AND INTEGRATION WITH HOST COMMUNITIES

10.1 Resettlement Sites

The project area under consideration is linear and it is an existing road corridor reserved for road development. Due to non-use over a period, the local community has found a temporary use for trading activities. This is evident in the type of structures they have erected (temporary) and lack of basic services in the structures.
During the public consultations, majority of the participants indicated willingness to release the space subject to being granted adequate notice instead of being forcefully evicted with attendant damage to their property. The County Government of Kilifi and Mombasa has been attempting to remove the traders from the road reserves and restore them back to the dedicated markets in the neighbourhoods that they abandoned in favour of the road reserves.

The communities have put requests for the road project to provide convenient access to the open air markets along the road to render them attractive for business. The County Government is liaising with KeNHA on the measures that can adopted to facilitate the provision of amenities at the existing markets that is under consideration in the corporate social responsibility of the project.

In view of the above, there is no consideration for any relocation and the method adopted for resettling the traders from the road is by way of giving them assistance to move to the County market spaces. It is recommended also the County governments to restrain any other traders taking space along the road after the current batch of traders vacate the road corridor.

### 10.2 Host Communities

The Plan has established a need for a new site for resettlement and none has therefore identified any resettlement site. The traders within the road corridor are members of the community and since they live within the community, they use the road space for their trading activities due to its being available at no cost to their businesses. In regard to the use of community facilities as by the displaced persons, this does not arise because they are already part of the community and will share in the benefits accruing to the community through the corporate social responsibility.

The community in general has been involved in the preparations of the resettlement plan as part of the leadership and also as members of the Ad Hoc Committee that is engaging with KeNHA on the project. Majority of the people interviewed at their business premises indicated that they have always lived in the area and they therefore would not be strangers in the community. 45.5% of the respondents indicated to have always lived in the area and 44.6% indicated to live within the district and the region. Culturally, the community come from the same ethnic group, the Miji Kenda (29.7%) and the Akamba (14.5%).
11.0 IMPLEMENTATION ARRANGEMENTS AND SCHEDULE

Time scale for the resettlement process is estimated to last the duration of the project and start earlier during the design period at public consultations. This takes into account important variables such as creation of awareness on of the potential impacts and resolution of conflicts / grievance and cash flow from GoK/AfDB. Time schedule and summary of activities is presented in the Table10 below.

11.1 Implementation Schedule

The responsibility of ensuring the resettlement plan is implemented as agreed with the project affected persons rests with the Resettlement Committee and its sub-committees at different levels. The process starts at the design stage with the public consultations and the communities forming informal groups “Ad Hoc Committees” at locational level to engage with the proposal. The RC mandate will expire after the project implementation. It will be involved in the monitoring as regards realisation of the objectives of the Plan in the post construction period. Therefore the Plan will run for approximately five (5) years inclusive of the construction period. The timelines are shown in the Table 22 below:

Table 22: Proposed RAP Implementation Schedule

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Time in months</td>
<td>5 6 7 8 9 10 11 12 1 2 3 4 5 6</td>
<td></td>
</tr>
<tr>
<td>A Schedule for Informal Sector</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Inventory Survey (Census) for PAPs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Working Group / Task Team Set-up</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Notice &amp; Agreement with PAPs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 Implementation of Resettlements &amp; Compensations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6 Clearance of Road Reserve (Demolition &amp; Levelling)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7 Grievance Redress</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vocational Training for PAPs</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
12.0 COSTS AND BUDGET

12.1 Cost of Compensation and Resettlement

The estimates for the resettlement action plan (RAP) will cover land acquisition, restoration of livelihoods and other negative impacts arising within the community as a result of the road project. The details are shown on table 23 below but the actual figures for compensation are to await valuation of the properties once the National Land Commission completes the process for compulsory acquisition.

Under this Resettlement Action Plan, it is estimated that the land to be acquired for the proposed bypass will be a corridor measuring 40m wide where the corridor is narrower and the total length of the proposed road is approximately 42 Kilometers from Mombasa-Mariakani. This will entail acquisition of an additional 4.0m on either side of existing road reserve.
Table 23: Cost estimates for compensation and RAP implementation

<table>
<thead>
<tr>
<th>Item for Compensation</th>
<th>Unit Measurement</th>
<th>Amount (KShs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value of land</td>
<td>Ha.</td>
<td>500m</td>
</tr>
<tr>
<td>Value of Structures/Buildings</td>
<td>M²</td>
<td>36m</td>
</tr>
<tr>
<td>Value of trees/crops</td>
<td>Age</td>
<td>10m</td>
</tr>
<tr>
<td>Public facilities</td>
<td>M²</td>
<td>15m</td>
</tr>
<tr>
<td>Accommodation/Transport allowance</td>
<td></td>
<td>7m</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>563m</td>
</tr>
<tr>
<td>15% (disturbance)</td>
<td></td>
<td>84.5m</td>
</tr>
<tr>
<td>Total compensation cost- (KShs)</td>
<td></td>
<td>647.5m</td>
</tr>
<tr>
<td>Cost for RAP implementation</td>
<td></td>
<td>30.2 m</td>
</tr>
<tr>
<td>Grand Total</td>
<td></td>
<td>677.7 m</td>
</tr>
</tbody>
</table>

It is important to note that for purposes of the Resettlement Plan, individual land demarcation was not established and such will be done when carrying out final valuations for the bypass after the land acquisition has been compiled. The estimate of the value given is based on calculation of compensation figures referenced to the diminution in the market value of the land. The effects of severance and injurious affection plus any disturbance element has also been included by the additional 15% of the market value of the properties affected.

It is also important to point out that the value of crops is quite minimal as most of the affected land is under commercial and indigenous trees and subsistence farming of maize, potatoes and beans which for the sake of this estimation is not valued. The values of these subsistence crops have been ignored as they are expected to be harvested within a short time. Perennial crops were also found within the parcels of affected parcels of land which had palm and coconut trees.

Table 24: RAP Implementation Budget

<table>
<thead>
<tr>
<th>Expense</th>
<th>Description</th>
<th>Unit</th>
<th>Total Cost (KShs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional service</td>
<td>Verification of assets and training of PAPs</td>
<td>months</td>
<td>6.5m</td>
</tr>
<tr>
<td>Resettlement and</td>
<td>Allowances</td>
<td>Lump sum</td>
<td>2.5m</td>
</tr>
</tbody>
</table>
### Expense Description

<table>
<thead>
<tr>
<th>Expense</th>
<th>Description</th>
<th>Unit</th>
<th>Total Cost (KShs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grievance Redress Committee Cost</td>
<td>committee meetings and agents</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stakeholder Participation</td>
<td>Consultations and continuous sensitization</td>
<td>Meetings</td>
<td>3.2m</td>
</tr>
<tr>
<td>Livelihood Support</td>
<td>Assisting and allowing for vulnerable groups</td>
<td>Lump sum</td>
<td>9.0m</td>
</tr>
<tr>
<td>RAP Implementation and Administration</td>
<td>Office operations and documentation</td>
<td>Lump sum</td>
<td>4.2m</td>
</tr>
<tr>
<td>Monitoring and Evaluation</td>
<td>Cost of monitoring and evaluation of the process</td>
<td>Lump sum</td>
<td>4.8m</td>
</tr>
<tr>
<td><strong>Total (KShs)</strong></td>
<td></td>
<td></td>
<td><strong>30.2m</strong></td>
</tr>
</tbody>
</table>

### 13.0 MONITORING AND EVALUATION

A monitoring and evaluation (M&E) program is required to be developed to provide feedback to project management which will help keep the programs on schedule and successful. Monitoring provides both a working system for effective implementation of the RAP by the project managers, and an information channel for the PAPs to assess how their needs are being met. Monitoring shall be conducted in two ways: by advisory committee and internally by RC.

#### 13.1 Advisory committee

An advisory committee will carry out monitoring and evaluation of RAP implementation. The committee shall begin the work right from the implementation of RAP and will meaningfully and realistically monitor and evaluate the resettlement programs on a periodic basis so that all the vital activities are successfully implemented. Monitoring and evaluation will be useful in information of corrective measures by identifying the problems and difficulties faced by the PAPs and bringing them to the notice of the RC. The Committee shall carry out the following:

1. Verify results of internal monitoring by RC;
2. Assess whether resettlement objectives have been met; specifically, whether livelihoods and living standards have been restored or enhanced;
Assess the resettlement efficiency, efficiency, effectiveness, impact and sustainability, drawing lessons for future resettlement activities and recommending corrections in implementation process; and

Ascertain whether the resettlement entitlement were appropriate to meet the objectives and whether the objectives will suit the PAPs conditions

A monitoring and Evaluation mechanism need to be factored into the project implementation to ensure that the objectives of mitigating the negative impacts in the project are addressed in a timely and effective manner. The process will ensure that the resettlement program delivers on the entitlement benefits. Monitoring and Evaluation will provide a link between the project affected persons/community and the implementers and facilitate the field operatives to take remedial measures with a view to achieve the targets within schedule. The Monitoring and Evaluation process will enhance the delivery capacity of KeNHA and maximize the benefits of the RAP package to the affected persons/communities.

The objectives of the Monitoring and Evaluation programme are to:-

- Ensure that the existing system of livelihood is not disturbed.
- Assess if compensation and rehabilitation measures are adequate.
- Monitor if the timelines are adhered to.
- Identify emerging or potential problems.
- Identify methods of responding efficiently to mitigate the problems.

The process will be monitored both internally and externally with the project field staff dealing with the day-to-day operational issues. This will include payment of compensation, physical identification of project affected persons and arrangement for their payments, relocation and resettlement. The scope of the Monitoring and Evaluation will involve:-

### 13.1.1 Responsibility

This is a purely administrative stage with the project field office dealing with the establishment of resettlement unit, consultation with the project affected persons in the preparation of the resettlement plan, information dissemination on payment of entitlements, grievance redress, etc.

The project field office team will be involved in handling of payment of compensation to the affected persons, delivery of entitlements, disbursing of income and livelihood restoration assistance, consultations and relocation among other activities.

### 13.1.2 Performance Monitoring

Once the PAPs have received their compensation or have been resettled, the focus of the field office team will focus on programmes that promote income generation for the re-settlers and
ensuring that the programmes are acceptable to them, the new livelihood patterns are sustainable and assessing how the income generating interventions are impacting on the living standards of the re-settlers. To achieve compliance with the targets, it will be necessary to establish benchmarks upon which the success rate is measured.

13.2 Monitoring and Evaluation Indicators

These will include primarily the activities and the entitlements due to the displaced people. These include among others:-

(i) Frequency and number of consultations held with various stakeholders; parties engaged in grievance redress and participating in the project such as Civil Society groups;
(ii) Grievances filed by the PAPs and nature of the grievances including the time it has taken to resolve them
(iii) Procedures in the operations such as asset verification and valuation procedures including effectiveness of compensation delivery system;
(iv) Number of land parcels to resettle the affected persons and amount of compensation proceeds released to the target group;
(v) Number of assets compensated and the amounts paid out to the individuals and public facilities restored;
(vi) Number and category of people paid their compensation and rehabilitated including vulnerable groups receiving assistance;
(vii) The growth in number of settlements, market areas and the change in standard of living of the displaced persons.

13.3 External Monitoring

It will be imperative to involve an external M&E specialist for the project to meet the accountability and transparency criteria. The external monitoring will purposely validate the work done by the field office monitoring to ascertain that the targets are met and the objectives of the RAP are adhered to. The specialist will particularly review the implementation of the land acquisition. It will be important for the exercise to be carried out during and after the life of the project. However, it may require more frequency (maybe quarterly) to ensure there is no lapse in the follow-up on implementation of the resettlement goals and that no grievances are over-looked. The project will provide a budget to facilitate the external specialist and his team to carry out their assignment effectively.

The PAPs will be effectively involved and informed through participatory meetings in the evaluation exercise.
13.4 Internal monitoring

This should be responsible of the RC, it will look into the conventional indicators verses the assistance provided to the affected families, number of affected families, families resettle, infrastructure facilities allocated etc. It will also monitor the financial aspect, that include payment of compensation, grants, income restoration, etc. Regular progress reports shall be prepared and summated to KeNHA and ministry of transport and infrastructure in a timely manner.
14.0 CONCLUSIONS AND RECOMMENDATIONS

Conclusions

This Resettlement and Action Plan will be implemented by compensating the individuals affected by the proposed road activities. The compensation and assistance allowances will enable the PAPs to relocate and pave way for the road construction.

Recommendations

It is recommended that any planned displacement of the project affected persons be undertaken after compensation payments have been made before any construction activities are done and in accordance with the prevailing law. The project affected persons to be given adequate notice, at least 3 months to surrender and remove their property from the road corridor.
References:

7. Principles and Practice of Valuation, - J. F. N. Murray; 1969