



**Republic of Kenya**



**Kenya National  
Highways Authority**



## **DUALLING OF KENOL-SAGANA-MARUA ROAD (A2)**

### **UPDATED RESETTLEMENT ACTION PLAN REPORT**

**FEBRUARY 2019**



Proponent:

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**UPDATED RESETTLEMENT ACTION PLAN FOR KENOL – SAGANA - MARUA (A2) ROAD**

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## ABBREVIATIONS

ADB	African Development Bank
ADF	African Development Fund
AIDS	Acquired Immune Deficiency Syndrome
CRC	County Resettlement Committee
DC	District Commissioner
DRC	Dispute Resolution Centre
EMCA	Environmental Management Co-Ordination Act
ESIA	Environmental And Social Impact Assessment
FOSA	Front Office Service Associations
FRP	Full Resettlement Plan
GoK	Government of Kenya
GRC	Grievance Redress Committee
HBP	High Blood Pressure
HIV	Human Immunodeficiency Virus
ICT	Information Communication Technology
KeNHA	Kenya National Highways Authority
km <sup>2</sup>	Kilometer Squared
Kshs	Kenya Shilling
KWFT	Kenya Women Finance Trust
M <sup>2</sup>	Meter Squared
Ms-Excel	Microsoft Excel
NEMA	National Environmental Management Authority
NGO	Non-Governmental Organization
NLP	National Land Policy
NMT	Non-Motorized Transport
no	Number
PAPCs	Project Affected Persons Committees
PAPs	Project Affected Persons
PIC	Public Information Centre
PIU	Project Implementation Unit
RAP	Resettlement Action Plan
RAPAS	Resettlement Action Plan Activity Schedule
RE	Resident Engineer
ROW	Right Of Way
RP	Resettlement Plan
SACCO	Savings And Credit Cooperative Society
SMEP	Small & Micro Enterprise Programme
STDs	Sexually Transmitted Diseases
STI	Sexually Transmitted Infections
TB	Tuberculosis
VIP	Ventilated Improved Pit (Latrine)

## EXECUTIVE SUMMARY

### Project description

The Government of the Republic of Kenya with support from the African Development Bank is intending to undertake the dualling of Kenol-Sagana-Marua road. The existing road is currently a single carriageway approximately 84 km long and forms part of the 870.8 Km A2 road from Namanga at the border of Kenya with Tanzania, through Nairobi, the Capital City of Kenya, to Moyale at the Kenya - Ethiopia Border). The main project activities will involve the actual construction of the new carriageway works, alongside many other activities like construction of camps, acquisition, processing, transportation and storage of varied construction materials and equipment; recruitment and management of the labor force, management of environmental and social matters, and construction of drainage structures.

### Project Location

The project road traverses the three counties of Murang'a, Kirinyaga and Nyeri. It slightly touches Embu County and Machakos County for short distances. The road starts at Kenol in Maragwa Sub-county and partially enters Mananja in Machakos County for approximately five kilometers before crossing Tana River from where it acts as the boundary between Embu (Karaba ward) and Kirinyaga Counties for a section of four kilometers. It then proceeds into Mwea West and Kirinyaga West Sub-counties from where it exits into Mathira West Sub-county and ends in Mathira East sub-county in Nyeri.

### Project Impacts

The construction activities for dualling of Kenol-Sagana-Marua that will occur on the 60 meter road corridor will give rise to resettlement as it requires land acquisition, physical displacement of people, loss of shelter, loss of assets, loss of income sources and livelihoods, and restriction of access to economic resources on sections where there shall be re-alignment, where there will be interchanges, and where the few roadside vendors will be required to relocate off the road reserves to structured markets. Those to be affected will include land owners, businesses, farmers as well as public utilities.

The RAP generally identified a total of 576 asset claimants with 326 parcels of land to be affected by the bypass project. The assets range from vacant land, residential houses, domestic out buildings including stores, cattle sheds, pit latrines, trees and crops. Out of the 326 land parcels affected, 43 (spread along the corridor) are fully affected by the proposed corridor and the owners will require finding alternative land. The remaining 283 land parcels are partially affected and owners can re-establish within their remaining piece of land. In addition a Cut-off date for eligibility during preparation of the project was 8<sup>th</sup> December 2014. This was agreed upon at the consultative forums as the cut-off date and was widely publicized at the public meetings and during the household survey and the assets inventory exercise.

Construction of the Kenol – Sagana Marua road will lead to increased population along the road corridor and especially in construction camp sites, market and urban centres. The increased population is likely to result to overexploitation of natural resources as well as increased waste. The environmental impacts of the proposed project are dealt with under the Environmental and Social Impact Study Report. However, the negative impacts and proposed mitigation measures for the resettlement are presented in the ESIA and this RAP Report.

### The Updated Resettlement Action Plan

The project road Resettlement Action Plan (RAP) was developed in 2015 during the preliminary feasibility and design stage in compliance with the AfDB Policy on involuntary



resettlement, which requires a RAP to be prepared in cases where more than 200 persons are affected negatively by any project under its funding. The dualling of Kenol-Sagana-Marua road triggered this policy where over five hundred PAPs were espoused to be affected and therefore the need to develop a RAP to provide guiding principles to be followed when involuntary land acquisition is undertaken. This Resettlement Action Plan was prepared, approved and disclosed by the Bank and KeNHA in 2015.

Further, since the project did not commence within two years of the preparation of the RAP, this necessitated the Updating of this RAP to properly highlight the mechanisms in place to take care of the Project affected persons at this stage when the project is due for implementation.

This Updated RAP captures the PAPs by socio-economic and gender category; the cut-off dates for eligibility for compensation and; the assets to be compensated at replacement cost. It also establishes the land acquisition and compensation processes and; applies the Kenyan law and AfDB policies on resettlement.

Following KeNHA's commitment to the implementation of the approved RAP, this is an updated RAP which seeks to incorporate progress made on land acquisition and compensation for the project. The report also documents the arrangements made for management of land acquisition and compensation processes, financing for the RAP, and monitoring of RAP implementation process.

#### Implementation guidelines

Implementation of the RAP will follow the guidelines laid out by the African Development Bank Policy on Involuntary resettlement. Locally it will observe the Kenyan statutory regulations among them the Constitution of Kenya (2010), Land Registration Act 2012, Land Act (2012), National Land Commission Act (2012), EMCA 1999 (Revised 2016), among others.

#### Institutional arrangement

Institutionally, implementation of the RAP will be undertaken by KeNHA as the project proponent, with support from National Land Commission, Ministries of Lands, MoTIHUD, NEMA, and the relevant partnerships with the relevant county governments, Ministry of Interior and coordination of National Government.

Implementation of this RAP and compensation necessitated by upgrading of the Kenol – Sagana - Marua road requires the Ministries of Lands, Agriculture, Forestry and Public Works (for providing and approving compensation rates), Ministry of Transport and Infrastructure through KeNHA (for sourcing the contractor, financing, co-ordinating and monitoring the resettlement), National Land Commission, the County Governments of Kirinyaga, Embu, Murang'a and Nyeri; NEMA to monitor implementation of the RAP.

Grievances redress mechanisms and procedures which are simple, transparent, accessible to all the PAPs, flexible and speedy/just/fair are available. The main conflicts and grievances are likely to arise from mistakes on inventory of the affected properties, disagreements over land parcel ownership and boundaries, pending court cases, disagreements on plot /asset valuation and delays in compensation payment. These grievances will be settled through a step by step process from the PAPC through the CRC, the Public Compliant Committee/Land Compensation as well as seeking legal redress from the courts.

### **Eligibility**

The eligible individual(s) are those who are directly affected socially and economically as a result of improvements of the project road which in effect results to compulsory acquisition of land and other assets. Properties that are eligible for compensation are buildings, land, assets on the land such as crops, trees and graves and affected public social utilities such as power supply, water pipelines that will require relocation.

### **Cut-off Date**

The categories of PAPs eligible for compensation will include owners of structures and land that are affected; people who have registered leases land ; people residing in the areas surveyed during the census and asset inventory survey and any other persons or group of persons, who though not specified, are entitled to compensation according to Kenya laws and African Development Bank/Donor policies. In order to determine compensation eligibility of persons and their assets, 8th December 2014 was declared as the cut-off date. 8th December 2014 was the last day of the census survey and consultative meetings with PAPs for the preparation of the RAP. This updated RAP upholds this date.

### **Minimising resettlement and losses**

The strategies to minimize resettlement and restore livelihoods to pre-impact status will include full compensation and facilitation of the affected persons. Other strategies will include provision of alternative sites for roadside traders through the County Governments in charge of the specific areas; further consultations and participation with the PAPs before, during and after project completion and; prioritising employment of the affected persons in the construction phase where they qualify.

### **Resettlement Site(s)**

The project will not have a pre-determined resettlement site since the dualling works will only take small strips along the existing alignment, or where interchanges are proposed. Generally, the affected community members whose land shall be acquired will purchase land in the same area using the compensation monies since were not ready to move out of their communities. Majority opted to resettle within their remaining land parcels. The land market is vibrant along the project traverse hence there will be land available to resettle all PAPs losing substantial portions of their land at the interchange sites. There was therefore no host communities considered under this RAP.

### **Stakeholder consultations**

Consultations with the PAPs were conducted through *individual household survey census* and *Project Affected Persons consultative forums*. A total of nine (9) Consultative meetings were held with the PAPs. Involvement of the local community will continue during the implementation of this RAP through public forums, participating in interviews held in the project area and by filling pre-defined questionnaires, discussing pressing issues with the project team consisting of land valuer, land surveyor, socio-expert and environmental experts.

### **Implementation Schedule**

The Resettlement Action Plan Activity Schedule (RAPAS) is spread over twelve months including approval of the RAP. The RAPAS will include the following:

- i. Preparation of RAP
- ii. Mobilization and consultation with PAPs
- iii. Verification of property/asset ownership and valuation for compensation including offering of awards
- iv. Bank account opening and/or revival for those that are dormant

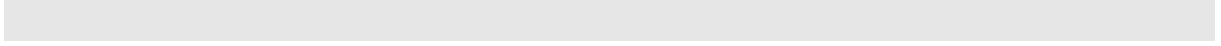
- v. Payment of compensation and delivery of other entitlements within 6 months after serving notices;
- vi. Issue a vacate communiqué for removal of all movable structures and assets, six months for complete remove of all affected structures and assets ;
- vii. Dispute /grievances resolution;
- viii. Complete removal of all affected structures and assets, six months after issuing of the vacate communiqué
- ix. Monitoring, evaluation and final audit

### **Monitoring and Evaluation**

Monitoring, evaluation and final audit (EMA) of the resettlement implementation will be founded on the baseline survey generated in the RAP and ESIA reports for Kenol – Sagana – Marua road. The overall objective of the EMA will be to carry out the following:

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

The subjects for monitoring and evaluation will include acquisition of land, buildings/structures and Trees/Crops; compensation, Re-establishment and Rehabilitation; Hazards and Disturbances; Social/ Demographic; Consultation; Training and; Management.



## 2 CHAPTER 1: PROJECT DESCRIPTION

### 2.1 Background Introduction

The Government of the Republic of Kenya has applied for a credit from the African Development Bank (AfDB) towards the cost of dualling of the road from Kenol-Sagana- Marua. This road forms part of the connection from Mombasa through Nairobi to Addis Ababa, or from the Tanzania border at Namanga through Nairobi to Moyale through Isiolo.

The Kenol Sagana Marua road serves a vast hinterland as the main trunk road from Nairobi with a high potential for economic growth due to the agricultural productivity in its hinterland that comprises of the counties of Muranga, Embu, Meru, Kirinyaga, Isiolo, Nyeri and partly Machakos. Due to land reforms in the hinterland characterized by massive sub-divisions of the former medium sized agricultural farms into small farm-holdings, the project alignment has therefore attracted a huge population with significant increases every year. This scenario coupled with the growth in the regional trade within the region and the entire of the East African countries, has consequently contributed to increased traffic congestion on the main highway hence the need for dualling to maintain adequate service levels. Like other major roads in the country, the situation is also leading to declining capacity to support the ever growing population, with shortcomings among them being transport infrastructure.

Since the road is an international trunk road, accesses to and from it will be controlled by the use of service roads and grade separated interchanges. Additional Structures will be constructed at sites where water is crossing the road, where there interchanges, and as per where the design provides for any other structural interventions like drainage channels.

This updated Resettlement Action Plan was generated from a review of the various documents, in tandem with the land/property assessments as well as stakeholder consultations and valuation of the assets to be affected by the project road. The Census and Socio-economic survey of PAPs was conducted through structured household questionnaire and aimed at updating and validating the census on PAPs and ensuring that relevant data is presented.

### 2.2 Objectives

The main objectives of the Updated resettlement plan are among others to:-

- (i) To raise awareness of the project and its impacts among the public in general and those directly affected;
- (ii) Identify the affected persons in order to determine those likely to be adversely affected by the project works, conduct an assessment of the impacts on their assets, infrastructure and livelihoods including their income and assets;
- (iii) To prepare and adopt measures to avoid, reduce or mitigate the impacts to the PAPs as a result of the proposed project.
- (iv) To estimate the cost necessary for compensation, resettlement and land acquisition; through the Resettlement Action Plan (RAP) that sets out strategies and schedules to mitigate adverse effects.
- (v) Create PAPs consultation framework, mechanisms for grievance resolution, the time schedule, budget and proposed monitoring and evaluation system measures to restore the economic and continuity of livelihoods and wellbeing of those affected.

## 2.3 Methodology

The data for formulation of the resettlement action plan was based on: -

- (i) Analyzing the secondary data information contained in official reports;
- (ii) Conducting surveys on the socio-economic status of the project affected people and communities living along the road corridors. The tool used for data collection was a questionnaire conducted by trained assistants and;
- (iii) Observations along the road corridors for empirical evidence on characteristics of the communities to be potentially affected by the road improvement.
- (iv) Stakeholders' participation through public consultations meetings

### 2.3.1 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 areas of influence by the road sections. The literature review provided baseline data on population characteristics as compiled by the National Bureau of Statistics as regards poverty levels, demography, community resources, political and social resources and institutional structures of the project areas including:

- (i) Review of the Development Plans influencing land uses within the project area and also the space dedicated for road purposes and accessibility aspects;
- (ii) Identifying and harmonizing any differences in resettlement and compensation guidelines between the Kenya Government constitution and the African Development Bank (AfDB) policies;
- (iii) Establishing the land use rights in the project area since the land is held on development leases from the government and;
- (iv) Reviewing the legal and policy framework on compensation and resettlement.

### 1.1.1 Socio-economic and census survey

The collection of socio-economic data for the potential project affected persons was conducted through a structured household questionnaire administered in the field by research assistants. Interviews were conducted for each of the people within the road corridor and reserves to establish their income levels and collect data for compiling a register of potential project affected persons. The land considered for the assets census was based on the preliminary design of the new road alignment and the proposed area intended for acquisition. The survey included categorization of the human activities along the road corridors and all the economic features that are to be displaced by the proposed road works. These elements would be the major areas of impacts considered for any compensation or restoration by the project.

In addition, comprehensive PAP socio-economic survey was carried out in tandem with the land/property assessments, so that as soon as an affected property is identified by the surveyors, the enumerators are able to conduct the socio-economic survey on that household. The findings are presented as a socio-economic profile of the PAPs within the project area.

During the interviews, special emphasis was placed on the vulnerable groups comprising of women, youth and children and homes headed by people with physical disabilities. A census was compiled of the vulnerable group members a special component of the project affected persons.

### 1.1.2 Public and PAPs Consultations

The stakeholder consultations entailed presentation of the project proposals at public meetings convened as stipulated in the NEMA guidelines and Physical Planning Act, Cap 286 requirement for public participation in every planning intervention. The meetings were widely publicized at local administration forums for grass-root contact while the affected households were directly conducted through their mobile numbers. Besides the public forums, focus group discussions were conducted for each cluster of selected groups such as women, youth, trader's associations, residents associations and civil society groups. Public institutions along the road corridors were consulted for any perceived impacts unique to their operations for purpose of influencing the final design of the road and provision of street furniture and other amenities.

### 1.1.3 Valuation

Valuation of assets that will be affected by the project was based on the Land Act (2012) that outlines the process of carrying out compulsory acquisition valuation. Special consideration was made for policies in African Development Bank resettlement policies. Valuation entailed:

- (i) Desktop studies on the past RAPs, description of the project area, and valuation methodologies;
- (ii) Carrying out a reconnaissance survey on the project area to estimate the PAPs and identify the sources of livelihood that need compensations
- (iii) Land surveys involved a Surveyor using hand-held GPS and the land coordinates provided by the Client thereby identifying the area affected by the road corridor;
- (iv) collection data from the field, by identifying and noting the structures, land, trees and crops, businesses and other assets that are affected by the project. It also included visiting the departments of land, agriculture and forestry offices to inquire on comparable values for the affected assets while establishing the land ownership status;
- (v) Creation of awareness on the methodologies used in assessing the assets values and compensation and the process one can follow if unsatisfied with the amount awarded through location based focus group discussions. During these meetings, further information that may influence the compensation beneficiaries such as land conflicts, sacred areas such as shrines, and others was also generated and;
- (vi) Lastly, the consultant carried out valuation analysis and determined the entitlement per beneficiary, and the total estimated value for structures, land, crops and trees and other livelihood loss.

### 1.1.4 Data analysis and reporting

Data entry was carried out on Excel Spreadsheets. Qualitative data was coded for easier analysis and interpretation. The analysed data was presented in percentages, tables, numbers, figures and charts in reporting the findings.

## 1.2 Project description

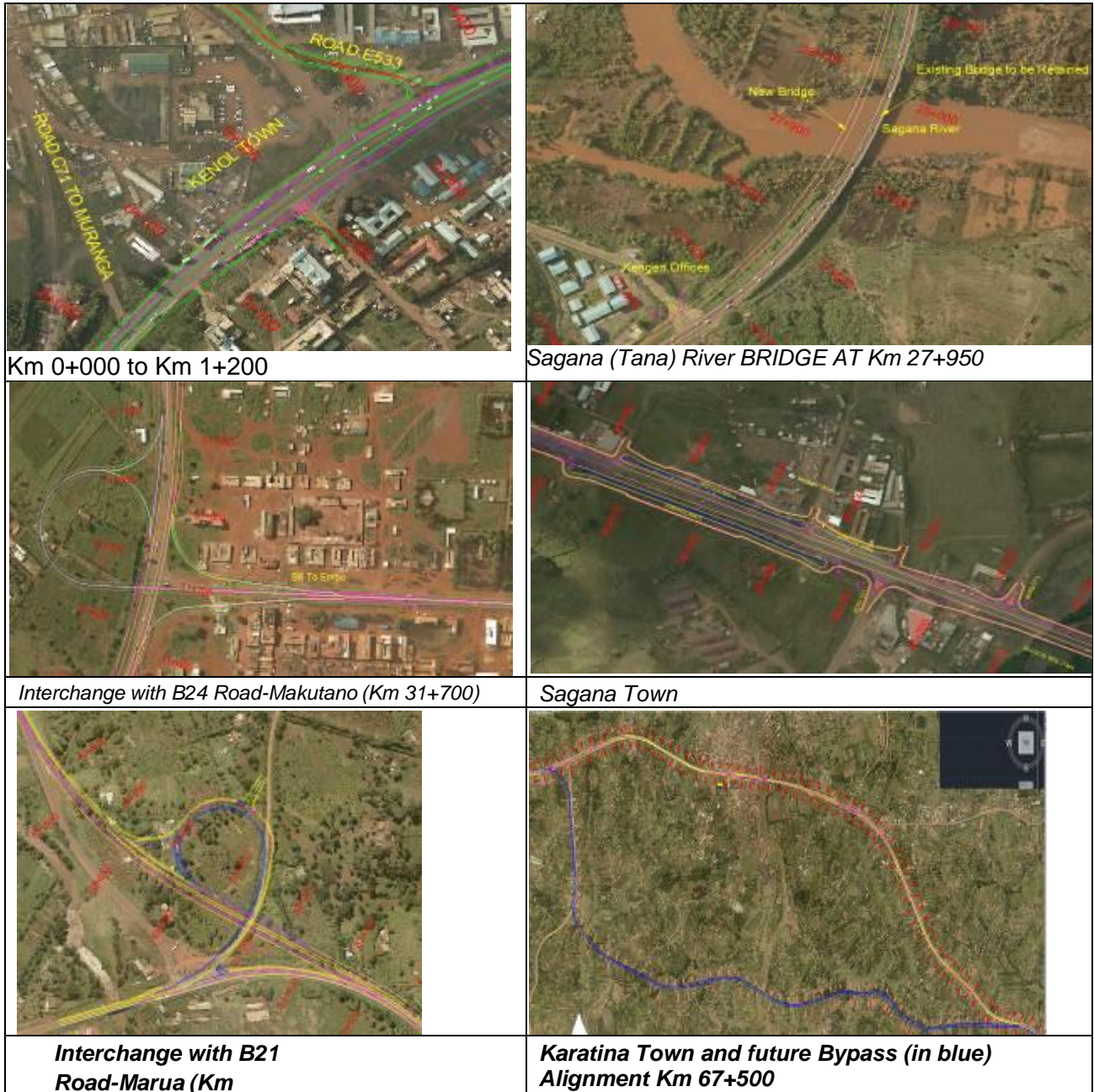
The Kenol – Sagana – Marua Road is part of the “Great North Road” from Namanga, through Nairobi and on to Moyale - and hence to Ethiopia and Addis Ababa. It forms part of the 800km stretch between Nairobi and Moyale. The project road is approximately 84 km long and forms part of the 800 Km road from Nairobi, the Capital City of Kenya to Moyale (Kenya - Ethiopia Border).

The road starts at the junction with B25 (Kenol-Murang'a) and traverses through the trading centres of Makutano (Junction A2/B24), Sagana, Karatina before terminating at Marua (Junction A2/B21). The existing road is a single carriageway to bitumen standards. It is a constriction – an impediment to flow of the high traffic experienced between Nairobi and



Isiolo/Nyeri towns. The road therefore requires upgrading to dual carriageway. The sections are: Kenol - Sagana - 47 km and Sagana - Marua - 37 km. The road reserve between Kenol to Sagana and Sagana to Marua is 60m and 40m respectively. The following figure illustrates some of the designed project road sections.

**Figure 1: Project road sections**



### 1.3 Project activities/Works

The main project activity will consist of construction of Kenol – Sagana – Marua road and associated works. Specifically, the construction will consist of, among others, the following activities:

- i. Establishment of temporary/permanent construction camps for accommodation;



- ii. Water abstraction;
- iii. Construction of workshops;
- iv. Transportation of construction materials and equipment;
- v. Recruitment of the labor force;
- vi. Earthworks;
- vii. Construction of detours and access routes;
- viii. Quarries, borrow pits and materials extraction;
- ix. Crushing and screening of materials;
- x. Screening, mixing, and stockpiling of aggregates;
- xi. Batching of bitumen and aggregates in asphalt plant;
- xii. Transportation of asphalt concrete mixes to the road for laying using paver;
- xiii. Construction of drainage structures, e.g. culverts, bridges;
- xiv. Excavation of side drains, meter drains, and cut-off drains;
- xv. Pavement Construction and;
- xvi. Construction of erosion protection works.

#### 1.4 Project location

The Kenol-Sagana-Marua road is located in the three counties of Murang'a, Kirinyaga and Nyeri. The road starts in Maragwa Sub-county and partially enters Machakos County for approximately five kilometers before crossing Tana river from where it acts as the boundary between Embu and Kirinyaga Counties for a section of four kilometers. It then proceeds into Mwea West and Kirinyaga West Sub-counties from where it exits into Mathira West Sub-county and ends in Mathira East sub-county in Nyeri. The administrative areas traversed by the project road are presented in the table below:

**Table 1: Main Administrative units traversed by the project road**

County	Sub-county	Location
Murang'a	Maragwa South	Makuyu
		Kambiti
Kirinyaga	Mwea West	Muthithi
	Kirinyaga West	Sagana
		Kuene
Nyeri	Mathira West	Ngandu
		Tumutumu
		Kirimukuyu
	Mathira East	Mathaithi
		Karatina
		Gatundu/Kagocho
<b>TOTAL 3</b>	<b>5</b>	<b>11</b>

*Source: Sub-county commissioner's offices*

**Table 2: Minor Administrative units along the project road**

County	Sub-county	Location
Embu	Mbeere South	Karaba/Makutano
Machakos	Mananja	Mananja
<b>TOTAL 2</b>	<b>2</b>	<b>2</b>

Source: Counties Map

**Figure 2: Project Road Location**



Politically, the project road traverses four constituencies namely Maragwa in Murang'a county, Mwea and Ndia in Kirinyaga County and Mathira in Nyeri. The county assembly wards traversed by the project road include Mutithi, Tebere, Mukure and Kariti among others.

## 3 CHAPTER 2: IMPACTS OF THE PROJECT

### 3.1 Impact Activities

The project road is classified as a class A road as per the Kenya Gazette Supplement Number Four (*Legislative supplement No.2*) of 22<sup>nd</sup> January 2016. As such, the project corridor of 60 metres for the construction of the road (including the sufficient road reserve) will include activities that give rise to resettlement including:

- i. Expanding the existing road to accommodate dual carriage way with proper two lane facility and shoulders
- ii. Improve the horizontal alignment at selected locations to reduce sharp curves and thereby provide safe driving conditions,
- iii. Widen, repair or reconstruct damaged bridges and culverts including construction of new drainage structures,
- iv. Provide service roads and cycle lanes, especially in the town centres
- v. Provision of Interchanges at major junctions at Makutano and Marua.

The above activities will lead to land acquisition, physical displacement of people, loss of shelter, loss of assets, loss of income sources and livelihoods, and restriction of access to economic resources.

### 2.1 Impact Areas

Impact areas for the road will be concentrated along the road corridor and specifically from Sagana to Marua where an extra 20 meters will be acquired to meet the standard of 60 metres from 40 metres that is currently existing. The road's affected administrative areas lies within the 22 sub-locations in Embu, Kirinyaga, Murang'a and Nyeri Counties. The various administrative units traversed by the project road and where the above impacts will occur are tabulated in the table below:

**Table 2: Impact administrative areas**

County	Sub-county	Location	Sub location
Embu	Mbeere	Karaba	Kaminji
			Rukanga
			Kachoro
Kirinyaga	Kirinyaga west	Kariti	Gacharu
			Sagana
		Kiine	Kibingoti
			Nguguine
			Kirimara
Muranga	Maragua	Kambiti	Mihango
Nyeri	Nyeri south	Kirimara	Gatundu
			Mathira east
		Mathira east	Iriani
			Karatina
		Kirimuuyu	Baricho
			Gathima
		Gatundu	Gatundu
			Gaturiri
		Ruringu	Marua
			Mathaiti
			Mathira east
			Mbogoini

## 2.2 Impacts on Socio-cultural network and support systems

The perceived impacts on social groups included breakdown in communication, cessation in reception of benefits, disconnection/loss of the member/dismissal, failure of organization and activities, increased distance to organization meetings, interference with savings, loss of premises, and reduced group activity/coordination.

On cultural assets like graves, it has been established that there will be need for facilitation to allow for relocation costs and any associated rituals, that will require case by case attention at implementation phase.

## 2.3 Impacts on institutions and public utilities




A total of 54 public utilities, ranging from education, health, religious, security and water institutions will be partially affected. The impact is largely on fences, gates, land, water infrastructure, and vegetative improvements like trees. The affected institutions and utilities are tabulated in the following table:-

**Table 3: Affected Institutions**

Churches	Schools	Factories & Society Farms	Offices	Water Projects	Health Facilities & Cemeteries
a. Sagana Mosque b. Ack Gitumbi c. Pcea Mathaithi Church d. Eapc Church e. Redeemed Church Kiangwaci f. St Stephens Church Kiangwaci g. Pefa Church h. Pcea Kibirigwi i. Deliverance Church Kibirigwi j. Kangocho Aipcea k. Kangocho Catholic l. Pcea Mathaithi Church m. SDA Kienjeini n. Pcea Kienjeini o. Glory Outreach p. Pcea Kianjogu q. St James Catholic Church	a. Upper Sagana Primary b. Kiine Mixed Day School c. Kibirigwi Girls d. Kibirigwi Primary e. Brookfield Academy f. Deb Primary School g. Karatina Girls h. Mathaithi Girls i. Mugi Academy j. Kirimara High School k. Pcea Mathaithi Primary School l. Kianjogu Secondary School	a. Karatina Factory b. Gatomboya Factory c. Kpcu Sagana d. Tegu Coffee Factory e. Marua Coffee Factory f. Kibirigwi Dairy Farmers g. Kibirigwi Farmers Cooperative h. Kianyakura Farm i. Muri Farm.	a. Kifco Dos Office Kibingoti b. 2nk Sacco c. Kiangwaci Police Patrol Base d. Karatina Ap Camp e. Administration Plot Makutano	a. Rukanga Water Project b. Kifco Intake Plant c. Kiwasco d. Mathira Water And Sanitation Company e. Mahiga-Ini Springs f. Tarda g. Hohwe Dam	a. Gatithi Dispensary b. Kibirigwi Health Centre c. Githima Dispensary d. Karatina Cemetery
<b>Total: 17</b>	<b>12</b>	<b>9</b>	<b>5</b>	<b>7</b>	<b>4</b>

**Figure 3: Sample of affected private properties**



A petrol station	A residential house	A cattle pen
<b>Figure 4: Sample affected public properties and utilities</b>		
		
A treatment plant & water tank	Karatina Girls' Highschool	A police station & a Church

## 2.4 Minimizing resettlement and losses

The proposed measures to avoid or minimize land acquisition and disturbances include reducing the road reserve, redesigning the project route at certain points, facilitating consultations and participation with the PAPs, and putting appropriate impact limitation and mitigation measures in the construction and design stages. To minimize resettlement impacts on the affected institutions like the water treatment plant, this RAP proposes redesign of the road at this section during design review. Where land is acquired, or structures affected, the Government of Kenya will propose and pay fair and prompt compensation as spearheaded by the responsible constitutional bodies.

Minimizing impacts during construction stage will entail implementing various measures including:

- Preference for hire of existing rental houses, rather than building workers' camps, which also will boost the economy of the area. This would go hand in hand with hiring of local residents who would reside in their homes and have a good chance of using their pay to improve their homes and families;
- Roads for earth moving equipment to be confined to existing tracks to limit social disturbances on minor roads in the area, proper routine maintenance of roads used for haulage of borrow materials to avoid destruction of the social environment;
- Project program of works to be tailor made to ensure timely compensation of land, and sections affected be availed to the contractor after the harvest of seasonal crops so as to minimize damage to crops;
- It is planned that those who shall be affected by the project shall be compensated before project commencement to ensure that their livelihoods have improved or restored to the pre-impact status.

Overall, the results of efforts to minimise resettlement will be to:

- Significantly reduce disturbances and resettlements and therefore lower the costs of resettlement for the proposed project;
- Ensure majority of the residents positively support and participate during the project implementation and operation;
- Enhance and sustainably maintain social integration;
- Residents' livelihoods will be improved or minimally disturbed.



## 4 CHAPTER 3: ORGANISATIONAL RESPONSIBILITY

### 4.1 Overview

A number of public institutions are involved in road sector, currently being coordinated under the Ministry of Interior and national Government co-ordination, the County Governments in the three areas affected which are based along the entire Kenol-Sagana –Marua traverse and will be involved in the RAP implementation at different levels.

The Proponent, Kenya National Highways Authority KeNHA, is the lead executing agency with the overall responsibility for the implementation of the RAP. KeNHA has established a Project Implementation Team to oversee the implementation and management of the road project and the RAP. The PIT is headed by the Project Coordinator (Engineer) assisted by various experts including the Project Engineers, Finance officer, Environmental expert, Sociologist, Surveyor, Land Valuer and a Procurement Officer. Both the PIT and supervision consultant will be involved in supervision and monitoring the project compliance with the RAP provision in line with the AfDB conditions for financing and Government of Kenya's applicable laws and regulations.

In addition, the PIT will undertake overall coordination, planning, implementation, and financing of resettlement issues within this project. The PIT has established a resettlement working group and a designated Resettlement Officer (RO) for the duration of the Project to ensure timely and effective planning and implementation of resettlement activities.

The PIT will undertake periodic meetings to determine strategic actions necessary for facilitation of the smooth and timely progress of the land acquisition and compensation process. A Resettlement Team/Working Group constituting of officers of the National Land Commission and KeNHA is also instituted, to implement land acquisition and compensation process.

Apart from KeNHA, there are other Government agencies who have complementary roles to play in the process as mandated in their responsibilities vested by various laws and the Constitution of Kenya. These institutions are listed with their pertinent roles as herebelow.

#### 2.1.1 Ministry of Transport, Infrastructure, Housing and Urban development

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 harmonizing the resettlement with other government policies on the same subject. The Ministry is responsible with inter-ministerial coordination with other ministries on issues like services e.g. Compensation funding under Ministry of Finance, Electricity under ministry of Energy, water under Ministry of Water, among others.

#### 2.1.2 The National Land Commission

The National Land Commission is a constitutional body that is responsible for

compulsory land acquisition and payment of the compensation money to the affected persons. The Commission implements the land acquisition through the request from the project promoter via a letter from the responsible Cabinet Secretary.

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 involved in matters arising from the land acquisition.

#### *2.1.3 Ministry of Agriculture and Ministry of Forestry*

The two Ministries of Agriculture and Forestry at district level, will undertake to verify crops and trees affected and provide unitary rates that are used to arrive at the compensation values.

These two Ministries will in collaboration with the provincial administration, and the PIT advice affected persons and ensure crops are harvested on time for the season preceding construction so as to ensure food security for PAPs whose land will be expropriated for the project.

#### *2.1.4 County Governments*

The County Governments of Embu, Kirinyaga, and Nyeri are responsible for ensuring that the plan is acceptable to the local residents as it supplements the County's capital programmes. The 3 county governments will be responsible for safeguarding the objectives of the road improvement by ensuring approvals and adherence to development control measures along the road corridor are fully implemented.

The County governments are also responsible for regulating trade and providing markets within their area of jurisdiction. It is espoused that the existing markets which have already been developed by the three county governments that are within the various trading centres traversed by the project road will be properly and fully utilized to ensure no livelihoods are affected by the project to small scale traders.

#### *2.1.5 County Commissioner's office (Ministry of Interior & National Government Coordination)*

This office particularly at the location level will mobilize the people, chair meetings and settle disputes arising through the area Chief or Assistant County Commissioner. Where cases are to be discussed at a higher level, the Deputy County Commissioner will chair the Sub-county grievance committee as highlighted elsewhere in this report. Any other unresolved matter that is beyond the DCC will be handled by the County Commissioner. While convening public consultative forums the office will also offer security for such forums.

#### *2.1.6 Local CBOs and other NGO's*

These include member groups of the Local formal social groups working in the area in related fields. Their responsibility is to ensure that the resettlement plan is disseminated to the PAPs as prepared, the project affected persons are sensitized,

and mobilised when called upon and empowering them to realize maximum benefits from the project. In addition, they will be involved in the training and counselling of the project affected persons where applicable.

#### **4.2 Implementation process**

Once the final Land acquisition drawings are submitted to NLC, KeNHA through the NLC will formally prepare the list of the persons dispossessed by the project, including their rights of occupancy and the assessed value.

KeNHA will then distribute the gazette notices to the affected persons, through the existing offices of the national government at each of the administrative sub-locations traversed by the project road. The use of the Sub-Chief, Chief and ACC offices will be crucial so as to maintain confidentiality to reduce exposure of the PAPs to insecurity that can lead to vulnerability.

The chief/sub-chiefs will be tasked with mobilization of the affected persons at the grass root level or dispatch the gazette notices to the affected households and heads of institutions. The Ministry of Finance will disburse the compensation funds to KeNHA who will pay the PAPs eligible for compensation through the Project Implementation Units (PIU) office. Following compensation and resettlement, PAPs will be given a grace period of at least six months to harvest crops where they are I season and those deemed vulnerable provided with assistance to relocate.

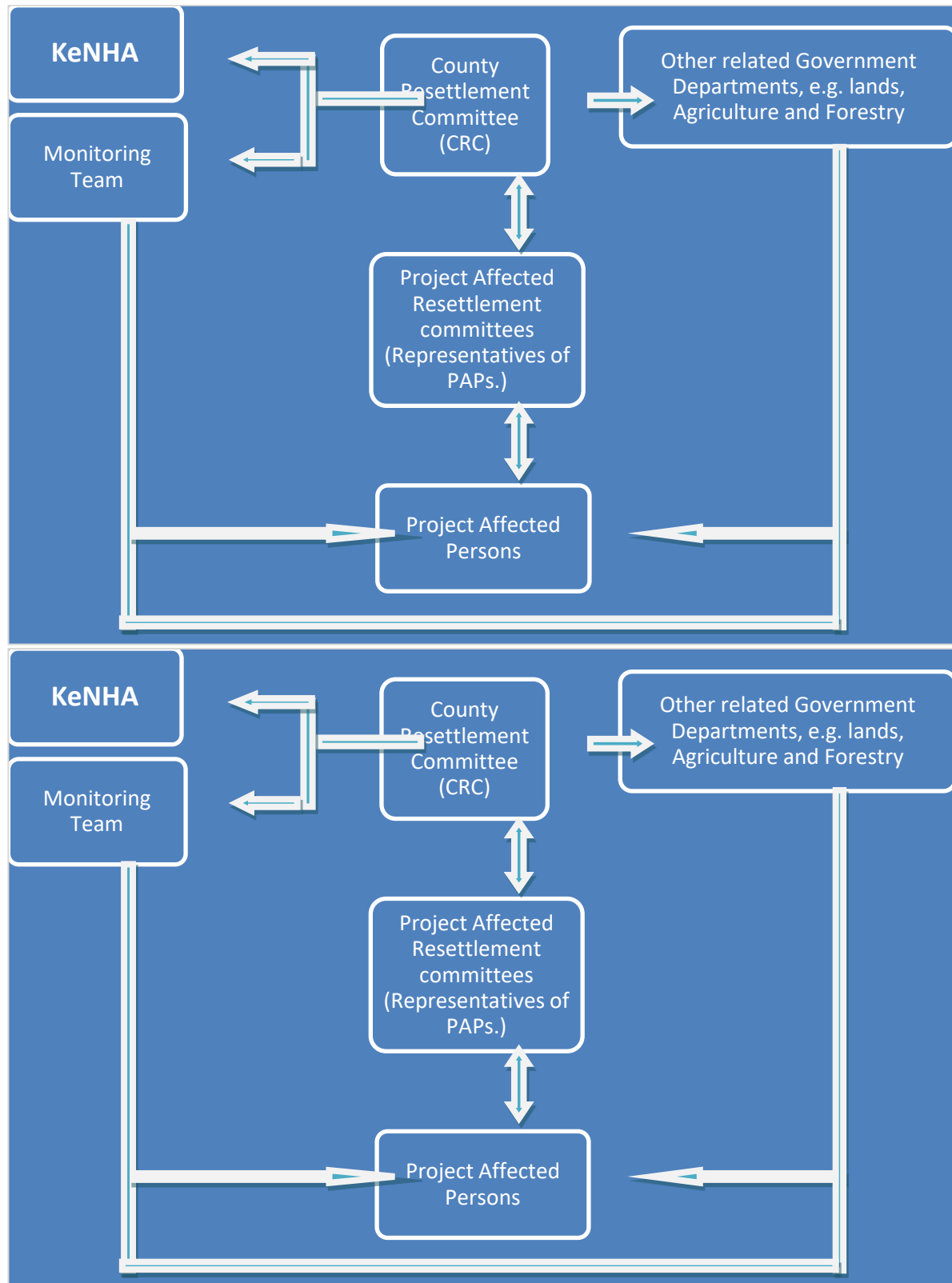
#### **4.3 Organizational Structure for RAP Implementation and compensation**

The overall responsibility for implementation of the RAP will be vested in the General Manager (KeNHA) and staff of the Project Management Unit created specifically for the Kenol Marua road. In addition, the construction supervision unit will also take part in the RAP implementation.

The implementation management organization for this RAP will be at three levels namely national (PIU), County Resettlement Committee (CRC) and nine Project Affected Persons Committees (PAPCs) as highlighted in table 5. The outlook of the proposed RAP institutional arrangement is presented in figure 1:



**Figure 5: Institutional Arrangement for RAP Implementation**



*Source: RAP Field visit discussions*

This institutional framework was designed with the participation of the stakeholders and should be established and fully functional before commencement of works. The institutional framework is made up of qualified teams handling PAPs issues and should be capable to plan

and implement land acquisition, compensation, conflict resolution, relocation as well as income and livelihood restoration programs.

The institutional framework involves all stakeholders and details the roles of each in the implementation and administration of the RAP. Each of these institutions is discussed as follows:

#### *2.1.7 Project Implementation Unit*

KeNHA Project Implementing Unit (PIU) is already in place and will oversee implementation of the resettlement. The PIU consists of the Project manager, Project engineers, land valuer, Sociologist, Surveyor Environmentalist, legal advisor, Transport Economist and a monitoring and evaluation officer. The PIU will develop the terms of reference for operations of the Resettlement Committee (RC).

The PIU will co-ordinate and network with Government Ministries and departments as well as organizations with capacity to fill in the implementation process. These include offices like DoSHS, NEMA, Labour, Children department, Social development offices among others.

#### *2.1.8 County Resettlement Committee (CRC)*

The Resettlement Committee will be based at Nyeri town. The RC will consist of the three County Commissioners and representatives from the three County Governments, National land commission; KeNHA Representative; National Environmental Management Authority (NEMA), , County Social Development & Labour Officer and, Gender officer among others.

The CRC will involve, consult, and where necessary co-opt other stakeholders and institutions who will be identified as playing any necessary roles in implementation of the Resettlement Action Plan activities that include land acquisition, award of compensation, relocation assistance and resettlement. Other stakeholders to participate in the resettlement at the RC level include representatives in Mineral resources; Housing and Settlement and; NGOs with legitimate interests in social services, finance/trade, and health.

#### *2.1.9 Project Affected Persons Committees*

The Project Affected Persons Committees will be established at locational level and will be moderated by the area chief or other government officer at the grassroots level. The PAPs will elect a committee of not more than five members amongst themselves including a Chairperson and a Secretary. The PAPCs will work under the guidance and coordination of RC and PIU. Each of the PAPCs committees will be trained and involved in stakeholder engagements and mobilization of the actual PAPs during the NLC verification and Validation process. PAPCs will be formed two to three weeks after the formation of the RC. Other stakeholders who can be co-opted to participate in PAPs meetings will include clan elders, village elders, representatives in livestock, trade, finance, agriculture, lands and housing as may be deemed necessary.

PAPCs will act as the voice of the PAPs and the functions will include:

- i. Conducting extensive public awareness and consultations with the affected people so that they can air their concerns, interests and grievances. This consultation will ensure that they own the whole process of resettlement.

- ii. Resolving disputes that may arise relating to resettlement process. If it is unable to resolve any such problems, will escalate them through the appropriate grievance procedures laid out in this RAP.
- iii. Monitor and evaluate the RAP process at the grass roots level
- iv. Enhance employment opportunities (for those who cannot find alternative employment) and, conduct training and counselling of the PAPs (socially and economically).

## 5 CHAPTER 4: COMMUNITY PARTICIPATION

### 5.1 Consultations and community participation

The main objective of consultation and community participation process was to disseminate project information on how the project would impact on their daily lives during and after the improvement and solicit the views of stakeholders in as far as the project design and Resettlement Action Plan implementation is concerned. This process facilitated collection and collation of PAP and other stakeholder views as well as in cooperating them into the RAP procedures and structures.

The process of consultations and beneficiary participation was conducted through indepth discussions with the provincial administration and various government departmental head, consultative public participation (Barazas), meetings and interviews with each of the PAP and consultative meetings with groups of PAPs.

As such, comprehensive consultations have been held with various stakeholders from the reconnaissance stage, through the public consultations and household survey for baseline socio-economic data collection.

At this implementation stage, the NLC, together with KeNHA will conduct additional meetings to create awareness to the local community on the imminent land acquisition, the process to be followed and to actualize the grievance systems to ensure the land acquisition is smoothly implemented.

#### 5.1.1 Consultative public participation

Comprehensive Public Consultative and participation meetings were carried out in two phases namely in-depth consultations with key informants (National and County government) followed by three stakeholder consultative meetings (one in each county) and seven consultative public participation meetings across the full road stretch. The venues for these meetings including dates and number of participants is presented in the following table:

**Table 4: Stakeholder and public participation schedules**

County	Date	Venue	Number of Participants
<b>Participation in stakeholder consultative meetings</b>			
Murang`a	18/8/2014	Murang`a Teachers Training College	92
Kirinyaga	19/8/2014	Ndia Cdf Hall	52
Nyeri	20/8/2014	Karatina Municipal Hall	37
<b>Consultative Public Participation</b>			
Murang`a	25/8/2014	Kimorori Primary Grounds	83
Murang`a	25/8/2014	Chiefs Camp Kambiti	59
Kirinyaga	19/8/2014	Kibirigwi Market	215
Kirinyaga	21/8/2014	Kimincha Primary.	27
Kirinyaga	22/8/2014	Kamuthanga Market	111
Nyeri	20/8/2014	Karatina Stadium	44
Nyeri	21/8/2014	Gatiko Chiefs Camp	150

#### 5.1.2 PAPs consultations

The preparation of the project went further to the lowest level to engage the perceived PAPs giving them information on the legal aspects asset acquisition and resettlement, proposed

implementation structures and grievance redress mechanisms. All meetings were conducted by the consultant and facilitated by the National government.

Consultations with the PAPs were conducted as follows:

i) *Direct/ one on one Project Affected Persons individual household survey*

During the individual household census survey, each PAPs household was involved in the consultation and their concerns on the effects of the project on their assets were addressed. 100% survey of all the PAPs has been conducted.

ii) *Project Affected Persons consultative forums*

A total of nine (9) Consultative meetings were held with the perceived PAPs. Consultative meetings were attended by a total of 998 PAPs, representing over 95% of the affected. The table below presents summary of PAPs meetings undertaken.

**Table 5: Detailed PAP participation in consultative forums**

Date	Venue	sub-locations Represented	Number of Participants		
			Male	Female	Total
14.11.2014	Kangocho Coffee Factory	Gatundu, Kiguthu, Kagocho, Kiagaini, Gichathaini, Kirimara, Mwanda &Ndaironi	91	55	146
14.11.2014	Karindundu Coffee Factory	Peter Ciira, Karindundu, Mugweru, Githima, Gaturiri & Kibuthu,	75	31	106
15.11.2014	Kiminji Primary School	Kaminji, Kwa Vii, Rukanga, Kinyagwa, Mutithi, Kiadegwa & Embu	37	7	44
15.11.2014	Kambiti Chiefs Camp	Mihang'o	19	17	36
4.12.2014	Kibirigwi Chiefs Camp	Kibigoti & Kibirigwi	106	67	173
4.12.2014	Kiagwaci Redeemed Church	Sagana & Kigwaci	97	46	143
5.12.2014	Mbogoini Grounds Tumu Tumu	Kirimukuyu, Gaituu Tumutumu. Mbogoini & Ngandu	48	39	87
5.12.2014	Karatina Starbucks	Kaguyu, Karatina, Barichu, Jambo, Mathaithi, Komu & Peter Ciira	73	31	104
6.12.2014	Gatiko Chiefs Camp	Kirimukuyu, Ngaini, Marua, Kiria & Matathini,	101	58	159
<b>Total</b>			<b>647</b>	<b>351</b>	<b>998</b>

During the PAPs consultative meetings, the PAPs were given information through a presentation on the following:

- The road project, the designs as proposed, the potential impacts both social and environment, the project benefits anticipated, and the role of the people in the implementation process;
- The cut-off date as 8<sup>th</sup> December 2014 after which any development will not be compensated. However, the PAPs should continue cultivating on their normal food crops in the rainy seasons.
- The compensation is paid for structures like houses, toilets, animal sheds among other types of structures. Other items liable for compensation are planted trees, whether for fruit, decoration or shade.

- iv. The legal perspectives to compensation, procedures to be followed, documents to be required, items to be compensated, organizational framework for compensation and grievance redress mechanisms.

**Figure 6: Photographs of the PAPs consultations**



## 5.2 Results and Recommendations during the PAPs consultative meetings

The views expressed at the various meetings that were held with the PAPs consultative forums are summarized in Table 6 below. Majority of the PAPs meetings participants wanted to be assured on dates when the project will begin, compensation rates and strategies to deal with properties that had disputes.

The hawkers and fruit vendors who operate along the traverse sought to be given adequate notice rather than being forcefully evicted to enable them relocate within the adjacent neighbourhood. Others felt that since they had land documents and/or official approvals to their developments, they should be compensated for affected land and planned developments before and upto when their properties were officially gazetted for acquisition.

This was affirmed as the correct position adopted for the RAP. However, it was disclosed that the Kenyan law does not espouse any compensation for encroachments on public land, and properties that have been obtained fraudulently.



**Table 6: Comments and Responses during the PAPs Consultative Meetings**

S/No	Comments/Issue	Remarks/Response
1.	The procedures for compensating land whose owner is deceased	Those under this category should seek succession and transfer of ownership if they are in the process of succession they will be paid but if not the cash will be kept under the NLC escrow account until they do succession. However legal partial letters of administration can be accepted if validated by NLC for compensation payment.
2.	Activities that can be undertaken on the land destined for acquisition	About developing the land the attendees were advised to build elsewhere instead of building along the corridor and then their structure be demolished Consider not to build a permanent building but opt for short term projects like planting of crops.
3.	Who will be involved in the process of resettlement	Those to be involved in the process of resettlement were listed as: the affected people, KENHA, Ministry of agriculture, Ministry of roads, Ministry of forestry department, Ministry of land, County government, National government and among others
4.	What will happen to the title owned jointly?	They will be compensated jointly. However NLC can apportion the award if the joint owners demonstrate that they have an agreement on the separate developments on the same title.
5.	What will be considered for compensation	The items to be considered for compensation will include: Land, Trees, Crops and Structures
6.	Who is the agency responsible for demolishing the affected houses on private land	Those affected can demolish their own houses but it's important they only demolish after compensation and salvage the materials.
7.	What is considered in business compensation	The owner of building has to be paid as well as the tenants with registered leases to relocate (business relocation allowance only)
8.	I have been given a farm by my father who has the title, who will be paid?	The person holding the title is paid for land and the other for his property or crops unless they agree otherwise
9.	Strategies to handle fruit vendors and hawkers along the road	They will be given adequate notice to move from the road reserve and into the various county markets in their area.
10.	Mechanisms for compensating structures that are partially affected,	The whole house has to be paid.
11.	Strategies adopted to compensate for areas with public/community project like KIWASCO, church land and community land and trees	KeNHA shall use a bill item in the project to facilitate the companies to relocate their utilities. This includes institutions like KPLC, KIWASCO among others
12.	Compensation for structure that crack during construction?	If its caused by the contractor he will have to pay but the affected must prove that the damage has been caused by the contractors works. A baseline study on structures will be done at or near quarry sites. The construction machinery are calibrated to ensure they don't damage structures along the project area.
13.	What about valuation of crops being planted between now and then	The final government valuer will give the valuation depending on what stage he will find them and the urgency requirements of the sites. Where crops cannot be harvested full value shall be assessed and compensated.
14.	Standards for land compensation	Land will be paid according to Market value.
15.	How will we differentiate government valuers from common?	First a meeting has to be held to notify the residents on the coming of the government valuer through the Chief/DCC.
16.	Expenses of the PAPs committee, who will cater for them	The committee expenses won't be catered by KENHA, through the project implementation unit.
17.	I have subdivided my farm into plots Will I be paid according to the plot rates or on basis of the whole farm?	If his farm is in plots, they will be paid each plot because each plot has its title number.
18.	Who owns the compensated structure?	After the compensation the building materials affected can still be salvaged and used by the owner

S/No	Comments/Issue	Remarks/Response
19.	Will the construction interfere with the water settling plant and optic fiber and drainage systems?	Institutions and optics fiber companies will give their budgets and their structures will be constructed by the contractor or decide to subcontract. Where this is not possible, the institutions affected will be required to relocate their utilities using their contractor and the cost to be met by the project.
20.	If one had started a project like a plan for constructing a house, will they be compensated, will all trees be considered and their value given.	If one had invested in the plans already they can sit with the government valuer and agree on amount they spent during the inquiry. Trees value will be given by the ministry of forestry which will give their unitary rates used by the NLC valuer.
21.	If I have a private valuer whose value is higher than the government what will happen?.	The government valuer will use the market value and so if there is a variation in costs you will have to discuss with him and agree on the way forward.
22.	What happens in case of disputes?	In dispute cases money that is allocated after valuation for the property is kept in an Interest free account to be released when the parties solve the matter at a later date.
23.	What will happen to small pieces of land left?	For uneconomical land that is kept, one is compensated fully.
24.	Will KRA tax the compensation payments	No.
25.	Who will form the PAPs committee?	The PAPS will select the members of the committee amongst themselves.
26.	When will the project start?	The road construction might take time as the report has to be disclosed in the lenders website 3 months for comments, procurement of the contractor and supervision teams to take about 6 months and tender evaluation process 3 months among other processes so they should expect the construction after a year or more.
27.	Should I start looking for a new farm now?	Those with resources can start mobilizing alternative farms but those without will await the land acquisition process to obtain resources from compensation to enable them to establish new sites.
28.	Some of the farms are divided equally and succession has been done but the title holder had declared that the title name should remain in his name even if he is deceased.	If our cultures/norms contradict the law, then the law has to prevail thus they should do the succession.
29.	If a land is very small and can't be subdivided among those divided, who will take up the succession?	The chief should assure that those will undertake succession, he should ensure all family members/those concerned are involved and are in agreement.
30.	Interchange of Marua has taken up all the land, in the area there are many graves, I have not understood on graves relocation, where will the graves be taken if the land has all been taken up.	Payments should be made very early in advance according to the act so they will acquire another land where they can also relocate the graves, or if he is willing to relocate to the government cemetery he can do so.
31.	If I relocate my kiosk now will I still be paid?	Don't relocate the kiosk till compensation if its on your land. If it's on the road reserve then it is necessary to move on time and give room for the road reserve as per the law.
32.	For farms on valleys whereby on the upper ends there are big stones, during construction the stones left over's or waste may affect the farms and houses on adjacent the valley.	The contractor is responsible to remove any waste as a result of construction or stones after construction. The areas where water courses will be improved with drainage structures, pitching will be done to avoid downstream effects.
33.	There is a dispensary, chiefs camp, school and other public	The community can request KeNHA during project implementation phase or the contractor to construct access



S/No	Comments/Issue	Remarks/Response
	institutions, can access roads be constructed to such areas.	roads to public institutions. However the community should understand that the project can only do as much as funds are available.
34.	In Marua there are youths who have Kamindo Self Help Group latrine which will be affected, can we register for compensation.	Since it's a public facility only another latrine would be constructed the way it is. Compensation can be paid to the group as well if deemed appropriate by the NLC valuer from the inquiry.
35.	There is a plot of a company in Marua written under one person, who will be compensated?	The one in the title will be paid and they can discuss amongst themselves on how to share.
36.	There are two wives in our home and they are all deceased, and the father who is also deceased is the title holder, and the title is misplaced, what will happen?	For those with disputes the compensation money would be given to NLC for safekeeping and would only be given after the case in court has been resolved.
37.	What will be done to water and electricity if affected during construction	KPLC and water companies will liaise with KeNHA on relocation of their utility lines.

### 5.3 Future Consultations

Further consultation and communication with the PAPs is going to be undertaken during the RAP implementation process. KeNHA will do more sensitizations on PAPs rights during compensation and resettlement, established grievance redress mechanism, PAPs relocation and resettlement.

These shall be communicated to the PAPs to enhance smooth implementation of the RAP before the civil works commence. The summary of this Updated RAP will be posted in the AfDB's Public Information Centre (PIC) and website for public review and comments.

Involvement of the local community will continue during the implementation of this RAP through public forums, participating in interviews to be held in the project area and by filling pre-defined questionnaires, discussing pressing issues with the project team consisting of land valuer, land surveyor, socio-expert and environmental experts all through and after the life of the project.

The PAPs will also continue to participate during the project through:

- i. Resettlement Committee and PAPCs
- ii. Grievance mechanisms for the RAP implementation
- iii. RAP monitoring and evaluation events including social surveys and meeting discussions
- iv. Progress review by internal and external auditors
- v. Awareness creation and training with other community members
- vi. Evaluation of any CSR requests where necessary

## 6 CHAPTER 5: SOCIO-ECONOMIC STUDIES

### 6.1 Sources of data

The socio-economic profile of the PAPs was generated from primary as well as secondary data sources. Primary data was collected by conducting 100% census house-to-house survey interviews of 1,150 (868 for the main road, and 282 for Karatina market). PAPs socio economic data was collected using semi-structured household questionnaire; observations of PAPs homesteads during interviews and photography. Other methods used to collect primary data included PAPs and stakeholders consultative meetings/discussions. Secondary data of the local socio-economic conditions was collected through literature review of ESIA Study Report.

### 6.2 Areas of impacts

The number of PAPs by county, sub-county and location is presented in the following table

**Table 7: Distribution of PAPs by administrative areas**

County	Location
Embu	Karaba
Murang'a	Kambiti
Kirinyaga	Kariti
	Kiine
	Kirimara
	Kiriti
	Mutithi
	Sagana
	Kirimara
Nyeri	Gatundu
	Iriani
	Karatina
	Kirimukuyu
	Peter Chiira
	Konyu
	Ruringu
	Kirimukuyu

### 6.3 Population and demography

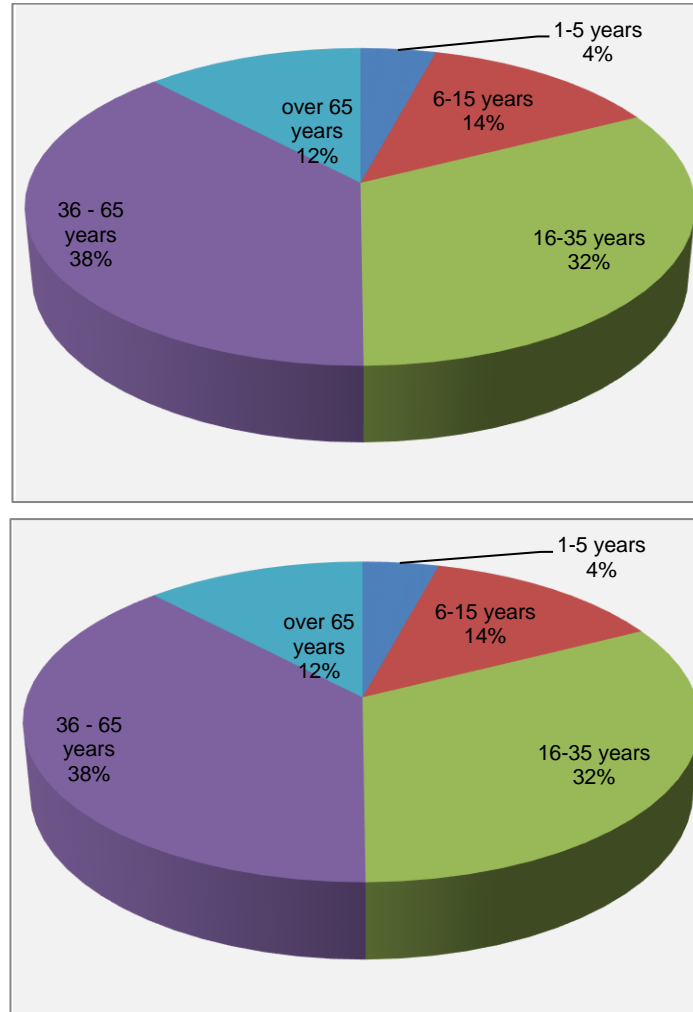
From the Kenya Population and Housing Census 2009 report, the population of the three counties stood at 2,164,193 consisting of 1,058,219 males (or 0.49%) and 1,105,974 (or 0.51%) females. The total female population is higher than that of males owing to high male emigration to other counties and towns in search of employment and business opportunities. The average household size is four with Nyeri having only three members per household.

The average annual growth rate was 0.68 per cent against the national average of 3.0 per cent. Kirinyaga has the highest population growth rate of 1.5% while Murang'a has the lowest of 0.06% per annum. In Murang'a County, the male: female sex ratio is 95:100 compare to Nyeri which is 1:1.0415 and Kirinyaga.

A household survey was undertaken along the road corridor with the aim of collecting the socio economic data of the affected population, collect baseline information on the standard of living for the displaced population. The gender composition for general affected population comprises of 47% males and 53% females.

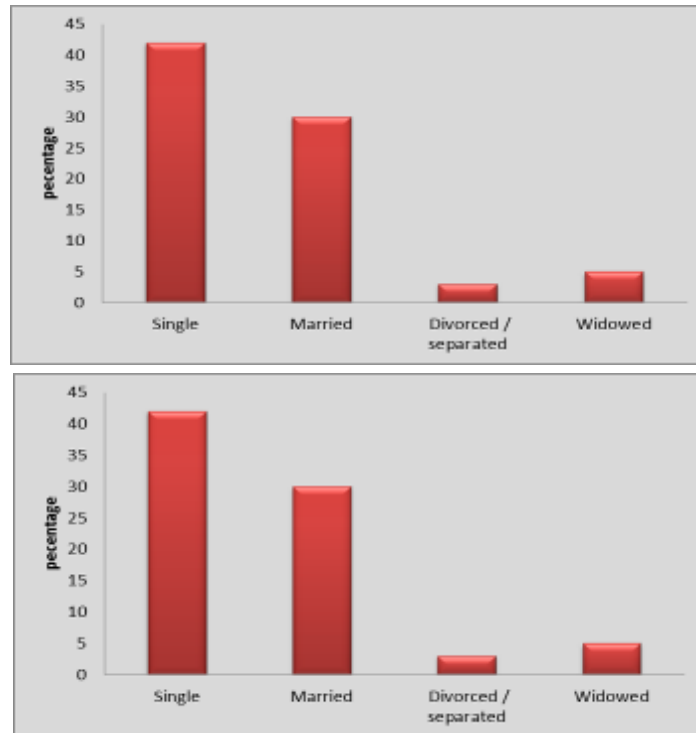
From the household survey undertaken, 20.6% of the enumerated households were female headed while 79.4% were male headed. The enumerated households had a total of 4,210 consisting of nucleus family members and some with relatives' and house helps. They consisted of 47.9% males and 52.1% females. The oldest PAP was 104 years while majority are of the 16-35 years age group. The age variation among the PAPs is presented in the following figure:

**Figure 7: Age distribution among the PAPs**



In terms of marital status, majority of the population interviewed comprise of (42%) are single while 31% are married. The marital status of the PAPs is presented in the following figure:

**Figure 8: Marital status of the PAPs**



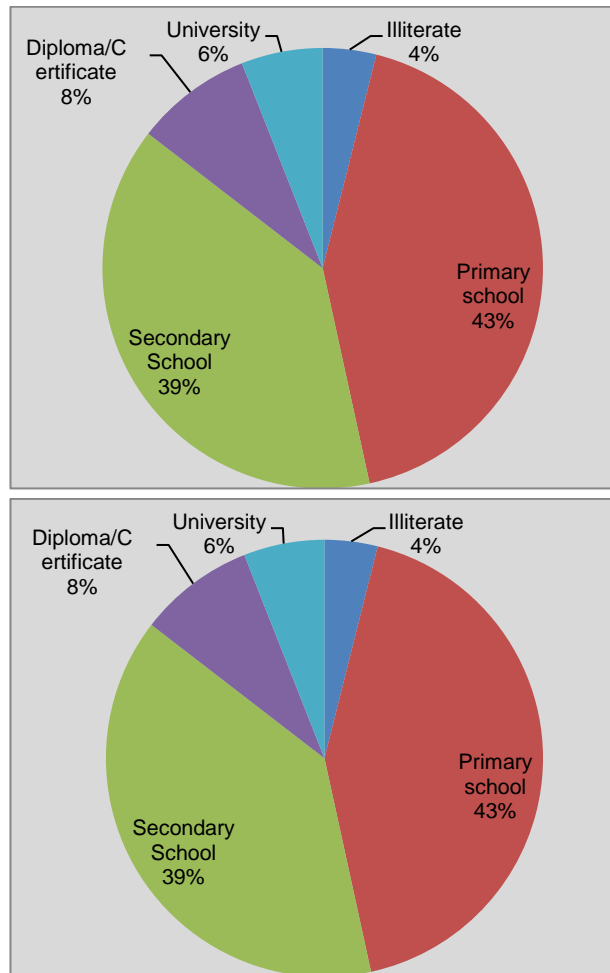
#### 6.4 Livelihoods and income levels

The economic activities identified during the household survey along the road project include farming, employment (civil servant, teacher), small scale trading at the trading centers and other jobs including electrical, bodaboda and security. 15% of the PAPs were employed while 7% indicated to be housewives. 50% were unemployed while 25% were Students and 3% were retired.

#### 6.5 Education

The data on the education level presented is derived from the households interviews undertaken. It is evident from the socio economic survey that majority of the PAPs have attained some level of education. 43 had attained primary level of education. 39% were secondary school leavers, 8% had attained college/technical level of education and 6% were University graduates. However, 4% of the PAPs population had not attained any level of education. 4% of the PAPs population was The education scenarios for the PAPs are presented in the figure below:

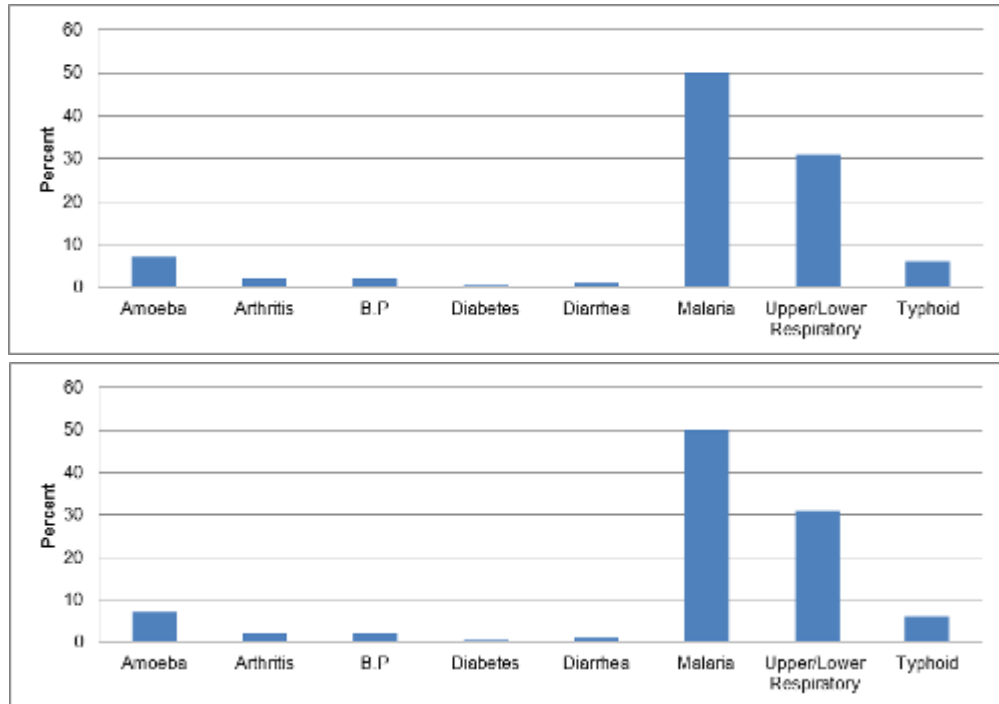
**Figure 9: Highest education levels attained by PAPs**



## 6.6 Health

The most common diseases reported in the households include: malaria which is reported to have affected 50% of the households interviewed, and Upper/lower respiratory diseases, Others diseases in the area include, HIV/AIDS, cough, leprosy/ evil spirits, over bleeding, skin disease, asthma and, cancer among others. 35% of the PAPs households had been affected by sickness within a period of the past one month. The various diseases found amongst PAPs are presented in the following figure:

**Figure 10: common diseases among the PAPs**



## 6.7 Vulnerable population

To cushion vulnerable PAPs from further harm, deliberate efforts were made to determine the vulnerable groups who may need special assistance. A total of 51 members of the PAPs fell in the category of vulnerable population comprising of the physically or mentally challenged, the elderly, and those who are terminally ill. The list of vulnerable members of the PAPs including the nature of vulnerability and assistance proposed is presented in the annexes:

## 7 CHAPTER 6: GRIEVANCE REDRESS MECHANISM (GRM)

Grievance redress mechanisms are essential tools for facilitating PAPs to voice their concerns about the resettlement and compensation processes as they arise and, if necessary, for corrective action to be taken promptly. Such mechanisms are fundamental to achieving transparency in the land acquisition and resettlement processes.

The overall objective of the GRM in the RAP process to ensure that there is an established system that enables the affected/likely to be affected persons to voice their concerns related to the project. To accomplish this objective, this RAP has identified the likely sources of grievances likely to arise from the project and has proposed a procedure for registering and management of grievance which will require close monitoring by the project implementing agency throughout the project life cycle.

### 7.1 Sources of Grievances /Disputes

As part of PAPs involvement, the proposed grievance redress mechanism was presented and with comments of the affected persons, amendments were made during PAP consultative meetings. Further disclosure and awareness creation on the channels to register and seek redress is required prior to the compensation process.

During the PAP consultative meetings held during RAP preparation process, the key grievance likely to arise from the project include:

- (i) Mistakes on inventory of the affected properties that might have occurred during the census survey
- (ii) Disagreements over land parcel boundaries for the affected
- (iii) Court pending cases, that by law cannot be discussed outside the court, unless such are withdrawn,
- (iv) Disagreements on plot /asset valuation where the PAP feels that his/her properties have been undervalued. This is also the case where the PAP demands are far higher than both the government and market value arising from the perception that “the government is rich”
- (v) Divorce among couples, succession by heirs and other family disagreements;
- (vi) Dispute over ownership of given Assets between two or more affected individual(s);
- (vii) PAPs opting for compensation for land in kind (land for land) and the choice of location site has no willing seller;
- (viii) Delays in compensation payment.
- (ix) Dealing with relocation of graves;
- (x) Extend and values for the resettlement assistance, relocation as well as disturbance and compensation for livelihoods.

These grievances necessitate the establishment of appropriate grievance and appeals redress mechanisms to address the grievances and disputes that may arise from time to time. It is therefore recommended that during RAP implementation, an effective communication channel among the stakeholders for providing a timely and efficient two-way feedback mechanism to address any complaints regarding the project is established.

The essence of the system is to ensure that the affected persons including those from members of the communities, and other stakeholders are aware of the mechanism to raise their concern and seek timely redress.

#### 7.1.1 Proposed procedure for grievance redress and management

It is for the benefit of both the proponent and the PAPs to devise procedures and mechanisms through which complaints and disagreements can be resolved. These procedures and mechanisms should meet the following criteria:

- (i) Responsive and confidential
- (ii) Simple and transparent
- (iii) Accessible to all the affected irrespective of their location and/or socio-economic status mechanism for recording of grievances and their timely resolution.
- (iv) Flexible and open to scrutiny
- (v) Speedy, just and fair

Continuous consultation with the project affected persons and awareness creation is critical in preventing and reducing grievances that may arise from the project. It is therefore recommended that:

- a. Different levels committees are established to manage grievances with the lowest level being the community/ locational grievance committees
- b. Awareness and sensitization to be undertaken throughout the project lifecycle.
- c. A grievance officer will form part of the project implementation team.

Every effort to resolve grievances at the lowest community level is highly recommended as it allows prompt redress of grievances. The proposed system will not impede access to any judicial or administrative remedies that may be available but which may turn out to be slow and expensive.

All complaints from the PAPs will be received in writing or verbally by the PAPC will be documented. A copy will be maintained by the PAPC. The specific terms of reference for the PAPC will include settling, monitoring and facilitating effective and timely dispute resolution thereby reducing the risk of escalation of conflicts and avoiding unnecessary delays. The proposed step-by-step procedures of Grievance Redress mechanism for the proposed road project are:

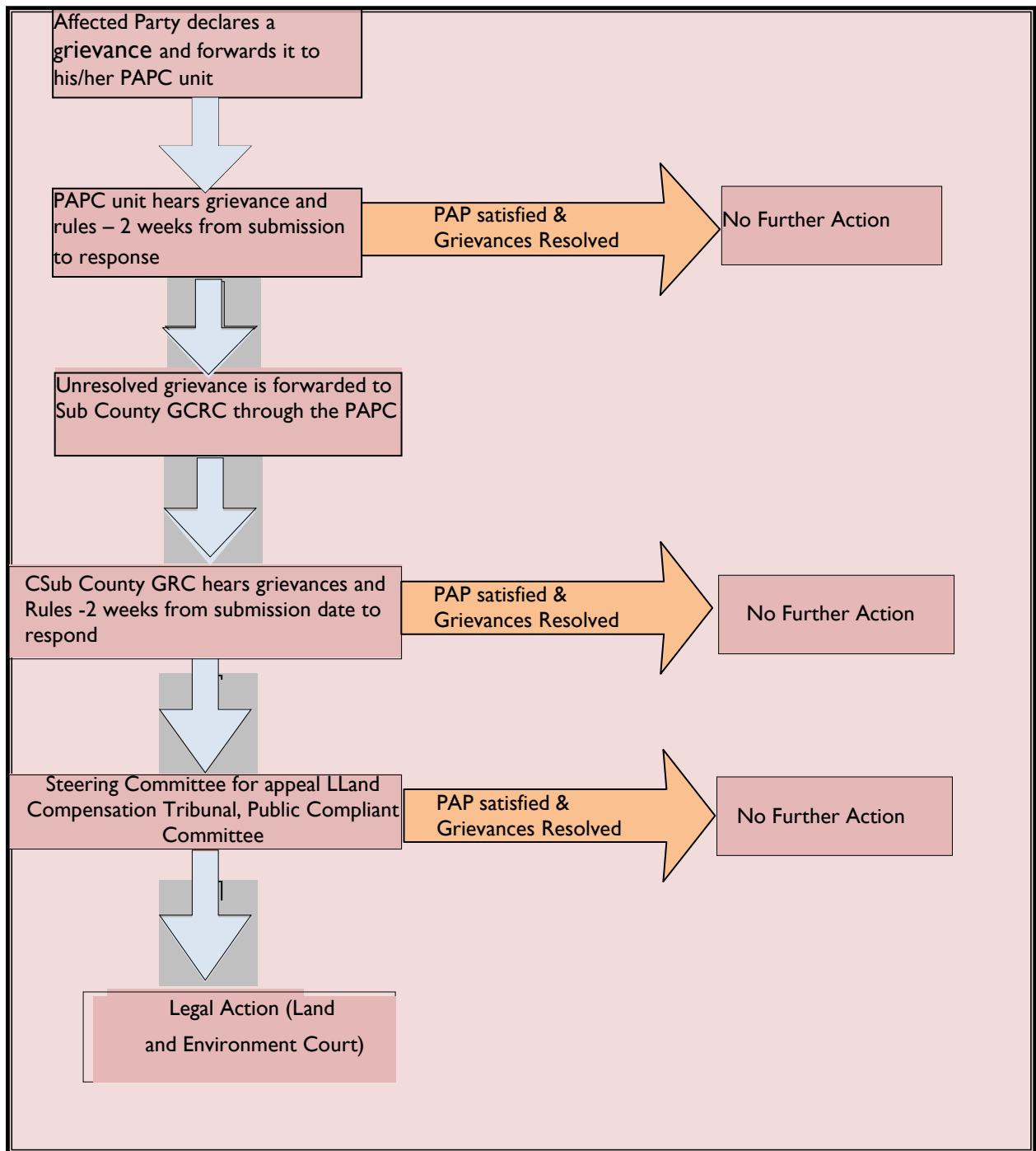
- a. A complaint is received at the project, grievance desk office verbally or in writing, and a register with all particulars of the aggrieved, nature of grievance are recorded in the complaint form.
- b. Reference number for ease of tracking and management issued.
- c. The complaint will be reviewed by the grievance officer and the project team at the project office with a relevant documentation in possession of the complainant and a time for addressing the issue advised to the complainant. If the project office cannot deal with the issue as necessary, the matter will be escalated to the local level committee that will be established.
- d. If the grievance cannot be addressed at the local level, the grievance will be referred to the Sub County Grievance Redress Committee established for the purpose under the auspices of the project inclusive of all parties involved in the project.
- e. A steering Grievance Redress Committee will be established for the project for referral cases on appeal by the complainants. Failure by the independent grievance redress committee to resolve the matter, the applicant may apply for redress at the courts of law for justice.
- f. All decisions of the grievance redress committee will be communicated promptly after deliberations but not later than seven (7) days unless the complainant is informed immediately where the issue requires further investigations to the complaint raised. The matters will be resolved and decision communicated within twenty-one (21) working days to the complainant.



- g. Kenya National Highways Authority will ensure that all procedural guidelines are explained to the community and disclosed to the affected persons through the project offices, at the local administration where members of the public have easy access to them. The project offices will also prepare and disseminate all relevant information regarding the road improvement project and the salient components touching on negative social and economic impacts with proposed mitigation measures.

A schematic diagram of the grievance redress is represented in the following figure:

**Figure 11: Grievance Redress Procedure**



## 7.2 Proposed levels of GRC

### 7.2.1 1st Level: Local Project Affected Persons committees (PAPC);

Disputes related to the project and land disputes; except complex compensation grievances would be dealt with at this level.

#### Committee Composition

grievance redress committee will comprise of members drawn from the following

- PAPs nominated committee members
- Chief of the location affected by the project
- Respected opinion leader
- Women representative
- Youth representative
- Project Sociologist or Representatives from the RE - Ex-officio members to support the team
- Contractors Representative whenever needed

The roles of the committee will include-

- 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

### 7.2.2 2nd Level: Sub-county level Project Committees (SCPC);

This Committee handles issues arising from displacement and compensation that may be beyond the resolution of the project implementation team and are beyond management of locational grievance redress team.

The committee will handle issues arising from displacement and compensation.

Pending issues arising will be escalated to the project steering committees if not resolved at this level.

Issues may be raised also by the affected persons who are not satisfied with solutions offered at the lower level as an appeal.

Other issues which will be addressed by this committee include environmental, impacts on the populations or their property which happen outside the Right of way (RoW) which require redress, among other more technical grievances.

Disputes to be dealt with at this level are more related to the construction/implementation process of the project.

For this reason, the community liaison staff in conjunction with the sociologist are crucial in addressing the disputes registered by the PAPs.

Among the membership of the Committee at this level is representatives of the PAPs (chairpersons) and other stakeholders from within the project area.

The office of the Contractor and the Resident Engineer will be members of the Committee to be able to provide the information required and facilitate prompt action on the emerging issues that may entail implementation.

The Committee will have functional secretariat at the Resident engineer's office. The Committee will meet as dictated by the volume of registered complaints received at the secretariat. However, the frequency of the meetings will decline, as issues get resolved.

**The composition of the Committee will comprise of:**

- Deputy county commissioner –As the chair of the committee
- Representatives of the PAPs (Preferably chair and secretary of the Committee)
- Sub-County Administrator representative
- Representatives from district lands, NLC, NEMA, department of occupational safety and health, labour office, children office and chamber of commerce – one member each
- Project Resident engineer's office
- Contractor's office/representative

**7.2.3 3rd Level: Project Management Unit (PMU/Steering Committee);**

The PMU comprises the Project proponent (KeNHA) who receives reports from the SCPC and gives direction relative to the national policy and resource mobilization with particular regard on the Resettlement Action Plan (RAP) issues.

This will facilitate co-ordination on the dealing with issues that affect the community but are outside the transport/highway sector and do not direct impact on an individual PAP but the community as a whole. Unresolved matter could be referred to this committee in case it touches a wider community rather than an individual.

The most critical sectors for this project include the:

- National coordination
- County Governments - as majority of the social and economic facilities affected are devolved functions and are managed by the county governments
- Kenya Power and Lighting
- NLC
- Water sector services
- Trade and commerce
- Safety Department
- Environment department among others

**7.2.4 4th Level: Land and Environment Court/High court;**

This is a last resort in the event of failure to address any dispute amicably and to satisfaction of the complainants.

Besides the issues of personal loss by the PAPs, the issues of environmental pollution that is the direct responsibility of the Contractor to mitigate, the Land and Environment Court has the jurisdiction to intervene on application by any aggrieved party.

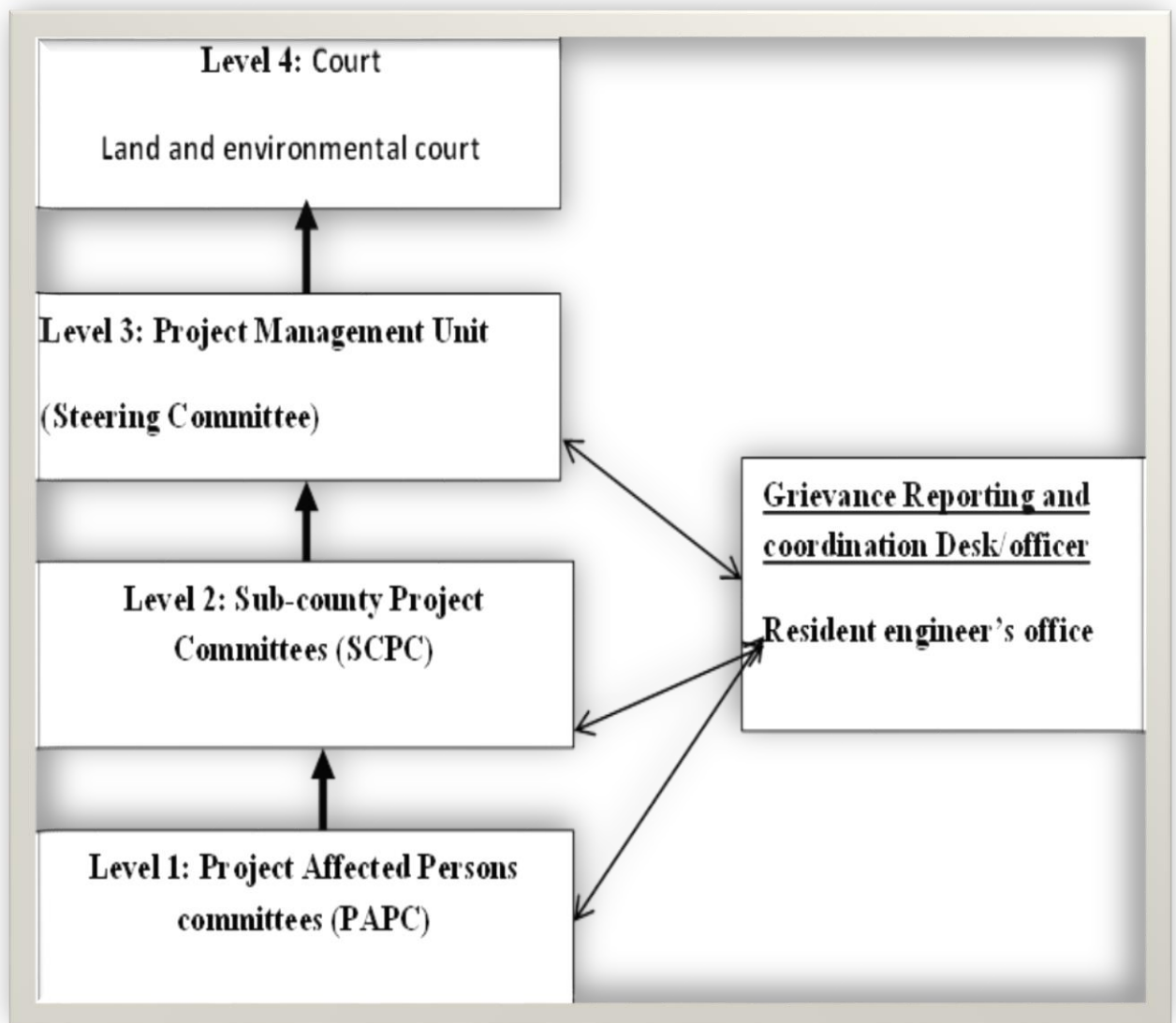


Figure 12 structure of the proposed GRC levels

## 8 CHAPTER 7: LEGAL FRAMEWORK

Measures put in place to minimize and reduce impacts related to the resettlement of the project-affected persons will be implemented in accordance with Kenya national laws and the AfDB guidelines on involuntary resettlement. This chapter discusses the relevant policies and legislations that will be adhered to in the implementation of this RAP

### 8.1 African Development Bank Resettlement Policy

The policy is premised on involuntary displacement and resettlement of people caused by projects. It applies when a project results in

- Relocation or loss of shelter by the persons residing in the project area,
- Assets being lost or
- Livelihoods being affected

The goal is to ensure that,

- a) Persons Affected by the Project (PAPS) are treated equitably, and that they share in the benefits of the project.
- b) disruption of the livelihood of PAPs is minimized

The objectives of the Involuntary Resettlement Policy are to<

- Ensure that the disruption of the livelihood of people in the project's area is minimized,
- Ensure that the displaced persons receive resettlement assistance so as to improve their living standards,
- Provide explicit guidance to Bank staff and to borrowers,
- Set up a mechanism for monitoring the performance of the resettlement programs.

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

In summary, resettlement policy is guided by the following principles:

- The RAP should be conceived and executed as part of a development with displaced persons provided sufficient resources and opportunities to project benefits. Any necessary displacement should be done in the negotiated settlements with the affected community;
- Information dissemination should be done early to local organisations. Sensitivity to gender, networking, literacy should be upheld;
- Particular attention should be paid to the needs of disadvantaged groups which include the landless, elderly women and children, ethnic, religious and linguistic minorities; including those without legal titles to assets and female headed households;
- Resettlers should be integrated socially and economically into host communities so that adverse impacts on host communities are minimised. Conflicts due to the impact of resettlers should be carefully analysed and mitigation measures documented in the Environmental and Social Impact Assessment;



- Displaced persons should be compensated for their losses at "full replacement cost" prior to their actual move or before taking of land and related assets or commencement of project activities, whichever occurs first; and
- Total cost of the project should include the full cost of all resettlement activities while net benefits to resettlers should be added to the benefit stream of the project.

The policy covers economic and social impacts associated with Bank financed projects involving involuntary acquisition of land or other assets that results in:

- a. Relocation or loss of shelter by the persons residing in the project area;
- b. Loss of assets or involuntary restriction of access to assets including national parks, protected areas or natural resources; or
- c. Loss of income sources or means of livelihood as a result of the project, whether or not the affected persons are required to move.

Displaced persons in the following two groups are entitled to compensation for loss of land or other assets taken for the project purposes:

a) Those who have formal legal rights to land or other assets recognized under the laws of the country. This category will generally include people who are physically residing at the project site and those who will be displaced or may lose access or suffer a loss in their livelihood as a result of the project activities; and

b) Those who may not have formal legal rights to land or other assets at the time of the census but can prove that they have a claim such as land or assets that would be recognized under the customary laws of the country. This category may also include those people who may not be physically residing at the project site or persons who may not have any assets or direct sources of livelihood derived from the project site, but who have spiritual and/or ancestral ties with the land (e.g. graveyards, sacred forests, places of worships). This category may also include sharecroppers or tenant farmers, seasonal migrants or nomadic families losing user rights, depending on the country's customary land use rights. Additionally, where resettlers lose access to resources such as forests, waterways, or grazing lands, they would be provided with

replacements in kind.

The policy recognizes a third group of displaced persons are those who have no recognizable legal right or claim to the land they are occupying in the project area and who do not fall in any of the two categories described above. This category of displaced persons, will be entitled to resettlement assistance in lieu of compensation for land to improve their former living standards (compensation for loss of livelihood activities, common property resources, structures and crops, etc.), provided they occupied the project area prior to a cut-off date established by the borrower and acceptable to the 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.

## 8.2 Resettlement Laws in Kenya

Kenya lacks a Resettlement policy, but the project triggers several legislations that govern land and asset resources. The major ones include,

- Constitution of Kenya: Section 40 (protection of private property)
- Land Act (2012)
- Land Registration Act 2012
- National Land Commission Act 2012
- others include EMCA 1999 revised 2016,

#### *Constitution (2010)*

Article 24(1) (d) limits the right of an individual if it prejudices the rights and freedoms of other people.

Article 40(3) of the Constitution of Kenya (2010) gives the State the right to compulsorily acquire land and deprive any individual of his right for public purposes. Article 40(6) is explicit on matters of dealing with property that has been unlawfully acquired including re-possession and restoration back to the public.

Article 62(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.

Article 66 empowers the State to regulate the use of land or any right or interest over any land to achieve the objectives of meeting public interests including land use planning whereby transportation corridors constitute a major component of a development plan proposal.

The Constitution of Kenya recognizes different categories of land as Public land, Community land and Private land. The public land is held by the state and used for public purposes. Community land refers to land lawfully held, managed and used by a given community as defined in article 63 of the constitution. Private land refers to land lawfully held, managed and used by an individual or other entity under statutory tenure. Apart from the public land, that can be used by the Government freely for public purposes, community and private land rights are protected by the constitution, except when there is a need to acquire for public purposes. In such a case, the land should be acquired following the guidelines outlined in the Land Act, with a fair and prompt compensation.

The Constitution (2010) article 40, section 3-6, states that;

*“the state shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation.....is for public purpose or in the public interest and its carried out in accordance with the constitution and the act of parliament that requires prompt payment in full, or just compensation to the person; and allows any person who has an interest in, or right over, that property a right of access to court of law. Provisions may be made for compensation to be paid to occupants in good faith of land acquired who may not hold title to the land. The rights under this article do not extend to any property that has been found to have been unlawfully acquired”*

### **8.3 Land Legal Issues in Kenya**

Land is critical to economic development, poverty alleviation and food security, hence getting the land rights system correct is vital because it affects how other policies will work on the land. In Kenya, land tenure system is entrenched in the Constitution which is the strongest law in the country and other subsidiary legislatures. According to the Constitution, land rights in Kenya include;

#### *i. Public Land*

This is the land which at the effective date was un-alienated Government land as defined by Lands Act (2012). **The land is reserved for future use by the Government itself, alienated for individual use, or used for public purposes projects. Categories of Government land include** land lawfully held, used or occupied by any State organ, except any such land that is occupied by the State organ as lessee under a private lease; land transferred to the State by way of sale, reversion or surrender; land in respect of which no individual or community ownership can be established by any legal process; land in respect of which no heir can be identified by legal process; all minerals and mineral oils as defined by law; Government forests; all roads and thoroughfares; all rivers, lakes and other water bodies as defined by an Act of Parliament; the territorial sea, the exclusive economic zone and the sea bed; the continental shelf; all land between the high and low water marks; any land not classified as private or community land under this Constitution; and any other land declared to be public land by an Act of Parliament.

Public land shall vest in and be held by a county Government in trust for the people resident in the county, and shall be administered on their behalf by the National Land Commission, if it is un-alienated land. Land occupied by the state organ, land transferred or surrendered to the state, or land that no heir can be identified. Other public land such as roads, water bodies, forests and others shall be held by the national Government and shall be administered on their behalf by the National Land Commission.

*ii. Community Land*

According to the Constitution, Community land consists of land lawfully registered in the name of group representatives under the provisions of any law; land lawfully transferred to a specific community by any process of law; and any other land declared to be community land by an Act of Parliament; which consist of land which is lawfully held, managed or used by specific communities, as community forests, grazing areas or shrines; ancestral lands and lands traditionally occupied by hunter-gatherer communities; or land that is lawfully held as trust land by the county Governments, but not including any public land held in trust by the county Government under Article 62 (2). Community land shall be vested in and be held by communities identified on the basis of ethnicity, culture or similar community of interest. Most of this land is currently held under trust land Act and undergoing adjudication process to convert then to private land.

*iii. Private land*

Private land consists of registered land held by any person under any freehold tenure; land held by any person under leasehold tenure; or any other land declared private land under an Act of Parliament.

8.3.1 **Land Act (2012)**

Land Act (2012) is one of the Acts enacted to implement the National Land Policy and the Constitution guidelines aimed at harmonizing land regulations in the country. The Act regulates land management and administration to increase the security of tenure. On Land acquisition for public purposes, the Act outlines the following procedures that are premised on the Constitution and National land Policy regulations.

Chapter VIII articles 107-133, expounds on the powers of the state to carry out compulsory acquisition on **privately owned land** whenever the land is needed for public purpose. The following procedures should however be followed;

1. That whenever the national or county Government is satisfied that it's necessary to acquire some particular land for public purposes, it will submit a request to the commission (National Land Commission).
2. The commission once satisfied that it is necessary will publish a notice of intention to acquire the required land
3. The commission will carry out/ or authorizes a person to carry out the inspection
4. Any damage caused during the inspected should be paid
5. Just compensation is then paid promptly in full to all persons whose interest in the land are determined
6. An inquiry shall be published at least 30 days after publishing the notice to inquire to hear issues of propriety and claims by persons interested in the land giving them at least 14 days before the inquiry.
7. Interested persons will be required to submit a written claim of compensation on or before the date of inquiry
8. After the inquiry the commission will prepare a written award for every person affected
9. Payment of the award will be done promptly after the issuance of awards
10. Where due to lack of competent person to receive the payment or the affected person does not consent the payment, or there is a dispute on the person to be paid, the money will be deposited with the **Commission** in a special account to be paid when the issue is settled.
11. After the payment, the persons affected should surrender the title deeds to the registrar for the alteration or cancellation if the whole land has been acquired.

Apart from the acquisition process, the Act recognizes that, if the land that is left after compulsory Acquisition is uneconomical, the Government should acquire the remaining part. Section 128 of the Land Act states that any dispute arising out of any matter provided for under this Act may be referred to the Land and Environment Court for determination.

### **8.3.2 National Land Commission Act 2012**

The Act makes provisions for the setting-up of the National Land Commission as provided in the National Land Policy; Chapter 5 of the Constitution of Kenya (2010). Among its functions is to administer public land held by public institutions among other responsibilities. Under the current arrangements for land administration, the Commission is responsible for carrying out compulsory land acquisition for public purposes. The National Land Commission has developed a systematic approach to deal with land acquisition issues as follows:

1. The Commission receives a request from the Public Body seeking indulgence for land acquisition through its Cabinet Secretary. A Land Acquisition Plan with particulars of the parcels affected and the land areas are indicated.
2. Commission Officers verifies the names of the land-owners from the official searches or facilitates their procurement at the respective Land Registry prior to the Commission sanctioning the Gazetting of the intention to acquire to affected land parcels for the public purpose declared in the in the Official Gazette.
3. Subsequent to the Gazette Notice, the project proponent surveyors pegs the corridor in readiness of the statutory inspection of the land parcels and the assets therein. The Officials of the Commission serves on each of the affected land owners a copy of the Gazette Notice for information and advises on the intended inspections. The public is invited to view the details of the acquisition schedule as contained in the land acquisition plan displayed at public office conveniently located to their area during

working hours. This is done with assistance of the local Chief and other officials of the National Government.

4. On the day of the inspections and verification of the assets and ownership of the property and any attendant interests, the potential claimants are required to be present to point out any asset that may not be readily visible to a stranger to the property. At the same time, the Officials of the Commission inspect the Land registers to lift information on registered land values that are declared for stamp duty purposes as they also monitor the market trends.
5. After the inspections and verification, the Commission Officials prepare their records in readiness for the holding of public inquiry that is held subsequent to another public notice in the Official Gazette. The date and time of the venue including the details of the parcel owners expected to present their documents on ownership and a written claim of the value of the assets affected is published in the subsequent Gazette Notice. At this stage any person who has claim on the affected property presents his/her nature of claim for determination and any award pursuant thereto. The written claim for award may be prepared and or presented for the project-affected person by a registered Valuer during the public sitting to receive claims. The project proponent is usually represented at the public inquiries.
6. After the public inquiry, the Commission compiles their awards and compares them with the submissions made by the claimants to compensation. The Commission then releases the awards to the land-owners with option to accept or decline as provided for in the law. Concurrently, the Commission submits the details for compensation to the project proponent to release the funds to pay the project affected persons. The schedule contains details of the compensation recipient and the amount awarded for both developments and land or as compensation for loss of livelihood derived on the affected property.
7. Once the landowners receive their awards either through their banks or any other manner as agreed with the Commission, the Commission proceeds to serve to each of the affected persons a notice of taking possession of the land and giving them a statutory period to vacate and surrender any land documents not already surrendered to the Commission in exchange for new one for the remainder of the land at no costs to the affected persons or if the parcel of land is acquired completely, they surrender for it to be destroyed as the right to ownership is extinguished on completion of the payment for compensation.
8. After expiry of the notice to take possession, the Commission issues notice to vest the land to the acquiring agency that required the same for public purpose.
9. After the awards are issued to the affected land owners, the Commission sets-up a secretariat to deal with any complaints that arise sometimes as a result of clarification on the details of award or clerical errors. Where the issues are non-administrative, the matter is referred to a Tribunal and if the complainant is still not satisfied, the matter may end up in the Court of law i.e Land and Environment court.

### 8.3.3 ***Land Registration Act (2012)***

In pursuance of implementation of the Constitution, Land Registration Act was enacted to revise, consolidate and rationalize the registration of titles to land, to give effect to the principles and objects of devolved Government in land registration, and for connected purposes. The Act is revoked in such a project since after the acquisition of land; the PAPs will need to surrender their titles to the registrar for alteration or cancellation if the whole land is acquired. The Act outlines the land registration process. The Land Act exempts the PAPs from payment of stamp duty for such registration. Article 28 (e) and (i), of the Land Registration

Act, confers the rights of compulsory acquisition and access of electric supply lines, telephone and telegraph lines or poles, pipelines, aqueducts, canals, weirs and dams erected, constructed or laid in pursuance or by virtue of any power conferred by any written law as overriding interests on registered land.

#### **8.3.4 Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities No. 56 of 2012**

*According the Act, Internally Displaced Person for this purpose, includes among others “a person or group of persons who have been forced to leave their homes or places of habitual residence as a result of large scale development projects”. Hence this project triggers the Act since residential structures are affected.*

*Article 5(2) and 6(3), the government shall prevent such displacements except where it is justified by overriding public interests.*

*Article 12(1), authorizes the formation of a national Consultative Coordination Committee for internally displaced persons that can deal with matters that arise out of displacement and relocation.*

*Article 22(1-2) explains the procedures for displacement induced by development projects, which should take into considerations the following:*

- *Seek the free consent and informed consent of the affected persons;*
- *Hold public hearings on the project planning; and*
- *Give justification for displacement and demonstrate that the displacement is unavoidable and no feasible alternative exist.*

*Article 22(3), the displacement will not be carried out unless:*

- *Reasonable time is given to the persons to review the decision and challenge it if need be; and*
- *An effective remedy is available to them for consumer rights and fair administration.*

*Article 22(4), the government shall ensure that the displacement is carried out in a manner that is respectful of the human rights of those affected, taking in particular into account the protection of community land and the special needs of women, children and persons with special needs. This requires:*

- *Full information for those affected and their effective participation, including by women, in planning, management of the displaced, and in defining suitable durable solutions;*
- *Provisions of safe, adequate and habitable sites and to the greatest practicable extent, of proper accommodation; and*
- *Creation of satisfactory conditions of safety, nutrition, health and hygiene and the protection of family unity.*

*Article 22(5), the government will also ensure the presence of government official when the displacement and relocation is effected and the monitoring by the independent body.*



### 8.3.5 ***Environmental Management Co-ordination Act (1999).***

This act makes provision for adequate environmental investigations to be undertaken in respect of certain listed developments. The need to carry out an environmental Impact Assessment (EIA) before any listed development may take place, are provided for in the act (article 58). Thereafter, an environmental Audit is required according to article 68 of the Act to determine on the conformity with the statements made in the environmental impact assessment study report issued in respect of that land or those premises under article 58.

## 8.4 **Analysis of Local and AfDB policies on Resettlement**

This section present an analysis on the provisions related to resettlement and compensation of the project affected persons as a result of undertaking a public project.

### ***8.4.1 Consultations with the affected or likely to be affected persons***

The AfDB policy on involuntary resettlement states that a good resettlement Plan should take into account careful planning and close consultation and coordination among the stakeholders. It recognizes the need to have meaningful consultations early in the planning process and displaced persons encouraged to participate in the planning and implementation of the resettlement program. The constitution of Kenya provides for the right to public participation though there are no gaps existing this RAP proposes continuous consultations throughout the project lifecycle.

### ***8.4.2 Compensation and valuation***

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

### ***8.4.3 Grievance redress and dispute resolution***

AfDB provides for inclusion for grievance redress and dispute resolution and procedures. The policy provides for dispute mechanism, which should be appropriate, and accessible, constituted local committees with representatives from key stakeholder groups to be established to resolve any dispute arriving during the compensation procedures to ensure timely resolution of grievances.

The Land Act 2012 recognizes the right of the affected persons to refer their disputes to the Land and Environment Court, while the Land Policy advocates for negotiation, mediation and arbitration to reduce the number of cases that end up in the court system and delayed justice. This RAP has given a clear guide on establishment of grievance management systems and clear procedures for receiving and managing complaints to enhance compliance with Kenyan and AfDB guidelines.



## 9 CHAPTER 8: ELIGIBILITY

### 9.1 Introduction

In this Updated resettlement plan, eligibility is the criteria under which one would qualify to receive benefits under the resettlement program.

### 9.2 Eligibility criteria

The eligible individual(s) are those who are directly affected as a result of losses that can be directly attributed to the proposed improvement of the project road which in effect results to compulsory acquisition of land and other assets on land like trees, crops, buildings and infrastructure like water pipes and power connections..

In a nutshell, properties that are eligible for compensation are buildings, land, assets on the land such as crops, trees and graves and affected public social utilities such as power supply, water pipelines. The compulsory acquisition of land and other assets will result to relocation or loss of shelter; loss of assets, loss of access to assets (including land, structures, trees and crops and cultural properties like graves); loss of income sources or means of livelihoods even if the affected persons is not forced to relocate and; denial to access to legally designated social and economic services. Based on this criterion, this RAP identified the following categories of PAPs as being eligible for compensation:

- i. Owners of land affected by the road;
- ii. People who have leased land for cultivation and their investments are to be removed or damaged due to land acquisition activities.
- iii. People owning trees, crops, fences, and other infrastructure in the areas surveyed during the census and asset inventory survey off the proposed road reserve and working sites
- iv. Any other persons or group of persons, who though not mentioned, are entitled to compensation according to Kenya laws and African Development Bank policies.

### 9.3 Cut-Off Date for Eligibility of Compensation

In order to determine compensation eligibility of persons and their assets, 8<sup>th</sup> December 2014 was declared as the cut-off date. 8<sup>th</sup> December 2014 was the last day of the census survey and consultative meetings with PAPs for the preparation of the Resettlement Action Plan. During the stakeholder meetings, the cut-off date for eligibility of compensation and its purpose was communicated to stakeholders, the local communities and PAPs. Consequently, any claim for compensation by the affected people after this cut-off date will not be eligible for compensation.

The project was also advertised through Gazette Notice NO. 3527 of 13 April, 2017 asking members of the public to send comments on the ESIA to NEMA. As soon as the project financing is secured, the KeNHA through NLC will publish affected land parcels in the Kenya Gazette and commence the land acquisition and compensation process. Any developments on land will be deemed as officially cut off as at the date of the gazettelement of the intention to acquire the land.

The Contractors shall identify, negotiate and privately purchase local (community/private) material sources like quarries and borrow pits and for any impact resulting from his activities

will be mitigated following the same principles as those in the resettlement process at market value.

As a means of social continuity and good working relationship with the surrounding communities, the project will provide alternate access wherever the access is blocked during construction. In case of restriction of access to community owned facilities or common property resources due to project works, the project will rebuild such facilities and provide alternative access. These are resources like cattle dips, social halls, hospitals among others.

#### 9.4 PAPs' Entitlements

Under the Kenyan Law, PAPs are categorized so as to include property owners, residential tenants, business tenants and affected communities so long as they are within their legal properties. However, AfDB's categorization of PAPs is broader and includes the following:

- i. Those who have formal legal rights including customary law and traditional usage as outlined under the Kenyan constitution;
- ii. Those who have no land, and operate under usufruct legal rights or claims to land they are occupying for improvement of livelihoods
- iii. Those who do not have formal legal rights to land at the time of conducting census, but have a claim to such land or assets provided that such claims are recognized under the Kenyan constitution

Table 8 below presents a summary of entitlement matrix for eligible PAPs:-

**Table 8: Entitlement Matrix**

PAP Category	Entitlement
Individuals who have formal legal rights to land	<ul style="list-style-type: none"> <li>• Compensation for loss in land and assets at full replacement cost.</li> <li>• If they are physically relocated, provide assistance during relocation</li> <li>• Right to salvage all materials from the compensated buildings</li> <li>• Development assistance inform of reference to institutions offering capital/credit facilities, on job training and job opportunities where they qualify</li> <li>• 15% disturbance fee as per the law on total compensation amount</li> </ul>
Individuals who do not have formal legal rights to land, but have a claim to such land or assets if the claims fall within the Kenyan law or/or local ownership systems	<ul style="list-style-type: none"> <li>• Compensation for loss in land and assets at full replacement cost.</li> <li>• If they are physically relocated, provide assistance during relocation</li> <li>• Right to salvage all materials from the compensated buildings</li> <li>• Development assistance inform of reference to institutions offering capital/credit facilities, on job training and job opportunities where they qualify</li> <li>• 15% disturbance fee as per the law on total compensation amount</li> </ul>
Individuals who have no recognizable legal right or claim to the land they are occupying including squatter settlements and disputed ownership	<ul style="list-style-type: none"> <li>• Resettlement assistance and the replacement values for structures/assets.</li> <li>• Transitional support or cash equivalent to the same spanning for two to three months after displacement to facilitate restoration of livelihoods and standards of living to pre-displacement levels.</li> <li>• Right to salvage all materials from the compensated buildings</li> <li>• 15% disturbance fee on total compensation amount</li> </ul>
Vulnerable PAPs	<ul style="list-style-type: none"> <li>• Support (direct and indirect –through other agencies and programmes e.g fund for the disabled and aged) and facilitation to access the needed services including medical care, capital support</li> <li>• Organization of support groups within the communities they live in.</li> </ul>

Persons who encroach on the earmarked road after the cut-off date	<ul style="list-style-type: none"> <li>No entitlements for compensation. One month's Notice to self-relocate</li> </ul>
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Despite the above, all verified and validated PAPs will be eligible for compensation and rehabilitation assistance, irrespective of their land ownership status, to ensure that those affected by the Project shall be at least as well off, if not better off, than they would have been without the Project. Absence of a title will not therefore be a hindrance to receiving compensation and livelihood assistance. The economic census covered all categories of PAPs based on their site location as at date as 8th December 2014 which is the cut-off date for eligibility to resettlement entitlements for the this RAP.

## 10 CHAPTER 9: VALUATION OF AND COMPENSATION FOR LOSSES

### 10.1 Introduction

Valuation for this project is based on principles provided in the ADB policy on involuntary resettlement as well as various national laws that are triggered by this project among them, the Constitution, Land Act 2012 (Chapter VIII: on compulsory acquisition), among others.

In property valuations there are 5 generally accepted methods or approaches to value. These are the Sales Comparison, the Contractors Approach, the Gross Replacement Cost Method (GRC), the Residual, and the Profits method:

**The first method** comparative approach to value that considers the sales of similar of substitute properties and related market data and establishes a value estimate by processes involving comparison. Property prices needs to be analyzed and interpreted in order to obtain the corresponding values utilized in the comparison analysis. This method is the preferred approach in valuing land in an active market where a trend of prices can be established.

**The second method** is a contractors approach that considers income and expense data relating to the property being valued and estimate value through a capitalization process. This method is applied when income generating capabilities is present and is considered by the market as forming the primary basis for value. The capital value arrived at is the value attributed to the right to an annual income stream. This approach, to name a few, entails a research and analysis of transaction prices of similar or comparably substituting properties, rental rates, expense ratios, yields, capitalization rates, tenant covenants, and risk. In essence this approach entails an income stream from which expenses are deducted, the net income is then capitalized (income is converted to capital) by dividing it with a capitalization factor. Although the value is determined by capitalization, the basis of information researched and analyzed by utilizing the comparison approach. This method, therefore, is a combination of income and expense data though valued by processes of comparison.

**The third method**, known as the Gross replacement Cost method (GRC) evaluates the current cost of replacing an asset with its modern equivalent asset less deductions for physical deterioration and all the relevant forms of optimization such as the expected optimum land productivity. It is also used in acquisition of properties. This is appropriate when little or no market evidence is available and the property does not transact readily in the market. The approach entails the measuring of the improvements (buildings, site works) to which the appropriate construction costs are applied, resulting in the new replacement (or reproduction) cost. The market value of the land as if unimproved is then to be determined and added to this amount with the total amount reflecting the market value for the property.

**The fourth method**, known as the residual method, is the estimated amount that an entity can obtain from the disposal of an asset after deducting the estimated costs of disposal, if the asset were already of the age and in condition expected at the end of its useful life. This approach is applicable where a valuation is to be conducted for undeveloped land or where redevelopment of an obsolescent piece of land demands it. The first step is to estimate the value of the development as complete, whether it's a township development or residential development or any other use or type of building. Then an allowance for development costs, professional fees, advertising and marketing costs, financing costs, developer's profit and risk is deducted from the value as complete which results in the residual value.

**The fifth method** is the profit's method and is sometimes referred to as the accounting method. The method entails an estimation of the gross annual income or turnover from which cost of

sales and operating expenses are deducted. The net balance is then divided into a rent and profit split. The rental split is capitalized at an appropriate capitalization factor. In addition, the goodwill is to be ascertained at a market related multiplier with the market represented by the total of these two amounts. The second approach takes the estimated net profit only, divides it into a rental and profit split, and capitalizes the rental amount in order to determine the value of the business “lock, stock and barrel”.

## **10.2 Analysis of the Valuation Methodology Adopted for this Project**

### **8.1.1 Structures**

The method adopted is the Gross Replacement Value Method and comparable method that evaluates the current cost of replacing an asset without depreciation. The approach entails the measuring of the improvements (buildings, site works) to which the appropriate construction costs are applied, resulting in the new replacement (or reproduction) cost. An addition of 15% is added to the value as statutory allowance to cater for disturbance.

### **8.1.2 Land Values**

Establishing land values in this area was not difficult since there is a vibrant market and comparable sales are easily available and these figures were obtained and used. An average value was adopted per homogenous section. Projections were however considered since such a project is expected to bring about a substantial increase to prices as speculation causes demand that leads to escalation of land values.

### **8.1.3 Trees**

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

### **8.1.4 Crops**

Though crops shall be harvested before the project commences, it is assumed that the owners will be duly notified not to replant after the property is compensated to allow for project works. . The crops which are on the affected land as at the time of construction will be valued based on the schedules prepared by the Ministry of Agriculture for various types and age but taking into account the level of management.

### **8.1.5 Businesses along Road Reserve**

In the past, those who have encroached the road reserve are given notice to vacate failure to which the county removes them. The same notice will be given to those using the road reserve for hawking hence such businesses were not included in the valuation.

## **10.3 Valuation Data Collection**

The data collected manually during field survey was as follows,

- i. Land size affected was established in the field, and was adopted for the purpose. The size was converted to acres.
- ii. Affected structures were measured and the structures characteristics noted. They include, the materials used in the construction of walls, roof, floor and the status of the structure. Since the valuation was based on the gross replacement cost, the age of the structure was insignificant in determining the value.

#### **10.4 Basis for Valuation**

The valuation process is premised on the national and international regulations that trigger resettlement whenever land is needed for public interest. Nationally the major regulations include Constitution of Kenya (2010), Land Act (2012), and Way leave Act and Eviction and Resettlement Bill (2012). Internationally, valuation is based on the principles provided in the ADB Policy on Involuntary Resettlement.

## 11 CHAPTER 10: RESETTLEMENT SITE

In Kenya, guidelines and availability of vacant land for resettlement is provided by the Commissioner for lands. Exceptional cases where land has been purchased specifically for people to resettle is considered in extreme circumstances where PAPs are deemed irreversibly vulnerable.

In case of the project road, no resettlement site was identified as the project is following its existing route/course, with a proposal to increase an additional 20 metre side strips from Sagana to Marua for the road reserve to meet the classified width of 60 metres if there are funds available to acquire this land.

From interviews conducted in the project traverse, it was very clear that land availability to be purchased by the PAPs was considered to be achievable since they all come from the same ethnic group that has been domiciled in the whole area. The affected persons by settling within the community will continue to enjoy the existing social facilities such as schools, hospitals, mosques, churches and other religious and traditionally significant cultural sites. The social and cultural relationships will be maintained. This is likely to sustain people's economic system, ways of production and other means of income generation and trading. Their productive skills remain applicable for no significant geographical and social change has occurred;

By integrating the project affected people within the same communities, the neighborhood characteristics are being maintained. People value and respect social integration within their communities since there is local knowledge of societal systems and character traits. This helps in fostering and promotion of assisting each other during funerals, wedding and other socio-cultural ceremonies. More significantly the neighborhood includes kinship ties and related clan groups. It is upon these social facets, a harmonious society shall be maintained within the Kenol Sagana Marua road dualling project.

However, it is expected that the dualling will generally comprise of about 20 metres wide paved carriageway inclusive of shoulders but excluding service roads and it is espoused that this carriageway can fit within the existing road reserve except for some sections that have other encumbrances in terms of utilities like Karatina town.

### 11.1 Resettlement alternatives and choices

Resettlement alternatives in the project area are:

- i. Remaining on the same piece of land where only a part of it is acquired. 48% of the PAPs preferred this option of resettling within the same land they resided;
- ii. To purchase land within or beyond the same neighbourhood. However in this case, there were concerns that land may become extremely expensive to purchase thereby inhibiting the PAPs from accessing any with the amounts paid for compensation since only portions are being acquired along the road from Sagana to Marua ;

### 11.2 Possible Resettlement Sites

The method for site selection was based on alternatives proposed by community members during PAPs interviews and public participation. Generally, the affected community members were not ready to move out of their communities. Majority opted to resettle within their



remaining land parcels. There was therefore no host communities considered under this RAP as PAPs will integrate into their existing communities.

**11.3 Measures to prevent influx of ineligible persons at the selected sites;**

Since no site for resettlement was identified, there may be no danger of influx of ineligible persons except land speculators. Influx management strategies will only be necessary to prevent land speculation and will be undertaken by the PAPCs and CRC. The NLC also has mechanisms of weeding out any un-eligible persons and this will also be supported by County commissioner's office.

## 12 CHAPTER 11: ENVIRONMENTAL PROTECTION

The proposed Construction of the Kenol – Sagana- Marua road will lead to increased population concentration factors along the road corridor and especially in construction camp sites, market and urban centres. The increased population is likely to result to overexploitation of natural resources as well as increased waste generation.

The environmental impacts of the proposed project are dealt with under the Environmental and Social Impact Study Report. However, the negative impacts and proposed mitigation measures for the resettlement are presented in the following paragraphs:

- i. Removal of vegetation will occur as populations concentrate in one area and seek accommodation and exploitation of wooded sections for fuel wood. This will be mitigated by encouraging the population to plant especially indigenous and native trees as well as fast growing tree species adapted for the area. There will be sensitization on the population and the contractors to use clean energy sources;
- ii. Integration into communities where resettlers take time to cope with the new neighbours and adopt to the environment. Adequate sensitization and proper preparations including social engineering should be undertaken prior to payment of compensation to allow the PAPs build capacity to continue with their normal routines.
- iii. During construction, there will be disturbances to social facilities including water pipes and electricity lines. Advance notices be given to the public and facilities should be repaired immediately.
- iv. The project will open quarry/borrow pit access roads, earth diversions along the project road which might be near residential homes and dust will be managed to ensure homes are habitable all though the project construction works.
- v. Borrow pits will be excavated sustainably to ensure that they can be restored, or rehabilitated properly, and make them re-usable after scouring of materials has been completed.
- vi. Waterways where works will cross will be protected from oil wastes, spillages and any other pollution by ensuring they are separated from the works by putting in place the necessary measures.
- vii. Social systems will be protected by providing mobile toilets for workers on the road works, HIV awareness and prevention measures, Training on Social interactions of the workers and how to relate with the communities to avoid or cause sexual exploitation, abuse and harassment, Gender based violence, how to protect children from any unlawful handling or exposure, and how to manage the health and safety of everybody on the working sites.

## **13 CHAPTER 12: IMPLEMENTATION ARRANGEMENTS AND SCHEDULE**

### **13.1 Overview**

This implementation schedule covers all resettlement activities from preparation through implementation, including target dates for achievement of expected benefits to PAPs and monitoring and evaluation until termination of the various forms of assistance.

The Ministry of Transport and Infrastructure, Housing and Urban development (MoTIHUD) through Kenya National Highways Authority (KeNHA) Project Implementation Team 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 20 (gender balanced) members as shown in the list below. The project Resident Engineer and a Contractors' representatives shall be coopted members of the Resettlement Committee once the Contract commences.

#### **of Resettlement Committee**

1. KeNHA -3.No
2. County Commissioner - 3. No
3. County Governments - 6.No (2 per county)
4. National Land Commission- 2. No
5. Community Based Organization (3No
6. Representatives of PAPs -3 No Chairpersons of PAP committees

#### **Resettlement Committee Mandate**

Resettlement Committee (RC) shall oversee the implementation of RAP. The main duties of the Committee are as follows:

- 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;
- To ensure compliance with the Resettlement Plan and Social Environmental Management plan;
- Support the National Land Commission through the process of land acquisition and compensation in the projects.
- To ensure that all persons affected by the project including the contractor's activities receive their compensation in time and
- Proper information is disseminated to PAPs at all times.

NGOs/ CBOs in the project area with experience in social development and poverty alleviation programs and a footprint of achievements record should be included as partners in the resettlement plan implementation. These organizations shall be selected to support the resettlement plan implementation in coordination with RC personnel above.

### **13.2 Implementation Schedule**

The responsibility for the RAP implementation will lie with the CRC under the supervision of the PIU. It is anticipated that the PAP's would be resettled as agreed before commencement of the project construction. The RAP anticipates that the project implementation schedule will consist of three phases namely preparation, implementation and operation.

The construction schedule and key activities anticipated prior to, during and after are outlined under the implementation schedule namely Resettlement Action Plan Activity Schedule (RAPAS) covering all resettlement activities from project preparation through implementation to monitoring and evaluation indicating timelines for achievement of expected benefits to PAPs. The Resettlement Action Plan Activity Schedule (RAPAS) is spread over twelve months including approval of the RAP as presented in the table below and will consist of the following activities:

- i. Preparation, approval and disclosure of RAP/Updated RAP
- ii. Mobilization and consultation with PAPs for the land acquisition process
- iii. Verification of property/asset ownership and valuation for compensation including offering of awards
- iv. Bank account opening and/or revival for those that are dormant
- v. Payment of compensation and delivery of other entitlements within 6 months after serving notices;
- vi. Issue a vacate communiqué for removal of all movable structures and assets, one to six months for complete remove of all affected structures and assets ;
- vii. Dispute /grievances resolution;
- viii. Complete removal of all affected structures and assets, six months after issuing of the vacate communiqué
- ix. Project construction works alongside constant communication and consultation of stakeholders and PAPs as works progress
- x. Monitoring, evaluation and final audit

**Table 9: RAP implementation schedule**

Activity	Time												
Year	2015				2019				2020				2021-24
Quarter	1	2	3	4	1	2	3	4	1	2	3	4	1
RAP approval	<div></div>												
RAP updating					<div></div>								
Verification of property/asset ownership		<div></div>				<div></div>							
Valuation and issue of awards			<div></div>		<div></div>		<div></div>		<div></div>				
Bank account opening			<div></div>		<div></div>		<div></div>		<div></div>				
Payment of compensation							<div></div>		<div></div>		<div></div>		
Issuance of vacate notice							<div></div>	<div></div>	<div></div>	<div></div>	<div></div>		
PAPs consultation and communication	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>
Formation and functioning of PAPs committees, CRC and PIU		<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>
Contractor identification									<div></div>	<div></div>			
Removal of all affected structures												<div></div>	<div></div>
Dispute /grievances resolution;		<div></div>		<div></div>		<div></div>		<div></div>		<div></div>	<div></div>		<div></div>
Monitoring and evaluation		<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>

## 14 CHAPTER 13: COSTS AND BUDGET

### 13.1 Cost of Compensation and Resettlement

The compensation cost caters for loss of land, trees, crops and structures by the PAPs, and disturbance allowance. The estimated Cost of Compensation of the existing route through Karatina Town is approximately Kshs. 4.8B (Read Kenya shillings four billion, eight hundred million) as summarized on the table below and presented in detail in the Asset inventory and valuation report.

**Table 10: Estimated value according to various routes (Kshs)**

Section	Structures	Land	Trees	Crops	Sub total	15% Statutory Addition /disturbance fee	Total
<b>Karatina</b>	825,807,870	822,036,048	7,287,350	1,873,411	1,657,004,679	248,550,701.85	<b>1,905,555,380.85</b>
<b>Kenol-Marua</b>	885,064,891	1,593,660,743	69,696,650	4,896,500	2,553,318,784	382,997,817.60	<b>2,936,316,601.60</b>
<b>Total</b>	<b>1,710,872,761</b>	<b>2,415,696,791</b>	<b>76,984,000</b>	<b>6,769,911</b>	<b>4,210,323,463</b>	<b>631,548,519.45</b>	<b>4,841,871,982.45</b>

### 13.2 The RAP Implementation Budget

The cost for implementation of this RAP is 56,500,000.00 including the costs of professional services, project management, and capacity building of PAPs as well as monitoring services as presented in the following table:

**Table 11: Costs for implementation of the RAP**

Expense	Description	Unit	Approx. Cost (Kshs)
Professional service	Verification of assets and training of PAPs	months	16.5m
Resettlement	Allowances for CRC/ PAPC	Lump sum	6.5m
Grievance Redress Committee Cost	Committee meetings and agents	Daily sitting allowance	2.2m
Stakeholder Participation	Consultations & sensitization	Meetings	7.8m
Livelihood Support	Assistance & allowances for vulnerable groups	Lump sum	12.4m
RAP Implementation and Administration	Office operations and documentation	Lump sum	4.8m
Monitoring and Evaluation	Cost of monitoring and evaluation	Lump sum	6.3m
<b>Total (KShs)</b>			<b>56.5m</b>

## 15 CHAPTER 14: MONITORING AND EVALUATION

Monitoring and evaluation is one of the key activities in ensuring successful implementation of any RAP. Consequently, RAP monitoring and evaluation should be incorporated into the Resettlement and compensation management processes through provision of funds and employment of qualified personnel to manage the social risks emanating from the RAP implementation process.

### 15.1 RAP Monitoring Framework

During the RAP implementation, monitoring will be conducted on a continuous basis by the PIU through the PAPC/CRC who will collect and record the information of resettlement activities and submit the monitoring reports, on timely basis, to the PIU and attend its meetings. In the overall internal monitoring framework, there will be continuous information circulation from the village level through the PAPC/CRC to the PIU Office accompanied by periodic supervision and verification by the CRC Office. The monitoring and evaluation involves both the internal and external monitoring.

### 15.2 Monitoring indicators

These indicators will facilitate monitoring of resettlement performance based on set timelines as per the RAP. Monitoring and evaluation will assist in ensuring that compensation measures are correct, all eligible persons have received their entitlements and that implementation of the RAP is proceeding well. Lists of indicators are tabulated below:

**Table 12: Monitoring Indicators**

Subject	Indicator
Land	Number of acres of land (private, communal or government) land acquired for the road way leaves Number of land parcels and plots acquired Road Reserve beacons/markings
Acquisition of buildings and Structures /	Number of structures (private, residential and commercial) buildings acquired Number of demolished structures Number of newly constructed structures
Trees and Crops	Number of trees cut Crops destroyed by area, type and ownership
Compensation, establishment and Rehabilitation Re-and	Number of homesteads affected (buildings, land, trees, crops) Number of owners compensated by type of loss Number and type of replacement houses constructed Number of replacement businesses operating Number of community structures replaced Number of seedlings supplied by type Number of trees planted
Hazards and Disturbances	Number of homesteads affected by hazards and disturbances from construction (noise levels, blasting, increased traffic levels, etc)
Social/ Demographic	Homestead size (births, deaths, migration in and out) Age and gender distribution Marital status Status of "vulnerable" homesteads



	<p>Distance/travel time to nearest school, health centre, church, shop, administrative areas and water</p> <p>Nutritional status of PAPs</p> <p>Number of people with disease, by type (STDs, malaria, diarrheal, ARI, immunizable disease)</p> <p>Extent of awareness and educational programmes</p>
	<p>Literacy and educational attainment of homestead members</p> <p>School attendance rates by age and gender</p> <p>Skills of homestead members</p>
	<p>Landholding size, area cultivated and production volume/value, by crop (cash and subsistence crops)</p> <p>Landholding status (tenure)</p> <p>Employment status of economically active members</p> <p>Amount and balance of income and expenditure</p> <p>Realisation of homestead income restoration plans (components implemented, net income achieved)</p>
	<p>Organisational membership of homestead members</p> <p>Leadership positions held by homestead members</p> <p>Leadership positions held by women</p>
	<p>Growth in market areas</p>
Consultation	<p>Number of local committees established and dates of their meetings</p> <p>Type of issues raised at local committees meetings</p> <p>Involvement of local committees in the development planning</p> <p>Number of participating NGOs and CBOs</p>
	<p>Number of grievances registered by type</p> <p>Number of grievances resolved</p> <p>Number of cases referred to court</p>
Training	<p>Number of PAPc committee members trained</p> <p>Number of affected population trained in project-related training courses</p>
Management	<p>Number of implementing agencies by function</p> <p>Number of GoK ministry officials available by function</p> <p>Number of office and field equipment, by type</p>
	<p>Census and asset verification/quantification procedures in place</p> <p>Effectiveness of compensation delivery system</p> <p>Number of land transfers effected</p> <p>Co-ordination between local community structures, KeNHA and GoK officials</p>
Vulnerable PAPs	<p>Number of agencies/organizations supporting or programmes targeting the vulnerable PAPs</p> <p>Number of vulnerable accessing various products and services including medical care, capital support</p>

### 15.3 Agency responsibilities

The monitoring responsibilities of the PIU during the RAP implementation will be as follows:

- i. Set up the resettlement office, train resettlement staff to investigate the project affected area and persons.
- ii. Facilitate the appointment of an external agency to provide consulting services to the project office and institute the final census survey.

- iii. Conduct surveys jointly with the PAPC and CRC
- iv. Train the PAPC
- v. Conduct external monitoring

## 16 REFERENCES

1. African Development Bank, Policies on Environment and Involuntary Resettlement, 2003.
2. Final design report Feasibility Study, Environmental and Social Impact Assessment, Preliminary and Detailed Engineering Design for Dualling of Kenol – Sagana – Marua (A2) Road Egis; Preliminary and Detailed Engineering Design of Kenol – Sagana – Marua Road; October 2014
3. Egis; Environmental and Social Impact Assessment Report of Kenol – Sagana – Marua Road;
4. GOK, (2009). Sessional Paper No. 3 on National Land Policy. Government Printers
5. Ogolla B D and Mugabe J. (1996). Land Tenure Systems, in Land; Initiative Publishers, Nairobi Kenya
6. Okoth-Ogendo H. W. O (1999). Land policy Development in East Africa. A survey of recent trends: A regional overview Paper for the DFID Workshop on “Land Rights and Sustainable development in Sub-Saharan Africa” held at Sunningdale Park Conference Centre, Berkshire, England 16-19 February, 1999.
7. Okoth-Ogendo H.W.O (1989). Some issues of theory in the study of tenure relations in African Agriculture. International African Institute. Cambridge University press.
8. Republic of Kenya, Constitution, 2010.
9. Republic of Kenya, Physical Planning Act, No. 6 of 1996.
10. Resettlement Plan of World Bank Funded Road Sector Assistance Project – December 2008.
11. International Finance Corporation, Handbook for Preparing a Resettlement Action Plan