



# Reviewed and Updated Resettlement Action Plan (RAP) for the Proposed Rehabilitation of Lodwar-Lokichogio-Nakodok Road (A1), 240 Km (Package 3)

Original

## Final Report

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Proponent	Consultant
Kenya National Highways Authority Blue Shield Towers, Hospital Road, Upper Hill P.O. Box 49712 – 00100, Nairobi Kenya  Tel:+254-20-8013842	<b>Irene W. Muchoki</b> P.O. Box 53147,00200 Nairobi, Kenya Tel; 0724 255 163/ 0735 003 332 E-mail: imuchoki2004@gmail.com

## LIST OF ACRONYMS

ASAL	Arid & Semi-Arid Lands
ACK	Anglican Church of Kenya
CDF	Constituency Development Fund
CSR	Corporate Social Responsibility
DDP	District Development Plan
DSG	District Steering Group
EMCA	Environment Management and Coordination Act, 1999
EMP	Environmental Management Plan
EP	Entitled Person
ESIA	Environmental and Social Impact Assessment
GoK	Government of Kenya
GPS	Global Positioning System
Ha	Hectare
IMA	Independent Monitoring Agency
IMU	Independent Monitoring Unit
IEC	Information Education and Communication
ISK	Institution of Kenya Surveyors
KeNHA	Kenya National Highways Authority
KFS	Kenya Forest Service
KPLC	Kenya Power & Lighting Company
KURA	Kenya Urban Roads Authority
KWS	Kenya Wildlife Service
Km	Kilometres
Km <sup>2</sup>	Square Kilometres
KRU	KeNHA Resettlement Unit
KShs	Kenya Shillings
m	Metres
M	Million
Mm	millimetres
MoLHUD	Ministry of Lands, Housing and Urban Development
NEMA	National Environment Management Authority
OVC	Orphans and Vulnerable Children
PAHs	Project Affected Households
PAPs	Project Affected Persons
RAP	Resettlement Action Plan
PIU	Project Implementation Unit
PPE	Personal Protective Equipment
R & R	Resettlement & Rehabilitation
RIC	RAP Implementation Committee
RoW	Right of Way
SDA	Seventh Day Adventist
TOR	Terms of Reference
UTM	Universal Transverse Mercator
VIP	Vertical Information Point

## EXECUTIVE SUMMARY

### INTRODUCTION

#### **Project Proponent**

The Proposed Rehabilitation of Lodwar-Lokichogio-Nakodok Road (A1) is being implemented by Kenya National Highways Authority (KeNHA); Blue Shield Towers, Hospital Road, Upper Hill, P.O. Box 49712 – 00100, Nairobi Kenya, Tel:+254-20-8013842

#### **Project Funding**

The proposed rehabilitation of the Road (A1) is being funded by The Government of the Republic of Kenya (GOK) with support from the International Development Association (IDA), European Union (EU) and Japan International Cooperation Agency (JICA).

#### ***Project Background***

The proposed rehabilitation of Lodwar-Lokichogio-Nakodok Road (A1) covers a total distance of 240km. The proposed road rehabilitation project is part of the South Sudan-Eastern Africa Regional Transport, Trade and Development Facilitation Program (SS-EARTTDFP). The entire road is located within Turkana County starting from Lodwar and running in a north-westerly direction to Lokichogio and into Southern Sudan at Nakodok. The proposed road route traverses urban towns of Lodwar, Kakuma, and Lokichogio. It also traverses the rural Turkana settlements areas and rural shopping centres of Nasiger, Duka Moja, Makutanao Gold, Nakalale, Lokore, Komotongai, Kalobeyei, Natira, Nakururum, Songot, and Lomidat. Several sections of the road have frequently been rendered impassable as a result of heavy rains. These heavy rains have caused flash flooding at the numerous river valleys along the road and completely submerge lagga crossings/ drifts making them unsafe for both motorised and non-motorised traffic to cross.

The road is a very important infrastructure to the area residents and the region as a whole. Its improvement will help the population in the region to get better access to markets and ensure that most commodities reach their destinations fresh and with ease. In addition, this infrastructure project will open the East African region as it is part of the famous LAPSSSET project. The LAPSSSET project involves the development of a new transport corridor from the new port of Lamu through Garissa, Isiolo, Maralal, Lodwar and Lokichogio to branch at Isiolo to Ethiopia and Southern Sudan. Passengers travelling between Lodwar to Lokichogio and vice versa have in the past been forced to sleep in the cold when sections of the road and the associated drifts are washed away by flash floods occasioned by heavy rainfall. The project area is arid and semi lands (ASAL) area with no or very little ground cover which does not trap or slow down the flow of run-off water from the hills during the rainy seasons. The fast running water hence quickly find its way onto the river valleys with great force hence causing destruction of drifts and anything else on its way. Rehabilitation of the road will open up the region and also help in enhancing economic growth, provision of security, enabling easy transportation of goods/services and creating more investment opportunities to both the local people and foreigners.

### PROJECT OBJECTIVES

The Government of the Republic of Kenya (GoK) has in recent years been implementing comprehensive rehabilitation of major national roads, with the overall objective of improving transportation, enhancing road safety, reducing road user costs (including travel time) and promoting trade and socio-economic development.

It is in this respect that the Government of Kenya has identified that the road from Lodwar to Nakodok is an important link road that connects the Rift Valley area with the North Western area and also connects Kenya and South Sudan.

The Kenya National Highways Authority (KeNHA), a state corporation established under the Roads Act 2007 charged with the responsibility for the management, development, rehabilitation and maintenance of national highways intends to carry out the rehabilitation of Lodwar-Lokichogio-Nakodok Road (A1). The proposed rehabilitation will have the potential effect of creating environmental and social impacts through involuntary displacement and resettlement of persons living or generating livelihood along the Lodwar-Lokichogio-Nakodok Road (A1) where the road works will be carried out.

The rehabilitation of this road will require realignment to meet the required road standards for the “A” category assigned to this road. The implementation of this project will result in the need to acquire land and hence will cause displacement of persons living or doing businesses within the road corridor. The project proponent (KeNHA) intends to carry out the land acquisition and compensation for land and property following regulations stipulated in the Land Act, 2012 and other relevant legislations touching on compulsory acquisition of land and involuntary resettlement.

### ***Road Design resulting into Land Acquisition***

The proposed Lodwar – Lokichogio – Nadapal Road that is to be rehabilitated shall have a corridor of 60m. In flat/rolling sections of the proposed project, a carriageway width of 7m (two lanes) with a 2.0m wide paved shoulder on either side is proposed. In major built up town sections, a carriageway width of 7m, a parking lane of width 2.5m and a 2.5m wide footpath on either side of the carriageway is proposed; In village sections a carriageway width of 7m and a 2m width paved shoulder is proposed. The current road does not have such reserve area available for the proposed design and hence the need to acquire additional land.

### **OBJECTIVE OF RAP**

The specific objectives of this RAP review is:

- i. To review and update the existing RAP of the project in line with the Bank’s Policies;
- ii. To verify and review the census survey undertaken to ensure that all the potential PAPs are identified;
- iii. To verify and assess that the impacts of the proposed project on the PAPs livelihoods are identified and appropriate measures to minimize resettlement effects and safeguard livelihoods are recommended;
- iv. To undertake socio-economic survey of the RAP impacts and ensure that baseline data for monitoring and evaluation during the project implementation period are generated;
- v. To verify and update the asset inventory survey and ensure that all potential assets that will be affected by the proposed project area enumerated;
- vi. To verify and update the compensation at current Market prices, such asset inventory
- vii. To verify compliance with the Bank’s Involuntary Resettlement Policy and any other national relocation and resettlement regulations that govern the infrastructural development sector
- viii. To provide guidelines about RAP to stakeholder and ensure they are participating in consultation including how to minimise resettlement impacts of the project
- ix. To recommend cost effective measures to be implemented to safeguard the livelihoods
- x. To prepare a reviewed Resettlement Action Plan (RAP) report compliant to the World Bank and Government of Kenya (GoK) regulations, the project’s Resettlement Policy Framework (RPF) and in line with KeNHA and the Banks comments on the draft RAP report.

## POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK

### Local Legislation

The study review has been conducted in accordance with all the relevant legislations in Kenya pertaining to road construction and traffic regulations, land ownership and acquisition, relocation and resettlement among others. The Project was assessed and considerations were made on how the legislations and policies are triggered. These include the *Land Act, 2012*; the *Land Registration Act, 2012*; the *Public Roads and Roads of Access Act*; *Valuers Act and Environment and Land Court Act*.

### Land Act, 2012

The key regulation guiding land acquisition and compensation for land and property is the Land Act, 2012.

In this Act, **Section 9** (1) stipulates that any land may be converted from one category to another in accordance with the provisions of this Act or any other written law and private land may be converted to public land by compulsory acquisition. Compulsory Land Acquisition and compensation is elaborated in the Land Act, 2012, Part VIII—Compulsory Acquisition of Interests in Land under Sections 107 to Section 127. Section 110. (1) Land may be acquired compulsorily under this Part if the Commission certifies, in writing, that the land is required for public purposes or in the public interest as related to and necessary for fulfilment of the stated public purpose. In Section 111. (1) If land is acquired compulsorily under this Act, just compensation shall be paid promptly in full to all persons whose interests in the land have been determined. (2) The Commission shall make rules to regulate the assessment of just compensation.

### Notice Period for Land Acquisition

The Land Act 2012 provides under Section 112 (1) that the National Land Commission shall set aside thirty days for publishing notice of intention to acquire land. This will be followed by a cause notice of the inquiry to be published in the Gazette or county Gazette at least fifteen days before the inquiry to inquire land ownership status.

Section 120. (1) says that only after the award has been made, and the amount of the first offer has been paid, the Commission shall take possession of the land by serving on every person interested in the land a notice that on a specified day possession of the land and the title to the land will vest in the national or county governments as the case may be.

After just compensation payment being made in full the Commission shall provide adequate notice depending on the appropriate time required to put up a replacement structure. This will be done before taking possession of the acquired land. A notice period not exceeding six months is usually given. Section 155 (5) indicates that where there is unlawful occupation of land the person shall be served with a notice or oral communication shall be served with a notice to vacate within not more than sixty days.

## FIELD CENSUS SURVEY

The design engineers prepared an initial RAP in 2013 as part of the feasibility study. The preliminary RAP was developed through a comprehensive process including documentary review, field visits and observation; census survey of the Project Affected Persons (PAPs); consultative meetings with PAPs and in-depth discussions with other stakeholders and was undertaken between 9th June and 10th July 2013. Data was collected through Observation and

Interviews with the PAPs household heads/proxies, Government personnel and Focus Group Discussions.

Valuation methodology involved field surveys during when counting of the trees affected by the project (noting the type and sizes), identifying the structures affected (noting the ownership, building materials, use and condition), and identifying any crops to be affected by the project was undertaken. The rates used in the valuation of structures are derived from the Ministry of Public Works rates, and some comparable rates, while values for trees are derived from the rates provided by the Ministry of Agriculture and Forestry. In addition, a 15% statutory allowance of the value of the property acquired for the disturbance caused was added as outlined in the Kenyan constitution under compulsory acquisition.

In 2014, another census survey was carried out from 8<sup>th</sup>-31<sup>st</sup> December as part of the review and update of the initial RAP. An independent consultant undertook the update and review of the RAP in order to comply with the Bank requirements.

### ***Findings of 2014 RAP***

The existing human and commercial activities along the proposed Lodwar-Lokichogio-Nakodok road corridor include the following:

- Commercial and residential buildings along the road section within Lodwar, Kakuma and Lokichogio Towns where commercial activities are taking place;
- Turkana settlements areas and rural shopping centres of Nasiger, Duka Moja, Makutanao Gold, Nakalale, Lokore, Komotongai, Kalobeyei, Natira, Nakururum, Songot, Lomidat.
- Pasture/Community land on the rest of areas that are unoccupied away from the towns and centres.

### ***Land Tenure/Ownership***

The rehabilitation of the road entails expansion of the road within the ROW and therefore no acquisition of land is envisaged. However, PAPs have encroached on the ROW and established structures within the ROW. Furthermore, during the census survey, most of the PAPs claimed to possess title deeds or allotment letters even though they are encroachers. This is an issue that KENHA and the County Government of Turkana need to resolve prior to resettlement. PAPs were however informed during the consultations that for as long as they were on the ROW they had no right to compensation for land and would only be compensated for structures, crops and other assets. The County Government of Turkana has a lot of communal land and should consider allocating the affected PAPs on the ROW with title deed alternative land away from the ROW.

### ***Project Impacts***

All the PAPs are on the Right of Way (ROW) and this means that they have no legal ownership over the land which they have erected their structures.

The entire project area is within Turkana County, a county generally referred to as the Arid and Semi-Arid Lands (ASALs) in Kenya. The main population groups in the counties are the Turkana and Somalia communities. However the town centres of Lodwar, Kakuma and Lokichogio are cosmopolitan where the inhabitants come from all over Kenya in search for employment and business opportunities. Kakuma Refugee Camp serves refugees who have been forcibly displaced from their home countries due to war or persecution. It was established in 1992 to serve Sudanese refugees, and has since expanded to serve refugees from Somalia, Ethiopia, Burundi, the Democratic Republic of Congo, Eritrea, Uganda, and Rwanda. According to current UNHCR

statistics, the camp population stands at just close to 180,000 refugees. In 2007, Kakuma Refugee Camp hosted 21% of the total refugee population in Kenya (UNHCR Fact Sheet, September 2008). To cater for the refugees and the local population, there are over 32 aid agencies operating in the Turkana County.

The proposed rehabilitation of Lodwar-Lokichoggio-Nakodok Road (A1) covers a total distance of 240km. The proposed road rehabilitation project is part of the South Sudan-Eastern Africa Regional Transport, Trade and Development Facilitation Program (SS-EARTTDFP). The entire road is located within Turkana County starting from Lodwar and running in a north-westerly direction to Lokichoggio and into Southern Sudan at Nakodok. The proposed road route traverses urban towns of Lodwar, Kakuma, and Lokichoggio. It will also affect the rural Turkana settlements areas and rural shopping centres of Nasiger, Duka Moja, Makutanao Gold, Nakalale, Lokore, Komotongai, Kalobeyei, Natira, Nakururum, Songot and Lomidat.

Project Impacts arising from and acquisition include disruption of livelihood, loss of structures for business, loss of trees and crops, loss of communal facilities (boreholes) loss of cemeteries and loss of pastureland. **Table A** below elaborates on the impacts of land acquisition.

**Table A: Project Impacts**

Nr	Location	Affected Items / Population	Impacts
1.	Urban Centres (Lodwar, Makutano Gold, Kakuma and Lokichoggio)	Land acquisition, Removal of commercial/residential buildings	<ul style="list-style-type: none"> <li>• Loss of commercial/residential land currently belonging to private individuals and Government institutions, manyattas and commercial/residential houses</li> <li>• Disruption of residential accommodation</li> <li>• Relocation of cemeteries</li> <li>• Interruption of the community social systems</li> </ul>
2.	Urban Centres	Businesses	<ul style="list-style-type: none"> <li>• Disruption of businesses</li> <li>• Interruption of income streams</li> </ul>
3.	Community Land	Pasture for Livestock	<ul style="list-style-type: none"> <li>• Loss of community land</li> <li>• Destruction of pastureland</li> <li>• Exposure of local communities members and cattle to accidents</li> <li>• Displacement of squatters who have erected their manyattas and other semi-permanent structures on the wayleave area</li> </ul>
4.	Open Grassland	Pastures	<ul style="list-style-type: none"> <li>• Destruction of pastureland</li> <li>• Exposure of livestock to accidents</li> </ul>
6.	Entire Route especially at the river valleys	Indigenous Trees	<ul style="list-style-type: none"> <li>• Loss of Mature Trees</li> </ul>

The road rehabilitation project will traverse a long stretch of land from Lodwar to Nakodok covering a distance of 240km with considerable levels of mitigable impacts. Displacement of majority of PAPs will mainly occur at various centres along the road. Commercial buildings and associated businesses will be affected by the proposed road rehabilitation project.

**Project Affected Persons.** The census was conducted following the design co-ordinates. The proposed rehabilitation activities will largely be along the current Lodwar to Nakodok road that has been redesigned and scheduled for rehabilitation. The cut-off date for the proposed rehabilitation of Lodwar-Lokichoggio-Nakodok Road project is 8 December 2014 when the census of PAPs began. The cut-off dates were validated during the community consultation meetings held at the 7 centres. The total number of households and institutions (Individual land owners,

structure owners, businessmen and institutions) that will be affected by the road project is 1,144 (6,227 people).

**Vulnerable Groups** - In the project area, there are vulnerable groups who were identified during the RAP review survey including 3,723 children out of a population of 6,227 PAPs, 21 orphaned children, 14 physically challenged persons, 58 widowed persons, 3 terminally ill persons. Children are the most vulnerable members of the population due to the fact that they form nearly half the PAP population and the effects related to displacement and disintegration of families. Squatters are also very vulnerable. The vulnerable groups will be given extra support during the resettlement exercise where dedicated assistance will be offered in order to ensure that they receive compensation in good time and the resettlement is carried without further suffering. There will be internal and external monitoring to ensure quick response to any distress.

### **Affected Structures and Trees**

The road project will affect the following:

- **Permanent Structures**
  - Commercial and Residential Buildings
  - Boreholes on the way leave
- **Semi-Permanent Structures**
  - Commercial and Residential Structures
- **Manyattas/ Temporary Structures**
  - Residential Manyattas and Makeshift Kiosks
- **Trees**

The area has shrubs that do not fall within the category for valuation and trees with commercial value. The trees within the road RoW is composed of a variety of acacia species, Kooboo Berry, Prosopis Juliflora (Mathege), Neem Tree, and Doum Palm. The trees have been valued using guidelines from Kenya Forest Service. Environmental restoration of the damaged plants will need to be considered as part of the project area rehabilitation.

**Table B: Summary of Impacts**

#### **Land**

#	Locality	Affected Land (Acres)	
		Government	Individual
1	LODWAR	214.42	3.72
2	NASIGER	235.85	6.32
3	DUKA MOJA/NAPELILIM	138.48	7.31
4	MAKUTANO GOLD	89.93	6.20
5	NAKALALE	79.98	7.99
6	LOKORE/KOMOTAGAI	309.08	2.27
8	KAKUMA TOWN	263.29	15.92
9	KALOBYEI	195.99	5.65
10	NATIRA/NAKURURUM	307.59	10.58
12	SONGOT	129.73	28.42
13	LOMIDAT	94.90	2.96
14	LOKICHOGGIO	51.00	22.54
15	NADAPAL	227.34	
<b>Sub-Total (Acres)</b>		<b>2,337.58</b>	<b>119.86</b>



**Business**

#	Locality	Number of Businesses
1	LODWAR	6
2	NASIGER	1
3	DUKA MOJA	1
4	MAKUTANO GOLD	22
5	KAKUMA TOWN	196
6	KALOBEYEI	23
7	NAKURURUM VILLAGE	4
8	SONGOT VILLAGE	14
9	LOMIDAT VILLAGE	1
10	LOKICHOGGIO	229
	<b>TOTAL NO. OF AFFECTED BUSINESSES</b>	<b>497</b>

**Graveyards**

#	Locality	Total area of Grave Yard (Acres)
1	LODWAR	1.275
2	KAKUMA	0.951

**Trees**

#	Locality	No of PAPs	No of Trees
1	LODWAR	5	7
2	NAPEILILIM	1	1
3	KATUKURI	3	8
4	MAKUTANO GOLD	4	4
5	KAKUMA TOWN	18	195
6	KALOBEYEI	9	45
7	NATIRA VILLAGE	2	2
8	SONGOT VILLAGE	2	2
9	LOMIDAT VILLAGE	1	1
10	LOKICHOGGIO	21	458
	Assumption (15% Counted Trees)	<b>66</b>	<b>723</b>

**Structures**

#	Locality	No of PAPs	No of Structures
1	LODWAR TOWN	19	59
2	KAWALASE	21	46
3	NASIGER	4	7
4	DUKA MOJA	1	1
5	KATUKURI VILLAGE	6	11

6	MAKUTANO GOLD- NAKALALE	24	42
7	MORU LINGARENGAN-NAKALALE	7	10
8	LOKORE	5	9
9	KAMOTOGAI- LOKORE	3	9
10	KAKUMA	127	232
11	LEGIO MARIA VILLAGE-KAKUMA	23	38
12	NABEK VILLAGE	5	15
13	NAKOIYO VILLAGE	2	12
14	KALOBIEYEI	56	135
15	NAWATOM VILLAGE /KALOBIEYEI	8	27
16	NAKURURUM- LOKICHOGIO	38	46
17	SONGOT- POSTA	77	137
18	LAMIDAT VILLAGE - SONGOT LOCATION	23	35
19	LOKICHOGIO TOWN	104	228
<b>TOTAL NO. OF STRUCTURES</b>			<b>1099</b>

### Summary of Census Data

Activity	Results
<b>Proposed Rehab. of Lodwar-Lokichogio-Nakodok Rd (A1) Specifications</b>	
Length of Road	240 km
Road Wayleave	60 m
<b>PAP Population</b>	<b>6,227</b>
Adults	2,504
Children	3,723
<b>Special Groups of Persons</b>	<b>96</b>
Widow	55
Widower	3
Orphans	21
Physically Challenged	14
Sick	3
<b>Category of Project PAHs</b>	<b>1,143</b>
Private Individuals	1,043
Government	17
Churches	18
Private Companies	14
Self Help Groups	16
NGOs	3
School/College	5
Community Land	1
Unknown	26
<b>No. of PAHs / Affected Property</b>	<b>1,143</b>
Land Only	194
Structures Only	85
Business Only	359

Land & Structures	289
Land & Trees	8
Land, Structures & Business	78
Land, Structures & Trees	42
Others	88
<b>Land and Structures</b>	
Number of Individual Land Parcels	605
Size of Government Land to be acquired (Acres)	2,457
<i>Government Land</i>	2,338
<i>Individual Land</i>	120
Number of Structures	1,099
<b>Affected Trees</b>	
Number of PAPs	66
Number of Trees	723

### **INCOME RESTORATION**

The objective of Resettlement Plan income restoration (IR) activities is to ensure that no project-affected persons are worse off than they were before implementation of this project. Restoration of pre-project levels of income is an important part of rehabilitating individuals, households and socio-economic and cultural systems of the affected communities.

There shall be two main types of income restoration, namely Land Based (arising from land acquisition to provide a 60m wide road corridor) and Non-Land Based (arising from loss of building structures, other properties and businesses).

Majority of the affected PAPs derive their livelihoods from business that will be negatively affected through relocation of businesses as well as disturbances during road construction and straining of social facilities. The proposed strategies for livelihood restoration in case of Lodwar – Lokichogio – Nadapal road project therefore will include expanding the existing social facilities to accommodate the increased population, resource utilisation before road clearance and employment of the PAPs with special reference to the vulnerable populations including the poor, sick, orphaned and female headed households as well as the physically challenged persons.

Other strategies will include business support revolving funds and trainings in entrepreneurship and ensuring full and timely compensation.

#### ***Land Based Income Restoration***

The best option recognized for sustainable income restoration is land for land. This option will only be considered when a PAP is losing a significant portion of their land or the entire parcel of land. At the various town centres, the road project will affect a larger part of the commercial plots hence it would be appropriate to compensate the whole parcel of land since the remaining portion of land will be relatively small.

#### ***Non-Land Based Income Restoration***

The non-land based income activities include wholesalers, retail traders selling grocery, tailoring, cyber cafes, restaurants, motor cycle repair which take place at town centres. These will be affected since the commercial buildings where they are operating from will be brought down to allow for improvement of the road hence they will need to be resettled elsewhere to continue earning a living from their commercial activities.

### **Source of Income Restoration**

The sources of income and land details of the PAPs who shall be affected by land acquisition include commercial traders (retail shops, tailoring, motor bike repairs), service providers (cyber cafes, restaurant services, bookshop etc.), pastoralists and persons in formal employment. Those having source of income from commercial activities and service provision are located at the towns and centres along the route. These commercial activities that will be affected by the proposed road project will require income restoration.

However, it is anticipated that through employment of locals to provide skilled and unskilled labour, some source of income will be generated hence improving the livelihood of the affected persons and local population.

### **Entitlement Matrix**

The Entitlement Matrix outlines the types of acquisition-caused losses (land and structures)

#### **Land**

- For the Community Land, KeNHA shall compensate the County Government for the affected land at the current market rates for land in the local areas.
- For squatters residing in the Community Land, KeNHA shall arrange for the resettlement of affected persons within the Community Land areas away from the way leave. The squatters consulted expressed their wish to be resettled in the neighbourhood of their current residence. Since there is plenty of open community land in their neighbourhood, their wishes could be easily fulfilled;
- For commercial land (plots) located along the project route, KeNHA shall pay compensation at the current market rate. Since the land parcels located at the towns or market centres are small, KeNHA may be compelled to acquire all of the affected plots since the remaining portions of land may not be commercially viable.
- The cost of land varies across the various rural areas and town centres traversed by the road as provided in **Annex 2**. Therefore KeNHA shall compensate for all affected land using the rates provided.

#### **Structures**

- For structures located on the Community Land and belonging to squatters compensation shall be paid using current market rate for putting up similar structures;
- For commercial structures affected by the project, compensation shall be paid using the current market rate for putting up similar structures.

#### **Trees**

There are trees scattered along the entire route and within the road ROW corridor. The trees within the road RoW is composed of a variety of acacia species, Kooboo Berry, Prosopis Juliflora (Mathege), Neem Tree, and Doum Palm. The trees have been valued using guidelines from Kenya Forest Service.

#### **Disruption of Business**

- There will be loss of business for those located within the project affected towns and commercial centres
- Compensation for disruption of business has been arrived at by considering the net monthly income of the business over period of six months after which the business is expected to be relocated and set up. This is expected to cushion the affected persons from disruption of earnings from their businesses.

### **The Market Value of land taken**

Comparable sales method has been adopted for valuing the affected land. This is based on the open market comparison of the land with what other similar parcels of land are currently selling in the area. The comparability of the land is based on the use, location, site conditions and income related factors. The market-comparison method is ideal for establishing values of real estate and other goods in a competitive economy.

The most critical aspect of the comparative sales method is what constitutes comparability. This is usually in respect of properties, comparability of transactions and market conditions. Each of these aspects has to be thoroughly analysed to obtain an ideal rate. However non-homogeneity of real estate, the imperfections in its market structure, inadequate sales' data and falsified data on the recorded sale transactions and "change of directors" when a sale transaction has occurred are some of the principal factors which limit the application of the method. Where part of the property is acquired we have also taken into account to damage to the remainder of the property. This is for cases where the physical taking of part of the land reduces the value of the remainder by making it less convenient for some particular purpose. This form of loss is called damage by severance. This is because after severance the highest achievable use cannot be realized.

### **Structures**

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

It should be noted that the structures have not been valued at market value because replacement cost is not synonymous with value.

The main purpose of valuing the structures for compensation is to reinstate the owner to build similar structures on another site.

### **Trees**

The trees were valued based on compensation schedules prepared by the Kenya Forest Service for various species depending on age and its future potential. The consultant also took into account the extent of utilization, type of species, quality of logs, diameter of the logs and quality of the log. The trees that were physically assessed were those mainly in settlement areas covering about 38 kilometers, which may account for approximately 15% of the whole stretch of 240 kilometers.

### **Cemetries in Lodwar and Kakuma**

The valuation methodology for relocation of the cemetries is the replacement cost and market comparison approaches. Attributes taken into consideration is the costs of exhuming the bodies, new coffins, refilling old graves, transport of bodies to new grave-yard site, excavation of new graves and refilling and miscellaneous items like materials to bind the bodies. Cultural attachment either by the community or individually to the cemetries and graves cannot be quantified in any monetary value. The new cemetery sites will be allocated by the Turkana County Government.

### **Boreholes**

The methodology we have used in valuation for the borehole is the replacement cost approach where depreciation has not been taken into account. It is expected the project will set aside funds as per our valuation to drill the borehole in a location convenient to the affected community and

in consultations with the relevant professionals in the Kenya Government in order to restore flow of water to the community without any major disruptions.

### Compensation for disturbance and other losses

In the valuation, the consultant has also taken into account losses not directly based on the value of interest on the land. Such losses normally arise as a result of the service of the notice to acquire the land and such loss must be capable of assessment at the date of the notice of intention to acquire the land. Very speculative losses have been ignored.

These losses include:

- Cost of removal, of lost assets;
- Expenses incidental to removal of loose assets;
- Fixtures

### Guidance on Valuation Determination

All structures affected were valued on replacement cost approach. The market rate was only applied to loss of rent for the period of reinstatement of the commercial buildings, which is based on the open market rent achievable in the market. **Table C** provides valuation implementation process.

**Table C: RAP Valuation Process for Assets**

Nr	Assets/Activities	Implementation Process
1.	Acquired land with structures	<p><b>Steps:</b></p> <ul style="list-style-type: none"> <li>• A detailed inventory of all affected persons, assets and stock requiring resettlement was made.</li> <li>• Determination of the size of affected land that will be acquired.</li> <li>• Accurate and real valuation of commercial and residential houses.</li> <li>• Determine compensation packages according to valuation requirements .</li> <li>• Provision of reasonable time period prior to moving, for salvage of building materials. PAP's may salvage any material without this being deducted from compensation entitlements.</li> <li>• Provide temporary housing/shelter where necessary.</li> </ul> <p><b>Recommendations:</b></p> <ul style="list-style-type: none"> <li>• KeNHA shall pay compensation for acquired land, lost housing/ commercial structures and Trees.</li> <li>• KeNHA to assist PAPs identify resettlement sites if necessary and provide assistance during relocation</li> <li>• PAPs are entitled to remove any materials he or she wishes to salvage within one month of vacating the old premises.</li> <li>• Land compensation based on the open market price comparison of the land to be valued with what other similar parcels of land are currently selling in the area taking into account the difference between them and those transacted on a willing- seller willing- purchaser basis.</li> </ul>
2.	Land without structures	<p><b>Inventory</b></p> <ul style="list-style-type: none"> <li>• Inventory of land parcels affected by project for acquisition including names, ID numbers, land sizes and land registration references.</li> </ul> <p><b>Compensation:</b></p> <ul style="list-style-type: none"> <li>• The RAP data sheets elaborates out how each person is affected by the project and indicates how much compensation will be paid for land and trees lost.</li> </ul>
3.	Lost business profits and employee earnings	Where business profits are affected compensation will be paid according to valuation results of the enterprise monthly income computed over a period of six months which is deemed as the period required for reinstatement of lost income.
4.	Trees	<b>Trees</b>

Nr	Assets/Activities	Implementation Process
		There are no crops identified on the wayleave area during the survey. The project area has very infertile soil and harsh climate to support any crop farming. The trees were valued based on compensation schedules prepared by the Kenya Forest Service for various species depending on age and its future potential. The Consultant also took into account the extent of utilization, type of species, quality of logs, diameter of the logs and quality of the log. The trees that were physically assessed were those mainly in settlement areas covering about 38 kilometers which may account for approximately 15% of the whole stretch of 240 kilometers.
5.	Payments to the PAPs	Payments for acquired land, lost structures, trees and loss of business shall be made either through banks transfers into PAPs accounts or by issuance of cheques in favour of individual PAPs and distributed through the local chief's office.

### **Total RAP Cost Estimate**

Taking into account all factors, it is our opinion that compensation for land, structures, loss of business and trees to be affected during the Proposed Rehabilitation of Lodwar-Lokichogio-Nakodok Road (A1) and free from all encumbrances is KShs. 1,427,092,036 (Kenya Shillings One Billion Four Hundred Twenty Seven Million Ninety Two Thousand and Thrity Six Only) broken down as given in **Table D**. A 15% disturbance allowance for all affected land and structures has been included. The project may finance supporting infrastructure and resettlement activities. KenHA will finance the purchase of land and/or cash compensation.

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

No.	Property	Total Amount (KShs)	
<b>1</b>	<b>Land</b>	<b>451,727,365</b>	
	Government Land	268,821,815	
	Individual Land	182,905,550	
<b>2</b>	<b>Structures</b>	<b>493,278,105</b>	
<b>3</b>	<b>Loss of Business</b>	<b>286,780,698</b>	
<b>4</b>	<b>Trees</b>	<b>33,910,000</b>	
<b>5</b>	<b>Re-location of Graveyards/ Cemeteries</b>	<b>161,395,868</b>	
	<b>Grand-Total (KShs)</b>	<b>1,427,092,036</b>	

The budget should however be set higher than this to cover for other contingencies. In addition, there may be price variations occurring between the date of valuation and the time the actual compensation is paid out.

### **COMMUNITY CONSULTATION**

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

- i. 7 Community meetings were held at the various points along the existing Lodwar-Lokichogio-Nakodok road

**Table E: Community Consultation Meetings**

Nr	Dates	Administrative Location	Venue	No. of Participants
1.	Tue 2 <sup>nd</sup> Dec. 2014 at 10:30am	Lodwar Town	Mikeka Grounds. Lodwar Town	34

2.	Tue 2 <sup>nd</sup> Dec. 2014 at 2.00pm	Napelilim	Nasiger Village Centre	220
3.	Wed 3 <sup>rd</sup> Dec. 2014 at 9:30am	Nakalale	Makutano Gold Centre	111
4.	Wed 3 <sup>rd</sup> Dec.2014 at 2:30pm	Kakuma	Baraza Park, Kakuma Town	82
5.	Thurs 4 <sup>th</sup> Dec 2014 at 9:30am	Kalobiyei	Kalobiyei Village Centre	184
6.	Thurs 4 <sup>th</sup> Dec 2014 at 2.00pm	Songot	Songot Chief's Office Compound	132
7.	Fri 5 <sup>th</sup> Dec. 2014 at 10.00am	Lokichogio	Anglican Church Grounds, Lokichogio Town	149
				<b>912</b>

- ii. There were oral interviews with PAPs, collection of household information and filling in of household questionnaires during the census survey.
- iii. Community consultation meetings were held to achieve the following:
  - To brief project affected persons and interested parties on the various aspects of the proposed project positive and negative impacts.
  - Validation of the cut-off date.

### ***Invitations for Community Consultation Meetings***

The PAP community members, NGOs and key stakeholders were invited to attend the Community Consultation Meetings via direct phone calls where possible and through the Assistant Chief and Chiefs Offices where public announcements were made at churches, previous barazas and mosques.

Participants overall expressed support for the project citing the positive development in the area that the project will bring and enhance their livelihoods and businesses. However they stressed that affected persons should be promptly and adequately compensated and there should be wide consultations at all stages of project implementation so as to address community concerns and expectations.

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

The issues raised during all the meetings were noted to be cross cutting. They include the following:

**Table F: Community Consultation Meetings**

–	– Issues raised by PAPs in consultations	– Response and /or proposed Mitigation Measure in RAP
1.	– PAPs wished to know the plans that are in place to compensate the affected persons for their properties. They desired that sufficient time will be given to all the PAPs to relocate elsewhere once they are compensated and not to be hurried out of their current homes and business premises.	– All affected persons or community affected by the project shall be involved and consulted before the commencement of road construction. Compensation will cover all affected property and shall be paid prior to road construction and PAPs given sufficient time to relocate.
2.	– They wished the recruitment process for available job opportunities be more transparent so that not only the people who are closely connected to the chief and other local leaders benefit but all qualified and	– It will be the obligation of the KeNHA and their Contractor awarded the contract to construct the road to consult with community leaders in identifying the candidates suitable for available employment opportunities.



	able locals should be given equal employment opportunity in the project	
3.	– There was a proposal that the proponent should consider constructing bypass on the outskirts of Lodwar, Kakuma and Lokichogio towns to ensure that huge transit vehicles especially trailers, trucks should not pass through the towns causing congestion and traffic jams as the population of the towns grows	– The community leaders should liaise with the county government and other relevant authorities to plan and construct a bypass as the current road design does not include a bypass.
4.	– There was concern on whether there could be bridges constructed over the river valleys to replace the laggas and drifts which have occasionally been flooded and destroyed during the heavy rain seasons making the roads impassable at the river crossings.	– The design for the proposed rehabilitation of the road have provided for bridges at all the river crossings hence modern bridges will be constructed at all the necessary areas as per the design.
5.	– Some community members were pessimistic on the realization of the project and its benefit to the local community saying that there has been too much talk and endless promises they claim have been done by various leaders at various forums on the rehabilitation of the road but no tangible work has been done on the road.	– Since the project designs are ready and there are donors willing to fund the construction of the road, the construction works will start as soon as RAP is ready and approved, PAPs have been paid their compensation packages and relocated to other areas to clear the way leave area for the road construction.
6.	– Concern was also raised over the risk that the rehabilitated road might pose to livestock and local community as they cross it or to those who might be living near the road. The local participants were eager to know what the design had provided for to curb possible accidents. They proposed that the road contractor should erect bumps at the town centres and other areas where animals cross. They also recommended the use of proper road signage to inform the road users and especially the drivers. –	– The road engineers have designed a mechanism to curb road accidents by e.g. providing for bumps and proper road signs in their design where animals cross the road and at the towns and shopping centres where human traffic is high and people likely to be crossing from one side of the road to the other. Speed limit shall be set for vehicles entering and leaving the towns. Speed bumps will also be established to slow down over-speeding vehicles in the towns. – However, it will be upon the community and individual owners to take care of their grazing animals as they do it is currently to ensure they cross the road at the required places and avoid being hit by vehicles along the road.
7.	– Community members did not know the size of the road reserve and most of their plots/lands had no registered documents. They were therefore concern whether they will be compensated without the legal documents to prove ownership of land –	– Details and information of ownership of land are with the chiefs, clan elders and village men, they will help the RAP team in identifying people who have been allocated land and plots on the wayleave and are currently claiming this land – The affected will be required to relocate to another area outside the required way leave area. If the structure belong to the individual PAPs, she/he will be compensated for them. – KeNHA should clearly mark the wayleave as a means of communicating with the local community on the extent of their way leave and hence anybody claiming land

		within the way leave area should ask the County government to allocate them land elsewhere away from the way leave
8.	– Concern was expressed over the possibility of the road project affecting graves within the proposed road corridor and what will be done to them during the road construction. The community expressed fear over the possibility of the graves being moved citing that it was a taboo to move the dead from their graves as the family which does this would be outcast from society as is would be alleged to be practicing witchcraft. Secondly, the Turkana community does not bury their dead in coffins hence moving the graves would be more difficult when the body is not in a coffin.	– The whole grave will be excavated and there will be an agreement with the community and concern family on where the body will be re-buried to avoid the road having too many turns in an attempt to avoid every grave on its corridor.
9.	– The participants were concern about cutting down of acacia trees, which are on the proposed way leave. They said that besides being of use as shades for the people and their livestock during the hot seasons, some of the very large ones offer shelter and shade where community meetings are held hence having sentimental values to the community. Secondly, these acacia trees produce pods which are used as food for both humans and animals especially during the dry season.	– The trees along the road corridor will have to be uprooted if necessary especially if on the carriage way of the proposed road and trees of the same or similar type be replanted after the completion of the road project for the pastoralist farmers who depend on their leaves for their livestock food and others use the pods produced by these trees for human and livestock food.
10.	– The PAPs wanted to know what will happen if the road affects water sources e.g. boreholes and other public social amenities	– All affected persons or community have been sensitized and consulted on what the road project entails and this process shall continue throughout the implementation of the resettlement activities and the project. The Consultation will include the possible areas where alternative public facilities such as the boreholes would located to ensure continued convenience to the communities
11.	– The PAPs wanted to know if government assumes ownership of affected property after they have been paid their compensation packages or they can be allowed to demolish and move them to their new locations	– The government does not take nor possess any property/ structure after compensation. The PAPs are allowed to demolish and/ or move the affected property at their own cost and in the process save any reusable materials such as doors and windows. The government would result to demolishing such affected property only in the event that the PAP refuses or delays in removing them within the stipulated time
12.	– They also wanted to know if compensation packages will be paid directly into individual PAPs bank accounts or shall be paid through their leaders nor their proxies.	– Property valuation will be done by the Consultant Valuer and thereafter compensation packages will be paid to individual PAPs directly into their bank accounts or issued with crossed cheques payable to the individual PAPs and not to their leaders nor their proxies.

## **INSTITUTIONAL ARRANGEMENTS FOR RAP IMPLEMENTATION**

The overall responsibility of compensation and resettlement rests with the project sponsor, the Government of Kenya through KeNHA. The Ministry of Lands, notably the Government Valuer, is a key player whose responsibilities will be guiding the valuation and ascertaining the compensation rates. The National Land Commission in collaboration with the County Land Board, and Land Tribunal will closely participate in the RAP process and ensure timely execution of the whole process of compensation.

### ***The RAP Implementation Committee***

Effective implementation of the RAP will require an implementation committee. This committee shall have representatives from the Local Administration, Community Leaders, Ministry of Lands, Housing and Urban Development, KFS and KeNHA.

The RAP Committee shall have the responsibility of implementing and managing the Resettlement Plan, coordinating the resettlement activities and providing technical support. Project implementation support will be provided by various agencies at the National, County and Village levels. These include officers from KeNHA with various key disciplines, Government representatives from the Ministry of Lands, Housing and Urban Development, Kenya Forest Service, NGOs concern with social welfare, local administrative officers such as the County Commissioner and his Deputy, Chiefs and their Assistants, Village leaders and PAP representatives

### ***RAP Implementation Schedule***

As per the Lands Act 2012, no works are to commence before compensation has been paid, displaced persons are resettled and the land acquired. Additional assistance should be provided to the affected population in accordance with the RAP before, during and after the works are carried out.

The RAP Implementation schedule shall entail the following activities:

- Public consultation and awareness campaign with the PAPs (throughout project phases)
- Carry out verification of the RAP for the entire road, socio-economic assessment of the PAPs and identification of affected land and structures and other physical features requiring evaluation (month 1-2)
- Acquisition of land for the proposed road upgrade to bitumen standard (month 2-4)
- Putting together the required machinery, legal and educational processes, training of resettlement staff (month 5)
- Compensation and Resettlement of PAPs. Sourcing for appropriate resettlement sites for displaced persons in consultation with affected persons and other relevant key stakeholders and project area provincial administration (month 6-9)
- Detailed road route site surveys and marking out the boundaries (Month 6-9)
- Clearing of site area & construction of the road (month 7-20)
- Monitoring and Evaluation of resettlement of PAPs especially vulnerable groups like women, children and disabled (Month 3 – month 20)

### ***Grievance Redress***

The RAP provides for a formalized grievance redress mechanism to help reduce any complaints and grievances by the PAPs and to enhance the acceptance of rehabilitation and resettlement program through people's participation and support. Grievance redress mechanisms are necessary avenues for allowing project-affected persons to voice concerns about the resettlement

and compensation process as they arise and, if necessary, for corrective action to be taken promptly. All efforts should be made to reduce unnecessary litigation by resolving disputes through mediation, negotiation and compromise in a congenial, fair and impartial setting. In cases where the litigation reaches the courts, the Honourable Court will be requested to expedite and resolve any litigation related to acquisition and/or compensation in the best interests of the project and the people.

During the resettlement process, all disputes will be referred to KeNHA (KRU) who may handle the grievance straight away or refer it to the PAP committee who will be asked to provide recommendations as to how it is to be addressed. If deemed necessary by the PAP committee the case will be re-investigated and depending on the nature of the issue, referred to the Land Compensation Tribunal or Public Complaints Committee. The Project Affected Persons Committees will be established at the affected market or village level and will be moderated by the elected chairman. The PAPs will elect a committee of not more than five members amongst themselves including a Chairperson and a Secretary. The committees should at minimum have 20% women and 20% youth representative to make it gender sensitive. Like most communities in Kenya, the Turkana people resolve local disputes through a local mechanism where the complainant reports the matter to the village elder in charge of his village. The leader listens and considers the elements of the matter and brings the warring parties together towards making them reach an agreement. If no agreement is achieved between the warring parties or the matter is beyond the mandate of the village elder, he escalates it to the higher offices of the assistant chief or the chief respectively. Therefore, consultation and grievance redress will be an ongoing process until proper resettlement is achieved.

## **KEY FINDINGS**

The entire road project is in Turkana County from Lodwar to the Kenya/ South Sudan border;

- Displacement of persons will mainly occur at various town centres along the road;
- The local community, stakeholders and PAPs showed significant support the project
- Project affected persons at town centres expressed concern over the significant number of commercial buildings that are affected
- Project affected persons expressed concern on the transparency of the valuation and compensation to project displaced persons.
- The community awareness of the proposed project is rated very high with many expectant of the gains that will accompany its implementation while others were pessimistic due to endless promises that they claim have been made at various forums in the past on the rehabilitation of the road.

## **Wishes of the PAPs**

- All PAPs are willing to be moved however full compensation must be guaranteed.
- Majority of the PAPs who have to be resettled would wish to be settled close to where their present habitat is located.
- The PAPs are a mix of locals and immigrant from other counties for business purposes.

## **Land Tenure**

Majority of the land in the project area is community land with the process of adjudication on going and some individual/private organisation landowners either have land titles or are in the process of obtaining them.

## **CONCLUSIONS**

The proposed rehabilitation of Lodwar-Lokichogio-Nakodok Road (A1) is a viable project that will benefit the community by improving transportation of people and goods, security, enhanced access to the northern areas of Kenya and increase in trade and economic activities in the region. The proposed project will create displacement of persons, loss of livelihood and some interference with resources and sensitive receptors during construction, however there are many short and long-term benefits that will arise from the proposed project.

Where displacement or impact is unavoidable, appropriate mitigation measures will be put in place to reduce to a minimum or eliminate any undesirable effects of the project. Majority of project affected persons are commercial entrepreneurs and some are pastoralists.

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

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

## **RECOMMENDATIONS**

1. The Proposed Rehabilitation of Lodwar-Lokichogio-Nakodok Road (A1) project is viable, important for the local community and NGOs providing humanitarian assistance to populations living in remote areas. However the study has established that there will be significant displacement of persons requiring compensation and resettlement.
2. KeNHA should ensure that all affected persons are consulted and resettlement options offered to those affected. The PAPs should be fully compensated in a timely manner. The identification and acquisition of land for resettlement should be done with due consideration of the wishes of the affected persons and support given after resettlement to ensure that the project does not leave them worse off.
3. All the project affected persons who will be displaced or relocated, should be informed in good time (given approximately 1 month to prepare themselves for relocation) and modalities of conducting resettlement counselling put in place.
4. Majority of the affected parcels of land in the town and market centres where the road is going to pass are small plots and therefore will cause displacement and also loss of commercial structures. It is therefore recommended that KeNHA negotiates for acquisition of the affected portions of land plus compensation for any structures that may be demolished during project implementation. Land will need to be acquired within the town area close to the current site.
5. Consideration should be done to move the truck parking areas from its current proposed areas. These parking areas have been proposed on the current cemetery areas within Lodwar & Kakuma towns. The local communities proposed that an alternative site be selected within these towns to avoid relocating the cemeteries as it is a taboo among the community to “disturb” the dead.