



**Kenya National Highways Authority**

*Quality Highways, Better Connections*

Barabara Plaza, Block A & C, Jomo Kenyatta International Airport (JKIA), Off Airport South Road, along Mazao Road,  
P.O Box 49712 - 00100 Nairobi, Tel 020 - 4954000 / 0700 423 606 Email dg@kenha.co.ke / Website www.kenha.co.ke

## **HORN OF AFRICA INITIATIVE: ISIOLO - MANDERA CORRIDOR**

### **ELWAK - RHAMU ROAD UPGRADING PROJECT**

#### **PROPOSED UPGRADING TO BITUMEN STANDARDS OF ELWAK-RHAMU ROAD SECTION 142 KM (A13)**



#### **EXECUTIVE SUMMARY FOR THE REVIEWED AND UPDATED RESETTLEMENT ACTION PLAN (RAP)**

**APRIL, 2021**

**TABLE OF CONTENTS**

**TABLE OF CONTENTS..... ii**

**LIST OF ACRONYMS / ABBREVIATIONS .....iii**

**DEFINITION OF TERMS ..... iv**

**EXECUTIVE SUMMARY..... viii**

**General Objectives of Monitoring .....xlviii**

**Monitoring Indicators .....xlviii**

## LIST OF ACRONYMS / ABBREVIATIONS

ACC	Assistant County Commissioner
ALDEF	Arid lands Development Forum
BCC	Behaviour Change Communication
CBO	Community Based Organization
CEC	County Executive Committee
CC	County Commissioner
DCC	Deputy County Commissioner
ECDE	Early Childhood Development & Education
ESIA	Environmental and Social Impact Assessment
FGD	Focus Group Discussion
GBV	Gender Based Violence
CGI	Corrugated Galvanized Iron
GRC	Grievance Redress Committee
GRM	Grievance Redress Mechanism
GoK	Government of Kenya
HIV / AIDS	Human immuno Virus / Acquired Immune Deficiency Syndrome
HH	Household
ICTA	Information and communication technology Authority
ID	Identity Card
IDA	International Development Assistance
IDP	Internally Displaced
IED	Improvised Explosive device
IFC	International finance Corporation
KDHS	Kenya demographic and health Survey
KeNHA	Kenya National Highways Authority
KII	Key informant Interview
KM	Kilometre
M & E	Monitoring & Evaluation
NASCOP	National Aids & STI Control Programme
NDMA	National Drought Management Agency
NER	Net Enrolment Ratio
NETIP	North Eastern Transport Improvement Programme
NGAO	National Government Administration Officer
NGO	Non-Governmental Organization

NLC	National Land Commission
NMK	National Museums of Kenya
OCS	Officer Commanding Station
OP	Operating Policy
OS	Operational Standards
OCPD	Officer Commanding Police Division
OVC	Orphaned and Vulnerable Children
PAP	Project Affected Person
PLWD	People Living With Disability
RAP	Resettlement Action Plan
RFP	Resettlement Policy Framework
RIU	Rap Implementation Unit
ROW	Right of Way
STI	Sexually Transmitted Infection
VIP	Ventilated Improved Pit
VMGs	Vulnerable and Marginalized Groups

## DEFINITION OF TERMS

**Census** means a field survey carried out to identify and determine the number of NETIP Road subproject Affected Persons (PAP) or Displaced Persons (DPs) as a result of land acquisition and related impacts. The census provides the basic information necessary for determining eligibility for compensation, resettlement and other measures emanating from consultations with affected communities and the local government institutions.

**Compensation** – Is the payment in kind, cash or other assets given in exchange for the loss suffered from acquisition of land on which fixed assets are situated as well as other impacts resulting from the road construction activities.

**Cut-off Date** - Means the date of commencement of the census and asset inventory of the affected persons. Persons entering and/or occupying land in the project area after this date, any asset not included in the inventory of PAPs will not be considered eligible for compensation or resettlement assistance. Similarly, fixed assets such as structures, crops/tress established after the cut-off date will not be compensated.

**Displaced Persons** – Refers to persons who, for reasons due to loss of their assets under the road construction project, will suffer direct economic and or social adverse impacts, regardless of whether or not the said Displaced Persons are physically relocated. These people may have their: standard of living adversely affected, whether or not the Displaced Person will move to another location; lose right, interest in any houses or any other fixed or movable assets acquired or possessed, lose access to productive assets or any means of livelihood.

**Disturbance allowance:** this is a support to the affected persons and affected households during their move. It is provided for under the Kenyan government legislation and has been considered under this RAP at 15 percent. This caters for the following:

- Transport assistance: a truck to transport their belongings to new sites.
- Moving allowance: to allow them to make small purchases to smooth the move process to their new houses. This is separate from any compensation payments for income lost until they restore their business or livelihood.

**Economic Displacement** where there is a loss of assets or access to assets that leads to loss of income sources or other means of livelihood as a result of project-related land acquisition or/and restrictions on land use.

**Entitlement** Refers to the range of measures comprising cash and / or in-kind compensation, rehabilitation assistance, transfer assistance, and relocation which are owing to livelihood restoration and/ or PAPs, depending on the type, degree and nature of their losses, to restore their social and economic situation.

**Encroachers** are those people who extend their infrastructure or other land-based activities into land that does not belong to them. Encroachers may have personal investment in structures or agricultural crops. They are entitled to compensation at replacement cost (or an equivalent amount of rehabilitation assistance) for these lost assets.

**Involuntary Land Acquisition** is the possession of land by government or other government agencies for compensation, for the purposes of a public NETIP sub project activities against the will of the landowner. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested customary rights.

**Land** refers to agricultural and/or non-agricultural land and any structures thereon whether temporary or permanent and which may be required for the NETIP sub project activities.

**Land acquisition** means the possession of or alienation of land, buildings or other assets thereon for purposes of the NETIP sub project activities in return for fair compensation.

**Project-affected Household (PAH)** – This refers to all members of a household, whether related or not, operating as a single economic unit, who are affected by a project.

**Project affected Person** - These are persons affected by assets' loss as a result of the road construction activities. These person(s) are affected because they may lose, be denied, or be restricted access to economic assets; lose shelter, income sources, or means of livelihood. These persons are affected whether or not they will move to another location.

**Physical displacement** – where there is loss of shelter and assets resulting from project-related acquisition of land and/or restrictions on land use that requires the affected persons to move to another location.

**Replacement cost for houses and other structures** – This means the market cost to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes.

**Resettlement** - This refers to the process by which those adversely affected by the road project are assisted in their efforts to improve, or at least to restore, their incomes and living standards.

**Resettlement Action Plan** - This refers to a time-bound plan or document with budget, setting out resettlement strategy, objectives, eligibility criteria, entitlements, actions, responsibilities, monitoring and evaluation prepared to mitigate adverse effects and provide development benefits to persons and communities affected by the road project.

**Resettlement Assistance** – This means the measures to ensure that the Affected Persons and Displaced Persons who may require to be physically relocated are provided with assistance during relocation, such as

moving allowances, consideration for jobs and 15% disturbance allowance whichever is feasible and as required, for ease of resettlement.

**Squatters** – This refers to members of the community who have settled on unoccupied area of land or building that they do not own, rent or otherwise has lawful permission to use.

**Vulnerable and Marginalized Groups** – This refers to communities that are disadvantaged due to unfair discrimination because of its relatively small population or otherwise, has been unable to fully develop its internal structures or resources to allow it to participate in the integrated social and economic life of the country as a whole. OS. 2 discusses vulnerable groups as those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.

**Vulnerable PAPs** means any people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement i.e.; (i) female-headed households with dependents; (ii) disabled household heads; (iii) poor households; (iv) landless elderly households with no means of support; (v) households without security of tenure; (vi) child headed household, (vii) households with people living with terminal illnesses or disability.

**Livelihood restoration** means the restoration of ‘a livelihood’ which can provide for the wellbeing of the family. This can include elements from the original livelihood and/or livelihood strategies. The provision of development assistance in addition to compensation such as credit facilities, training, job opportunities, economic opportunities, veterinary care and extension advice, support to animal producer groups with micro credit through third-party providers, abattoirs for storage and marketing of animals to enable them get better prices for their animals.

**Livelihood restoration strategy** for this project adopts abroad concept of both income replacement (cash and in kind) and social development processes (health, education and social cohesion) which enable project affected persons and households to maintain their standard of living in the context of a changing social and economic environment.

## EXECUTIVE SUMMARY

### Compensation Summary Sheet

#	Variables	Data
<b>A. General</b>		
<b>HORN OF AFRICA INITIATIVE: ISIOLO- MANDERA CORRIDOR</b>		
<b>ELWAK- RHAMU ROAD UPGRADING PROJECT</b>		
1	COUNTY:	Mandera
2	SUB COUNTY	Mandera Central Lafey Mandera North.
4	Activity(ies) that trigger resettlement	<ul style="list-style-type: none"> <li>- Reclamation of ROW</li> <li>- Displacement of Traders</li> <li>- Relocation of Utilities</li> <li>- Material Sites</li> </ul>
5	Project overall cost	
6	Overall resettlement cost	Ksh 577,500,575.90
7	Applied cut-off date (s)	For 20 settlements 9/8/2019 For 3 settlements 9/4/2018 Taking the last date. Some settlements have a day or two earlier
8	Dates of consultation with the people affected by the project (PAP)	In 2019 (From 23 <sup>rd</sup> July 2019 to 10 <sup>th</sup> August 2019)  15 <sup>th</sup> -27 <sup>th</sup> March 2021
9	Dates of the negotiations of the compensation rates / prices	Final negotiation to be done by NLC
<b>B. Specific information</b>		
10	Number of people affected by the project (PAP)	2100 ( of whom 1055 propertied)
11	Number of Physically displaced	380
12	Number of economically displaced	775
13	Number of affected households	450
14	Number of females affected	
15	Number of vulnerable affected	41
16	Number of major PAP	1055
17	Number of Minor PAPS	945
18	Number of total right-owners and beneficiaries	-
19	Number of households losing their shelters	
20	Total area of lost arable/productive lands (ha)	NA
21	Number of households losing their crops and/or revenues	-
22	Total areas of farmlands lost (ha)	-
23	Estimation of agricultural revenue lost (USD)	
24	Number of building to demolish totally	-
25	Number of building to demolish totally at 50%	-



26	Number of building to demolish totally at 25%	
27	Number of tree-crops lost	
28	Number of commercial kiosks to demolish	-
29	Number of ambulant/street sailors affected	
30	Number of community-level service infrastructures disrupted or dismantled	9
31	Number of households whose livelihood restoration is at risk	442

## 1. PROJECT DESCRIPTION

The Horn of Africa Initiative: Isiolo-Mandera project comprises of three key components:

- Component 1: Upgrading Selected Critical Road Infrastructure and associated roadside amenities.
- Component 2: Institutional Development and Project Monitoring and Management
- Component 3: Enhancing Internet Connectivity.

The Project activities for the Elwak-Rhamu (142) Km road project entails improving the existing road to bitumen standards under component one (1) described above. The main activities in bituminizing the road will involve excavation and earthworks, paving construction and laying of surface and sub base. A large part of the road alignment (**over 75%**) is largely unsettled and has adequate space to accommodate the required 60 M corridor. The design and ESIA and Social Assessment reports describe other facilities to be constructed such as lay- bays, bus-bays, and widening at market centres along the road. However, at the time of RAP study, the specific sites for the additional facilities has not been delineated. Other associated activities will include erecting of workers camps and borrow material excavation. These will be established in areas away from community settlements and thus do not have any direct resettlement impacts. Any other ancillary facilities whose specific locations are unknown at the moment of preparation of this RAP will be subjected to separate RAPs as per the RPF developed for the project.

### Project Location

The project is located in the North-Eastern region of Kenya. The entire road corridor traverses Mandera County. The proposed road project starts at Elwak Town and proceeds in a northerly direction to Wargadud, Sukelatifa before taking a North Easterly course through Gari Hill, Bambo, Jabi Ber, Shagalla, Towfiq onto Rhamu all within Mandera County. Administratively, the road project traverses three sub-counties: Mandera Central Sub County, Lafey Sub County and Mandera North Sub County.

### Project Justification

The Constitution of Kenya (2010) guarantees all citizens and regions in the Country the right to equal access to services and infrastructure. Northern Kenya has experienced marginalization resulting in poor road conditions which cut off the region from the other parts of the country especially during the rainy season. The inherent remoteness and poor access to services, markets for both livestock and other commodities, compounded by the

arid environment has exacerbated poverty levels in the region and hindered the efforts of both levels of Government to improve the livelihoods of the local populace.

Development of roads improves the wellbeing of the citizens through increased access to markets and other basic services. Transport and telecommunication systems are critical determinants of the physical costs of accessing markets. Thus, poor infrastructure network restricts the development of input and product markets and region at large. Furthermore, improved security will be realized in the region as attested to by local inhabitants during the stakeholder engagements where it was pointed out that the areas between Bambo settlement (Lafey Sub County) and Mubarak centre are known to be the movement corridors used by the Somali based Al-Shabaab insurgents. In the wider project area, there have been incidents of attacks and kidnapping of foreigners. It is also common for Improvised Explosive Devices (IEDs) to be planted on the current road shoulders thus having maximum impacts on vehicles using the road.

Both the security and local and international humanitarian agencies have difficulties to respond to emergencies in the area due to the poor state of the road. The proposed project will, therefore, enhance development efforts by the County and National Government in promoting equity and poverty eradication. The improvement of the international road to a class A13 standard will promote the economic corridor serving Kenya and other neighbouring countries and consequently lead to improved transit transport efficiency, promotion of regional trade and investment and facilitate closer integration of the economies of the countries involved

## **2. RAP OBJECTIVES**

### **Background**

This document is an updated Resettlement Action Plan (RAP) Study report for the proposed upgrading to class A bitumen standards of Elwak-Sukelatifa-Rhamu road section 142 km (A13) road. The road is proposed for funding by the African Development Bank (AfDB) packaged under Horn Of Africa Initiative: Isiolo - Mandera Corridor: Elwak - Rhamu Road Upgrading Project) which was initially designed under North-Eastern Transport Improvement Project (NETIP) supported in the design by the International Development Association (IDA). The Elwak-Sukelatifa-Rhamu road project, as part of the Isiolo Mandera Corridor is aimed at stimulating the development and integration of the region to the rest of the Country and the neighboring States of Ethiopia, Somalia and beyond.

This report is an update and review of the RAP done by GIBB Africa Limited for Elwak-Rhamu (Mandera) section finalized in October 2020 based on the category B classification. However, there was reclassification of the road project as a Category 'A' project, due to its significant adverse environmental and social impacts. This, therefore, necessitated the review and updating of the initial RAP by an independent consultant, following the requirements of Category A project, and in a manner consistent with AfDB Operational Standards, relevant laws and regulations of the Government of Kenya (GoK), and KeNHA Environmental policy requirements.

## **Need for Review and Update of the RAP**

The reasons for review arose from the reclassification of the road as a category A project. The updating was necessary since the project is likely to have significant adverse environmental and social impacts that are sensitive, diverse or unprecedented. Relevant and specific to the resettlement are potential occupational health and safety, community health and safety risks and impacts during construction, labour influx and land acquisition and resettlement impacts. Additionally, these impacts are generally large scale, irreversible, cumulative and may affect an area broader than the present twenty-three (23) settlement sites located along the road corridor. Project preparation, therefore requires a sustained and intense stakeholder engagement process during the design and RAP preparation and throughout project implementation. The review and update is to be carried out in a manner consistent to AfDB safeguard policies and procedures, relevant laws and regulations of the Government of Kenya (GoK), and KeNHA Environmental policy requirements under which the sub – project is financed.

## **The objectives and scope of the RAP Review**

The objectives of the RAP Review and update are:

- i. To review the existing draft RAP reports and the process through which they were prepared in terms of their completeness, consistency and compliance with AfDB's Integrated Safeguards System and its Operational Safeguard 2 on involuntary resettlement, land acquisition, population displacement and compensation.
- ii. To undertake the necessary activities to complete, rectify and address any gaps in existing RAP Report and the process through which they were prepared, including additional survey, consultation and coordination with the project design and other teams.
- iii. To revise and update the RAP Reports in the form and substance that is consistent and compliant with the AfDB OS. 2

## **Structure of the RAP Report**

The report is comprised of the following major sections: Executive Summary, Introduction, Project Description, Minimizing Resettlement, Profile, Socio - Economic Survey of Project Area & Census of Project affected Persons, Policy and Legal Framework, Participation and Consultation, Eligibility Criteria, Project Impacts and Entitlement Matrix, Valuation Criteria, Livelihoods & Income Restoration, Grievance Redress Mechanism, Implementation Schedule, Monitoring and Evaluation, Implementation Schedule, Rap Costs & Budget, References and Annexes.

### **3. PROFILE, SOCIO-ECONOMIC SURVEY OF PROJECT AREA AND CENSUS OF PROJECT AFFECTED PERSONS**

#### **Vulnerable and Marginalized Groups**

The entire project traverses Mandera County located in the North-Eastern part of Kenya. The project area has the presence of pastoralist communities that meets the criteria in the constitution of Kenya under vulnerable and marginalized groups. A Social Assessment (SA) is in place and it has incorporated Free, Prior and Informed Consultations (FPIC) with Vulnerable and Marginalized Groups (VMGs) led to broad community support for the project. The SA analysed VMGs social issues, establish project impacts, mitigation measures and FPIC that informed the design of the project. The recommendations of the SA once implemented will enable the project to be responsive to social development concerns, including seeking to enhance benefits for vulnerable and marginalized groups, while minimizing or mitigating risk and adverse impacts. It analyses distributional impacts of intended project benefits on VMGs and identifies differences in assets and capabilities to access the project benefits. Impact identified to the VMGs included loss of livelihoods and grazing lands.

Mandera County is inhabited predominantly by the Garre, Murulle, Degodia and Somali who are the marginalized and vulnerable groups found along the project corridor. The Garre and Somali who are among the VMGs identified by the SA are the dominant ethnic group in Mandera county found in the stretch from Elwak to Sukelatifa trading centres along the project corridor. The Murulle and Degodia are the dominant ethnic groups in Lafey and Mandera North sub counties where the remaining section of the road traverses. These ethnic groups are part of Northern Kenya population classified as marginalized according to the Constitution of Kenya, which also categorizes the county as marginalized.

#### **Census of Project Affected People (PAPs)**

The census was carried out to document the current occupants of the Project Affected People (PAPs) within the road RoW in all the Twenty-three (23) settlements. The data is important as it will form the basis for future RAP decision making regarding eligibility for compensation and resettlement assistance.

#### **Socio-Economic Survey of Project Affected Area**

A survey to determine the Socio-economic and Cultural characteristics of the potential PAPs was conducted between 18<sup>th</sup> March 2021 and 14<sup>th</sup> April 2021 to obtain primary data to serve as the baseline for designing the resettlement program. The survey adopted the entire population (100%) for administration of the household questionnaire. This was possible because of the concentrated nature of settlement of households within the study area making it convenient for the RAP study team to conduct the survey alongside other activities including the Household census and property valuation.

## Major Conclusions from the Socio-Economic Study

- ✓ There are 1055 Project Affected People in total.
- ✓ The PAPs were willing to move away from the road reserve to allow for the construction of the road. However, they emphasized on the need to be paid compensation first and be given notice to relocate to avoid loss of livelihood and conflicts between the project and the community.
- ✓ Majority of the residents within and in the vicinity of the project RoW are Somali of the Degodia and Garre Clan. Among the household heads and business owners, there were several non-local tenants, both House-hold and business owners. The House-hold tenants occurred in Rhamu Town and Wargadud Settlement and were teachers who were away during the enumeration period as school was on recess/holiday season. The business tenants also occurred in Wargadud and Rhamu settlements and owned small food kiosks, hair salons, retail clothes shops and a bicycle repair business.
- ✓ The land tenure system in the project area is predominantly Community Land held in trust by the County government of Mandera. Of all the PAPs in the area, Rhamu had several individuals claiming to be private land owners, some of the individuals had land titles/ documents as proof of land ownership. All the others especially in Gari, Wargadud and Rhamu settlement had receipts to prove payment of land rates. Few were up to date, while most were not and had not paid land rates for over a long period of time. The documents availed to the RAP team ranged from certificates of land ownership issued by the Mandera County Government, plot allocation letters from Mandera County Government, and receipts for payment of land rates to Mandera County Council (replaced by the county government). With this review all issues have been pegged on AfDB OS 2.
- ✓ On further consultations with the Mandera County Surveyor, it emerged that only Elwak and Rhamu were undergoing the process of land adjudication so as to facilitate the registration of individual land rights.
- ✓ Due to the pastoral-nomadic culture of the Somali community, unlike in the Kutulo - Elwak section of the road where a low number of migrating households was reported by the PAPs, this particular section (Elwak - Rhamu) had up to a third of the total number of PAPs absent due to their nomadic pattern of seeking pasture for their flock. This was mainly an occurrence in Sukelatifa, Corner-S, Gari and Bulla Bandira settlements

- ✓ It was also notable that some of the PAPs were farmers of Sorghum and Maize. This was in Gari settlement Km. 249+200-250+500, just before Bambo settlement.
- ✓ 60% of the affected businesses are run by women especially in the two big settlements, Rhamu and Wargadud where the ROW passed through Markets. I.e. Wargadud Market which was wholly affected by the proposed road and Soko Degodia Market in Rhamu. Both of these markets were lifelines of the Community living in those settlements especially since it is the women who have the responsibility of paying school fees, both for Islamic/Quran School (Duksi school fees) and Primary and pre-primary school fees for their children.
- ✓ According to the survey results, about 65% of the women had no education at all as compared to 47% of men. About 14% of men had attained secondary level education as compared to only 11 % of women. Sometimes, especially in Rhamu both the school's curriculum ran concurrently. I.e. attendance of Islamic School in the morning and attendance of the ordinary school in the afternoon.
- ✓ Majority of PAP respondents (86%) indicated that they were aware of the project. However, 6.9% indicated that they had not heard of the project, while 7.1 % did not respond. On sources of information on the project, 38% said they heard of the project from survey teams. The PAPs were aware that the project will affect them negatively, mainly on disruption associated with being resettled (36.4%) but some PAPs expressed positive impacts especially with regard to improvement to household sources of income arising from improved transportation (42%) and provision of labour to local residents (14%). Majority of the PAP respondents (81.8%) showed approval for the project, while a paltry (2.1 %) expressed disapproval due to alleged past experiences with government projects elsewhere where compensation was absent, inadequate or delayed. Past marginalization has also alienated some people and they generally distrust potential government projects. Their experience with terrorism makes people generally suspicious

### **Inter/ Intra Community Conflict**

The community members attributed the occasional upsurge of inter-ethnic conflict to the competition for grazing and water sources. There are also instances of internal displacement of families arising from inter-ethnic conflicts. Community members cited peace as one of the major “resources” in the locality. The most commonly cited threat to the security in the project site is the Al-Shabaab menace, as the project site traverses a region close to neighboring country of Somalia. However, majority of the community leaders averred that the threat is not only unique to the area but the entire Country. Nevertheless, given the proximity of the project site to the Kenya/ Somalia border, the threat to attacks by the resurgence group is relatively higher.

## Gender Analysis

The Gender outlook for the project area showed that women are actively involved in both productive and reproductive work and work for longer periods than men. Gender issues along the road corridor: legal rights to property, domestic violence, FGM and decision making in childbearing.

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

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

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

Generally, in many households, women have no say in financial matters and hence KeNHA should ensure that women are involved in the compensation and resettlement process. The majority of the property owners are men. This gives them a better chance of assessing and controlling the compensation proceeds than the women. KeNHA RAP policy is to ensure that for the married PAPs the compensation money is declared to all spouses. This is however likely to run into challenges because of cultural impediments (especially patriarchy, polygamy and reduced women voice). To mitigate that, this RAP has recommended that women be involved in livelihood restoration programs to enable them run their businesses as they did before the project was implemented. There is no resistance to women being relocated to a new site and being facilitated to continue their businesses provided the men are compensated for the assets displaced.

Maternal Mortality in Mandera County in northern Kenya remains the leading cause of death among the women. This is caused by the long distances that they have to walk to access medical care, early marriages and cultural rites like Female Genital Mutilation (FGM).

Female genital cutting, also called female circumcision and female genital mutilation is prevalent in the project area. Mandera County is inhabited by ethnic Somalis. According to the Kenya Demographic Health Survey report from 2014, the FGM rate among women of ethnic Somalis age between 15-49 years stands at 94%.

#### 4. SOCIAL AND ECONOMIC IMPACTS OF THE PROJECT ON THE AFFECTED PEOPLE

##### Potential Project Impacts

The anticipated project impacts will be socio- economic, cultural as well as impacts on property and livelihood.

##### Social Impacts

Broadly, the Social impacts include the social, economic and cultural impacts. They are:

- i. Demographic impacts:
- ii. Family and Community Impacts:
- iii. Alterations in existing gender relations
- iv. Health and social wellbeing impacts
- v. Economic impacts
- vi. Cultural impacts

##### Impacts on Property and Livelihoods

The RAP study has highlighted the project's potential impacts on property and livelihood activities likely to be affected by the implementation of Elwak-Rhamu Road project. The highlights are based on the analysis derived from the updated PAP census and valuation roll. See table 1 below.

##### Zones of Potential Project Impacts

The Road project corridor covers a total length of approximately 142 KMS starting at Elwak town and terminates at Rhamu town all within Mandera County. Therefore, generally this is the direct zone of influence. In the settled area, community members are involved in both formal and informal livelihood activities within the road reserve especially kiosks and sheds housing informal business enterprises and household domestic dwellings. There are also formal institutional, commercial and residential buildings falling within the Right of Way (ROW) and these will be partially or permanently affected. The Project will therefore lead to economic displacement of Project Affected Persons (PAPs) in the twenty-three (23) settlements. The table below shows the areas around which impact will be felt.

**Table 1 : Project Impact Affected Areas within Mandera County**

S/NO	Settlement	Chainage	Nature of impact
1	Udole	178+800-180+000	Relocation and acquisition of business and residential structures as well as trees.
2	Iresuki	192+700-193+425	Relocation and acquisition of business and residential structures as well as trees.



3	Corner S	205+350-206+200	Relocation and acquisition of business and residential structures as well as trees.
4	Bulla-Bandira	209+200-209+800	Relocation and acquisition of business and residential structures as well as trees.
5	Warqadud	216+000-217+ 725	Relocation and acquisition of business and residential structures, market stalls, a school fence, a mosque as well as trees.
6	Quramadow	224+ 100-224+925	Relocation and acquisition of mostly residential structures and trees.
7	Sukelatifa	241 +875-242+450	Relocation and acquisition of business and residential structures public toilets as well as trees.
8	Gari hills	249+200-250+500	Relocation and acquisition of business, residential and water tanks for domestic use, structures as well as trees.
9	Gari spur	0+000-0+550	Relocation and acquisition of business and residential structures as well as trees.
10	Bambo 1	259+ 100-260+ 125	Relocation and acquisition of business and residential structures, water tanks for domestic use as well as trees.
11	Bambo 2	260+600-261 + 300	Relocation and acquisition of business and residential structures as well as trees.
12	Jabi bar	279+800-280+300	Relocation and acquisition of business and residential structures as well as trees.
13	Jabi2	286+825-287+275	Relocation and acquisition of business and residential structures as well as trees.
14	Jabi 1	287 + 7 50-288+ 325	Relocation and acquisition of

			business and residential structures as well as trees.
15	Tosi	289+900-291 +350 (Spaced)	Relocation and acquisition of business and residential structures as well as trees.
16	Mubarak	292+150-292+850	Relocation and acquisition of business and residential structures as well as trees.
17	Awara	293+650-294+475	Relocation and acquisition of business and residential structures as well as trees.
18	Shanqala	298+200-299+450(Spaced)	Relocation and acquisition of business and residential structures as well as trees.
19	Waldiri	298+200-299+450	Relocation and acquisition of business and residential structures as well as trees.
20	Sakora	300+075-300+450	Relocation and acquisition of business and residential structures as well as trees.
21	Towfiq	307+650-308+000	Relocation and acquisition of business and residential structures as well as trees.
22	Rhamu	313+200-315+500	Relocation and acquisition of business and residential structures, market stalls, a school fence, a mosque as well as trees.
23	Rhamu spur	0+000-3+ 789.333	Relocation and acquisition of business and residential structures, market stalls, a school fence and other structures, a mosque as well as trees.

### Categorization of Project Impacts

On the basis of the revised and updated data from the Census and Socio-economic study, the RAP has categorized the project impacts according to the PAPs' property/structures lost, livelihood loss and community resources and institutions as shown in the table 10 on of the RAP report (page 78)

### **c) Impact on Community Resources and Public Institutions**

There are several educational, religious and security institutions situated within the ROW which will be affected either partially or permanently as presented in the table 11 on page 79 below in the main report.

## **5. LEGAL AND INSTITUTIONAL FRAMEWORK FOR RESETTLEMENT;**

### **a) Policy and Legal Framework**

The following summary of the applicable legislative/regulatory provisions relevant to involuntary resettlement under the project i.e. compensation and expropriation procedures.

- Kenyan Land laws relating to land and resettlement namely:  
Constitution of Kenya (2010), National Land Commission Act 2012, Land Act 2012, Land Registration Act 2012, The Environment and Land Court Act, 2011, The Land Control Act Cap 302, Public Roads and Roads of Access Act (Cap. 399) and Valuers Act, Cap 532 Laws of Kenya. Other relevant laws related to protection of vulnerable individuals and gender-based violence: Sexual Offences Act 2012, Children Act 2012, Labour Relations Act No. 18 of 2018, and Matrimonial Property Act, No.9 of 2013
- Kenyan Policies relating to land, resettlement and sustainable development namely:
  - National Land Policy, 2007
  - National Gender Policy;
  - KeNHA ESS Policy
- Relevant AfDB Policies and guidelines namely:
  - Involuntary Resettlement Policy, 2003
  - AfDB Integrated Safeguard Standards, 2013 – Operational Safeguard (OS 2) on Involuntary Resettlement.
  - AfDB Gender Policy and Handbook on Stakeholders Consultations and participation on AfDB Funded Projects.

### **Comparison and identification of gaps between Kenya and AfDB policies**

The following are the highlights of the findings on the comparison between Kenyan Law and AfDB Policy:

- This RAP recognises small traders along the road reserve so long as they were present in the project area within the cut-off date of compensation as set by this study. It also proposes relocation assistance in the form of re-establishment of livelihoods through the proposed market to be developed under the project;
- Valuation methodologies must be based on full replacement . The Land Act 2012 proposed development of valuation methodologies for land acquisition for public purposes but this is yet to be realised;
- The right to public participation is protected by the Constitution of Kenya. However, there are no regulations that clearly stipulate the requirements for consultation of displaced persons. This study therefore relied on the clear requirements and guidelines provided by AfDB policies;
- In compliance with Kenyan Law, Land Policy and AfDB Policy, this RAP has given proposals for a grievance redress and dispute resolution;
- The laws of Kenya are not explicit on monitoring of the efficacy of compensation modalities to ensure livelihood restoration of displaced persons. The AfDB policy however requires that the arrangement for reporting, monitoring and evaluation, consistent with the overall project planning and scheduling, should be included in the plan. The implementing agency should be responsible for reporting the progress of the plan implementation, typically quarterly.

**AfDB OS 2: Involuntary Resettlement: Land Acquisition, Population Displacement and Compensation:**

This safeguard consolidates the policy commitments and requirements set out in the Bank’s policy on involuntary resettlement, and it incorporates refinements designed to improve the Operational effectiveness of those requirements. In particular, it embraces comprehensive and forward-looking notions of livelihood and assets, accounting for their social, cultural, and economic dimensions. It also adopts definition of community and common property that emphasizes the need to maintain social cohesion, community structures, and the social interlinkages that common property provides.

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

**b) RAP Organizational Structure and Institutional Arrangements**

**Institutions Responsible for RAP Implementation**

The resettlement implementation will be carried out at different levels by the following institutions:

- a. Kenya National Highways Authority (KeNHA)
- b. National Government (Relevant agencies as will be determined)
- c. Mandera County Government
- d. National Land Commission (NLC)

**RAP Implementation Unit**

The RAP implementation Unit will be formed to ensure timely execution of the RAP process including compensation. KeNHA will be the lead agency in the RAP implementation and will work together with the other institutions. The Environment and Social Interest Unit at KeNHA headquarters will oversee the RAP Process. The agency will, therefore, establish a RAP Implementation Unit (RIU) for the project to steer all resettlement matters and activities pertaining to this RAP.

**RAP implementation schedule**

A final schedule of implementation will be developed jointly with the KeNHA's RAP implementation team, NLC and PAPs. The implementation schedule will include:

- a) Target dates for the start and completion of compensation payments;
- b) Timetables for and the place of compensation payments;
- c) Target dates for fulfilling the prerequisites for compensation payments and other legal requirements by PAPs;
- d) Timetable for special assistance to vulnerable groups;
- e) Dates for vacant possession of the acquired land from the PAPs (this date must be after the payment of all compensation).
- f) The link between the RAP activities to the implementation of the overall sub-project components.

**6. COMPENSATION PLAN**

**a) Participation and Consultation**

The RAP Review team conducted intensive public consultations in the project area with a view to ensuring that all outstanding and emerging concerns regarding the road project and resettlement issues were brought up and openly discussed. A total of 23 public meetings were held at the twenty-three (23) settlement sites, followed by Focus Group Discussion (FGD) sessions with the elders, women and youth separately in each of the towns. Public participation.

Date	Venue	No. of Participants	
		Men	Women
20.03.21	Udole	16	05
20.03.21	Iresuki	19	05
21.03.21	Corner S	28	40
21.03.21	Bulla Bandira	19	7

21.03.21	Wargadud	53	25
21.03.21	Sukelatifa	17	6
28.03.21	Gari hill and Gari Spur	29	02
21.03.21	Jabi 1,2,3	15	03
23.03.21	Tosi	08	0
23.03.21	Mubarak and Awara	13	07
24.03.21	Shagalla	09	03
25.02.21	Rhamu town	107	92
Total		333	195

### Key Issues Raised and the Consultants' Responses

Various issues were raised by the PAPs and other members of the community during the consultation meetings. They included:

**Table 2 : Summary of Issues and Response Matrix**

Issue	Response
When will the Road project commence?	The actual commencement date for the Elwak-Rhamu section is not yet known but is planned for the near future as part of Government development plan. However, once this is determined, the information will be communicated to the communities' and all stakeholders in a timely manner.
All people are poor and depend on the meagre businesses when the demolitions will be done people will be condemned to more poverty. How will this be avoided to help the people affected?	The process of preparation of the project is done according to the laid down procedures according to the Kenyan law and the financiers applicable policies on resettlement. The regulations work in the interest of the communities that are recipients of the project financed by the bank. The rules will, therefore, safeguard the PAPs from experiencing any undue suffering and that is why demolitions and requiring the people to give way for project will be done only after compensation settlements have been made.
What plans are there to pay people for the loss of land and houses?	The RAP process is meant to facilitate careful assessment of losses and other impacts and mitigate these accordingly. However, as explained in the consultations, the compensation will be for loss of structures, livelihoods and community facilities.

How will KeNHA determine what amount of money is to be paid for the houses to be demolished.	The consultant valuer has explained the method for determining the value to be paid for each property or set of properties lost. These will serve as the guidelines for compensation. The valuations will be assessed by NLC at full replacement rates that caters for a disturbance allowance and livelihood restoration.
How will the local people be assured of the participation in the road construction and not give all jobs to people from other parts of the country?	The regulations have clearly stipulated that local people will be given preference in all skills and commodities available for use in the construction of the road project. Those from outside will be considered for opportunities where such skills are not available locally.
There are people who are helped by their relatives to live in their houses because they cannot afford shelter to live and do business. Will they be considered ?	This category of PAPs qualify for considerations and will be listed down as part of PAPs.
Some people have used their money to buy land which is now expensive and the bypass is taking the land. How will they be considered for this loss?	The compensation for loss does not put into consideration land as the land in this locality has not been adjudicated so as to be categorized as private land. However, due to noted instances of this nature, the concern has been documented and will be presented. The NLC will make a determination.
There are some people who were in the bush and were not counted in the census, how will they be considered?	Those PAPs who were not captured in the previous session will be included so long as the property in question meets the requirements set out in the cut – off date. The previous RAP census captured the property and corresponding values and their identity and other relevant particulars will be included in the RAP Report.
Will the affected people be given enough time to move out of the Road wayleave?	The PAPs will be provided with enough time to salvage their property and relocate away from the ROW. They will be given one -three months' notice to vacate.

Will the people who have rented shops from owners to do business be compensated.	Traders are considered as tenants and if the requirement to relocate will affect their businesses, they will be compensated for loss of livelihoods on the basis of the applicable AfDB safeguard policy OS 2.

### Summary of Issues and Concerns Raised in the Social Assessment related to Resettlement

During the Social Assessment, through the Free Prior and Informed Consultations that led to Broad Community Support of the Project, the VMGs raised concerns relating to land acquisition and resettlement as highlighted in the table below:

**Table 3 : Issues raised in Consultations and Responses in the Social Assessment**

Issue	Response
What will happen if someone's property is along the road?	All property that will be affected will be captured in the Resettlement Action Plan (RAP).  The National Land Commission (NLC) will verify and validate the affected persons and the affected assets for compensation.  Payment will then be made after valuation and based on full replacement cost.
Who will be compensated ?  What process will be used to identify PAPs who will be compensated?	The RAP will identify all the physically and economically displaced persons who will be entitled for compensation based on PAP category at replacement cost. At implementation, the NLC will verify and validate the PAPs and the assets for compensation.
What is the correct size of road and will compensation be done on affected persons whose land would be encroached by the expansion of the road ?	The road size is 60 metres wide and any encroachment outside the 60metres into private land will be fully, fairly and justly compensated.
Community Benefits	The government will ensure that locals benefit from



Issue	Response
<p>How will local communities' benefits from the project ?</p> <p>Will the local community be given an opportunities to supply materials to the road project ?</p>	<p>employment opportunity provided by the project particularly unskilled labour will be sourced locally.</p> <p>KeNHA will work with the contractor in designing a supply chain framework where locals will be as part of local content given opportunities to supply materials</p>
<p>Timing of Compensation</p> <p>When will compensation be made ?</p>	<p>Compensation will be done before the project commences.</p>
<p>Design and Safety</p> <p>The economy of the population is largely dependent on small-scale businesses including boda bodas (passenger motor cycles) and there is need to incorporate them on the design to reduce the number of accidents.</p>	<p>More space will be created on the pavements and the road in town widened to facilitate motorcyclists. The design has factored this plus pedestrian use where necessary.</p>
<p>Compensation Process and Mode</p> <p>Will the mode of payment be free of corruption ?</p>	<p>KeNHA will make payments through National Land Commission (NLC). Payments will be made to Project Affected Persons' (PAPs) bank accounts. This is expected to limit cases of corruption.</p>
<p>Entitlement for PAPs</p> <p>Will Government factor in a disturbance allowance due to inconveniences caused by resettlement ?</p>	<p>Yes. Disturbance allowance of 15% of total valuation of assets will be factored in the compensation package to settle inconveniences caused by resettlement process.</p>
<p>Legal Framework</p> <p>What is the legality of compulsory land acquisition ?</p>	<p>The Constitution of Kenya 2010 and Land Act 2012 vested powers of Compulsory Acquisition on the government, NLC in particular, to compulsorily acquire land for development with just and fair compensation at market rates.</p>

**Table 4 : Summary of Outcome of the PAP Consultation**

<b>Anxiety, Fears, Concerns and Uncertainties</b>	
<b>Issues</b>	<b>Response</b>
■	
■	

What will happen to those people whose land will be taken?	They will be compensated for their loss of land if it is acquired when project land is needed outside the gazetted 60 metres road reserve. Those on the road reserve will only be compensated for standing assets.  Private land acquired by contractor for his use will be purchased on private terms.
We do not know much we are going to receive in compensation payment for loss of assets	All PAPs will be compensated based on the results of the NLC valuation which will be undertaken using replacement cost.
What will happen if the cash compensation turns out to be inadequate to replace lost assets – let alone restoring lost income and livelihoods,	A grievance redress mechanism will be established with PAPs represented to handle grievances arising from compensation.
We do not know the dates when compensation payments commence?	All PAPs will be informed in advance at least 3 months.
How will we know that our affected land and property is measured accurately and recorded or registered appropriately? Some affected property is not registered by oversight. What are the chances for correcting mistakes in registration of affected property?	Valuation exercise will be conducted in a transparent manner with all PAPs present and explanation on the valuation process provided for each PAP. Errors made will be resolved through the grievance committees or by NLC on the ground.
<b>Preferences and Demands</b>	
<b>Issues</b>	<b>Response</b>
We want to be given first priority for the jobs that will be available during road construction.	The Project will offer jobs (especially unskilled) to the people for the project area.
We do not want to lose our kinship ties and social networks. If we receive timely and adequate compensation, we can relocate ourselves and reintegrate into existing communities.	This is noted
We need provision for transportation expenses during relocating our property.	This is noted. The RAPs prepared for the project has provided for allowances including transportation of VMGs and their assets.
We demand that all PAPs are embraced in the various food security programmes currently underway in the area.	This is noted

We demand that compensation payments are made as soon as possible.	Compensation will be made before project construction commences.
Please, commence the civil work as soon as possible.	Civil work will only commence when all PAPs have been compensated.
Those of us who use land given to us by our parents or inherited from them demand compensation payment for lost land, though the title of the land is in our parents' names.	This is noted and the project confirms that all those VMGs with customary or formal land ownership are entitled to land compensation in accordance with the Land Act and AfDB OS. 2.
We trust that all affected property are included and registered accurately.	The RAP will value all the assets in the project affected area.
The people who will come to work for the project should be sensitized on our culture and respect us.	Noted.
<b>Expectations, Hopes, Aspiration and Needs</b>	
<b>Issues</b>	<b>Responses</b>
Given very poor availability of social service facilities in our area, we ask the government (project) to provide support to the construction and or maintenance of such facilities as public health, veterinary clinics, schools, potable water supply and electricity.	The project has a social investment component aimed at providing services like water and roadside amenities including market centres, internet connections among others.
<b>Benefits and Appreciation</b>	
<b>Issues</b>	<b>Responses</b>
The road component will open up opportunities and improve access to markets and services. We are rather lucky that the road cuts across our neighbourhood.	Thank you.
<b>Questions and Clarifications</b>	
<b>Issues</b>	<b>Responses</b>
What about the indirect impact of the road component on farmers residing close to it? They will be affected adversely by dust, noise and rolling stones during civil works.	The project has prepared Environmental and Social Impact Assessment report for the proposed road upgrade and construction related impacts including dust, noise among others have been addressed in these reports.

Who are the people nominated to do the property valuation?	Valuation is done by independent consultants and later by National Land Commission.
What are the procedures put in place to effect compensation payments?	Compensation will be done through cheques to the account of the PAPs. All PAPs will be requested to open a bank account.

### Consultation with Other Stakeholders

Consultations were also held with other public and private / Non-governmental institutions due to their relevance in dealing with social development, community improvement, and rehabilitation and cultural heritage and its preservation in the Project area. The institutions are major stakeholders in working towards strengthening the resilience of the most vulnerable populations in the project area and participates actively in the elimination of food insecurity, supporting regional peace, drought management, and conflict reduction.

### Eligibility Criteria

The eligibility for compensation is based on:

- i) Cut-off date
- ii) Ownership of property /assets
- iii) Derivation of livelihood

The Cut – off dates established during the RAP Study by the design Consultant are shown in Table 5:

**Table 5 : Cut - Off Dates Established during RAP study by design Consultant**

Settlement	Date
Bulla Mubarak	8/8/2019
Bulla Awara	8/8/2019
Corner S	27/7/2019
Rhamu	23/7/2019
Udole	23/7/2019
Wargadud	25/7/2019
Iresuki	24/7/2019
Jabi3	9/8/2019
Jabi 1	8/8/2019
Jabi 2 & Tossi	9/8/2019
Gari	5/8/2019

Bulla Bandira	1/8/2019
Towfiq	9/8/2019
Shagalla	9/8/2019
Awara	9/8/2019
Quaramadhow	9/8/2019
Sukelatifa	9/8/2019

This RAP review has maintained the set cut off dates as shown above which was the date agreed upon by the design consultant and the PAPs. The update exercise confirmed the previous consultations and adopted that, however the following three settlements were not enumerated by the design team. The cutoff date for the settlements will be:

Settlement	Date
Bambo 1	9/4/2021
Bambo 2	9/4/2021
Sakora	9/4/2021

Note:

While the Cutoff date was set in 2019, the update was done early 2021 during the review of this RAP and only minimal changes were noted. It is not anticipated that there would have been substantial changes when the project begins and these in any case would be captured during public hearings by NLC. **The cut off dates have been widely publicized and respected by the community** and hence the project will benefit largely from consultations that have confirmed the position of the Government on encroachment into the road reserve.

## b) PROJECT IMPACTS AND ENTITLEMENT MATRIX

The RAP strategy for resettlement has come up with forms of compensation packages based on the type of loss and form of vulnerability for the relevant categories of PAPs. The type of compensation has also been based on the preferences of the concerned category of PAPs or beneficiaries. They include: Cash Compensation to Individual Property and Asset Owners and Replacement in-kind.

### Impacts and resettlements

The impacts involved the following: Institutions, religious institutions and squatters.

### Vulnerable Populations

The RAP study identified six categories of vulnerable people. They include: Widows, OVCs, Single women, physically challenged individuals, Elderly PAPs and Community aided individuals (*Maslaha*).

### Valuation Criteria

The basic approach involved carrying out an assets inventory of affected households, enterprises, institutions etc. along the road project designed route so as to develop an asset register in consultation with previous registers. Valuation for buildings and other structures applied the construction cost approach to develop full replacement costs. The trees that are going to be affected by the improvement of the road are indigenous trees and arid and semi-arid areas shrubs. These were naturally growing and had minimal commercial value as well as being indigenous. Nonetheless, the sales comparison approach was adopted for the valuation of trees and shrubs.

Land for resettlement if so identified, will be provided through collaborative efforts between the area community leadership and Mandera County Government with guidance from NLC, and with the assistance of KeNHA where applicable. Land replacement will be based on suitable comparable land in the vicinity of the proposed RoW, in a manner that will not compromise the safety of the resettled persons with regard to road safety requirements of the new highway.

**Livelihoods and Income Restoration**

Livelihood Restoration for Individual PAPs will involve:

- Jobs for the PAPs and members of their households
- Prompt Compensation
- Provision of Modern Market Stalls
- Financial and Basic Entrepreneurial Skills Training for eligible business PAPs
- Referral to Credit Facilities and Cooperative Groups
- In-Kind compensation for the community and general public through the construction of social infrastructure in the project area as will be determined by the outcome of the Needs Assessment Study.

**Entitlement Matrix**

To mitigate the above mentioned, impacts, an entitlement matrix was adopted as follows:

Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
Land				

Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
Permanent Loss of any type of Land regardless of severity <sup>1</sup>	Private Landowner (individual or group) with legal document e.g. title. Incise of individual, spouse included.	Rhamu and Wargadud towns	<p>Provide PAP with choice of replacement land (if available) or cash compensation at full replacement value.</p> <p>If replacement land, location will be acceptable to PAP where feasible. Land will be of equivalent value, size and characteristics.</p> <p>If cash compensation, compensation of the land at full replacement value, free of taxes, registration and transfer costs.</p> <p>If residual is unusable, or 'orphan' land, subject to case by case NLC determination and recommendation for full acquisition of land.</p>	<p>All compensation before notice to relocate.</p> <p>Maintained access to unaffected remaining land thus need for access provision in detailed road design.</p> <p>Access to Grievance mechanism.</p> <p>Right to request for orphan or residual land to be acquired if not economically viable.</p>
	Private Owner with no legal documents e.g. title but land gazetted for adjudication prior cut-off date i.e. legalizable owner or some form of recognized land. In case of individual,	Majority sections of Sukelatifa, Gari and Bambo	Compensation of the land at replacement value on good Faith, NLC will have to determine the compensation (if the alignment does not fit within the available space of about 20 metres and requires additional space).	<p>Owner eligible to participate in livelihood restoration programmes.</p> <p>15% disturbance allowance.</p> <p>Access to Grievance</p>

<sup>1</sup> Temporal loss of land due to occupation by contractor for establishment of camps and auxiliary facilities during construction not covered in this RAP, thus compensation often at commercial rates to be negotiated outside this RAP.

Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
	spouse included.		<p>Provide PAP with choice of replacement land or cash compensation. If replacement land, location will be acceptable to PAP where feasible. Land will be of equivalent value, size and characteristics.</p> <p>If cash compensation, compensation of the land at full replacement value, free of taxes, registration and transfer costs.</p> <p>If residual is unusable, or 'orphan' land, subject to case by case NLC determination and recommendation for full acquisition of land.</p>	mechanism.
	Un registered community land but with user rights	Whole route	Cash compensation at replacement value for standing assets.	
	Public/Government	Whole route	Cash compensation at replacement value for standing assets.	Compensation at replacement cost for the assets.
	Squatters on public, private and		No compensation for land	Compensation of the structures at full



Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
	communal Land.			<p>replacement cost.</p> <p>Compensation for loss of business.</p> <p>15% disturbance allowance.</p> <p>Right to salvage.</p> <p>3 months' notice.</p> <p>Access to Grievance mechanism.</p>
Temporal loss or damage to land/property during inspection to ascertain the suitability of the land for acquisition for the road upgrading.	Private, public or community land/property owner		Payment in full, of just compensation for any damage resulting from the entry. The amount to be negotiated directly with the owner of the land/property	
<b>Individual and Institutional Structures</b>				
Loss of all structure types irrespective of use.	Owner of Structure regardless of legal ownership/registration status (and their spouse).	Whole route	Cash compensation at full replacement cost free of depreciation and transaction costs	<p>15% disturbance allowance.</p> <p>Right to Salvage.</p> <p>Right to request for the</p>

Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
				<p>residual land to be acquired if not economically viable.</p> <p>Owner eligible to participate in livelihood restoration programmes if they wish.</p> <p>Access to Grievance mechanism.</p>
	Business Tenants		3 months' restitution to be verified by NLC and relocation notice.	<p>Owner eligible to participate in livelihood restoration programmes if they wish.</p> <p>Access to Grievance mechanism.</p>
<b>Public/ Communal Assets/structures</b>				
Socio infrastructure e.g. boreholes	Community/Users of the services and assets	Whole route	<p>Provision of replacement facilities within the settlement, with a higher capacity to serve more community members.</p> <p>No cash compensation</p>	<p>Community eligible to participate in livelihood restoration programmes.</p> <p>Access to Grievance mechanism.</p>

Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
Cultural/Religious heritage sites/assets e.g. cemeteries, mosques, Graves	Community/Public		<p>First option is re-alignment of road route to avoid the facilities where feasible.</p> <p>If no re-alignment:</p> <p>Purchase of land or assistance in identification of alternative sites.</p> <p>Cash compensation only where recognized committees exist to facilitate and oversee the relocation and replacement of facilities.</p> <p>Where no committees exist, KeNHA in collaboration with community forms one and facilitates required safeguards to ensure money is used for the right purpose, or agreement on whether KeNHA hires a contractor to work with the community to redesign and rebuild the facility. KeNHA pays the contractor on community approval of completion of works.</p> <p>In all cases, KeNHA facilitates rebuild of a bigger facility.</p>	<p>15% disturbance to realize religious and cultural rituals and for incidental cost of relocation of permanent structures like mosques.</p> <p>The same does not apply for graves and cemeteries.</p> <p>Access to Grievance mechanism.</p>

Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
	Individual/Family owners		Cash compensation at full repayment cost.	15% disturbance to realize religious and cultural rituals.  Access to Grievance mechanism.
<b>Business and Income</b>				
Loss of business	Business building owner (if premises rented out)	Whole route	3 months' rental income per tenant lost - Subject to provision of documents and verification by NLC	Eligible to participate in livelihood restoration programmes such as markets proposed by KeNHA in some of the settlements.  Access to Grievance mechanism.  15% disturbance allowance.
	Owner of Business/Tenant		3 months' transitional assistance based on anticipated income or possible future benefits for period of relocation or business stoppage. Subject to provision of documents and verification by NLC	
	Squatters		Allocation of stalls within the existing County Government Markets	

Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
<b>Trees</b>				
Loss of all types of trees	Individual/ group owner regardless of legal status of owner	Whole route	Cash compensation at full replacement cost using rates approved by KFS	Eligible to participate in livelihood restoration programmes such as markets proposed by KeNHA in some of the settlements.  Right to salvage  Access to Grievance mechanism.
	Community as owners and users (in the latter where the owner is an individual, but community uses the tree)		Cash compensation at replacement value to owner.	
<b>Loss of Public Utilities</b>				
Power lines	Public	Whole route	Physical relocation and reinstatement of access by relevant authorities.	
<b>Vulnerability</b>				
Any losses incurred by the vulnerable	Female household heads, elderly, persons living with disabilities.	Whole route	Cash compensation at full replacement cost and in-kind assistance as per the provisions made on the last column  2	Priority in processing/ disbursement of compensation.  Additional support with transport to new sites that include providing a team to salvage their

Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
				<p>belongings including house materials.</p> <p>Priority eligibility to livelihood restoration programmes e.g. markets. Where KeNHA has proposed markets in some settlements, vulnerable get preferential treatment in getting strategic locations in new market centres while the markets will be designed to take into consideration accessibility by the physically challenged.</p> <p>Employment priority in project related jobs.</p> <p>Recommendation for additional assistance by county and national government programmes such as the Inua Jamii programme.</p> <p>Counselling of the</p>

Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
				<p>households so that they can understand the short-term support and longer-term options.</p> <p>Support to ensure that they maintain their social networks of family and friends and that they can access social services.</p> <p>The project has considered non-monetary in-kind compensation measures including priority in compensation, adequate notice to relocate their facilities and assistance to relocate their assets to other communal land which the area administration has provided, referral to micro lenders and support organizations in the areas affected, allocation of accessible trading spaces with specific attention to their vulnerability factors like wheelchairs use at</p>

Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
				<p>the local markets among other support as per the entitlement matrix.</p> <p>Additional subsistence allowance for three months.</p> <p>Where illness is ascertained, medical subsidies, food, temporary accommodation, employment referrals to members of the family to be considered.</p> <p>Support to ensure that they maintain their social networks of family and friends and that they can access social services.</p> <p>Access to Grievance mechanism.</p>
Unforeseen impacts, if any				



Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
Design of additional mitigation measures by KeNHA on a case by case basis	Private, public or community land/property owner	Whole route	Reference to institutions supporting informal and pastoralist activities through ministry of Livestock or as defined through social needs assessment for the project.	Participation in livelihood restoration strategies.  Compensation of structures at full replacement cost.  15% disturbance allowance.
	Informal PAPs and squatters			
	Pastoralists			
Livelihood restoration	All affected persons and affected households	All the road corridor.	Livelihood restoration strategy.  Social development Infrastructure for health, education, water, abattoirs.	Social development Infrastructure for health, education, water, abattoirs.  Financial training to all the households receiving cash compensation.  Priority in consideration of employment opportunities and business opportunities in the project.

Type of Loss/Affected Right	Defined PAP/Eligibility	Indicative Areas	Compensation Strategy	Other Forms of Assistance/Entitlements
		Wargadud and Rhamu	Provision for Market Infrastructure	<p>Veterinary care services and extension services through support from County Government offices.</p> <p>Stalls for traders at affected sites</p>

**Table 7: Project Affected Households along the Elwak-Rhamu**

Nr.	Project Areas	Number of PAHs in Initial RAP	Number of PAHs in Reviewed RAP
1.	Udole	7	24
2.	Iresuki	18	20
3.	Corner S	29	29
4.	Bulla Bandira	23	24
5.	Wargadud	255	259
6.	Quaramadhow	31	31
7.	Sukelatifa	31	33
8.	Gari hill	28	33
9.	Gari spur	58	74
10.	Bambo1	0	74
11.	Bambo 2	0	0
12.	Jabi Ber	13	15
13	Jabi2	40	40
14	Jabi 1	6	6
15	Tosi	14	14
16	Mubarak	11	19
17	Shagalla	19	19
18	Awara	19	19
19	Waldiri	10	10
19	Sakora	6	6
20	Towfiq	2	2
21	Rhamu town	253	255
22	Rhamu Spur	49	49
	<b>Total</b>	<b>922</b>	<b>1055</b>

**Table 8: PAP Consultation Meetings**

Nr	Dates	Administrative Location	Venue	Participants by sex		Total No. of Participants
				Male	Female	
1.	20.03.21	Udole	Udole	16	05	21

Nr	Dates	Administrative Location	Venue	Participants by sex		Total No. of Participants
2.	20.03.21	Udole	Iresuki	19	05	24
3.	21.03.21	Wargadud Town	Corner S	28	40	68
4.	21.03.21	Wargadud Town	Bulla Bandira	19	07	26
5.	21.03.21	Wargadud Town	Wargadud	53	25	78
6.	21.03.21	Sukelatifa	Sukelatifa	17	6	23
7.	28.03.21	Gari	Gari hill and Spur	29	02	31
8.	21.03.21	Bambo	Jabi 1,2 and Jabi ber	15	03	18
9.	23.03.21	Jabi	Tosi	08	0	8
10.	23.03.21	Kubi	Mubarak and Awara	13	07	20
11.	24.03.21	Kubi	Shagalla	09	03	12
12.	25.03.21	Rhamu township	Rhamu town	107	92	199
	<b>Total</b>			<b>333</b>	<b>195</b>	<b>528</b>

**Table 9: PAP Consultation Meetings**

Nr	Dates	Administrative Location	Venue	Participants by Gender		Total No. of Participants
				Male	Female	
1.	20.03.21	Udole	Udole	16	05	21
2.	20.03.21	Udole	Iresuki	19	05	24
3.	21.03.21	Wargadud Town	Corner S	28	40	68
4.	21.03.21	Wargadud Town	Bulla Bandira	19	07	26
5.	21.03.21	Wargadud Town	Wargadud	53	25	78
6.	21.03.21	Sukelatifa	Sukelatifa	17	6	23
7.	28.03.21	Gari	Gari	29	02	31
8.	21.03.21	Bambo	Jabi 1,2 and Jabi Ber	15	03	18
9.	23.03.21	Jabi	Tosi	08	0	8
10	23.03.21	Kubi	Mubarak and Awara	13	07	20
11	24.03.21	Kubi	Shagalla	09	03	12
12	25.03.21	Rhamu township	Rhamu town and Bypass	107	92	199
	<b>Total</b>			<b>333</b>	<b>195</b>	<b>528</b>



## 7. ARBITRATION / GRIEVANCE REDRESS MECHANISM;

### a) Grievance Redress Mechanism

Informed partly by the existing mechanism and the reliance on prevailing cultural dispensation as per the recommendations of the project's Social assessment, the RAP Review consultant has recommended a viable GRM guided by the following criteria:

- Affordability
- Accessibility
- Reachability
- Inclusion such that all population segments such as men, women, youth are represented
- Affirmative action sensitivity to take care of the interests of People Living with Disability (PLWDs) and
- Consideration for KeNHA, NLC & Judicial recourse as last result.

In line with the local cultural dynamics and the day to day practice by the community in dispute resolution, the proposed GRM has four levels:

- a) First level – Local settlement site committee
- b) Second level – Sub County committee
- c) Third level - County level committee
- d) Fourth level – Judicial Legal redress

The RAP update and review team sought to establish whether the local GRMC had been established in the applicable settlement sites. It was found out that the teams had not been established. In line with its mandate, the review team established the committees, whose details are provided separately annexed to this report. The Committees membership comprises:

- Deputy County Commissioner Office
- The Area chief / Assistant chief,
- One project-affected male
- One project-affected youth
- One project-affected woman,
- One project-affected male
- A representative of vulnerable PAPs,
- Ward Administrator
- A representative of PLWDs
- A religious leader

During the project implementation phase, three members will be co-opted to the committee:

- KeNHA representative(Who may have a direct delegate or be Represented by Resident Engineer)
  - Resident Engineer's Representative
- Contractor representative A summary Notable grievances raised and the consultants proposal on how to best to redress them is presented in the table

Settlement	Grievances	Consultant proposal
Wargadud	Acquisition of the market space which will displace many small business traders who rely on their stalls to earn a living	KeNHA PIU together with the county government of Mandera to provide a modern market at Wargadud as a means of livelihood restoration to those who will lose their operating space once the space is acquired.
Rhamu	Displacement of traders at Soko Degodia market space which will displace many small business traders who rely on their stalls to earn a living	KeNHA PIU together with the county government of Mandera to provide a modern market at Rhamu as a means of livelihood restoration to those who will lose their operating space once the space is acquired.
The entire corridor	Issue of land compensation(PAPs speculating that their land which is not demarcated may not be compensated where else several had purchased the land through their local arrangements)	NLC to ensure all land owners who own land privately through local government/local arrangements are compensated.

## 8. MONITORING AND EVALUATION OF THE EXECUTION

### a) Monitoring and Evaluation

Three monitoring components have been highlighted in the RAP, i.e.: performance monitoring, Impact monitoring and Rap completion audit. The M&E will be undertaken at two levels: Internal and external monitoring.

#### General Objectives of Monitoring

The general objective of the M&E system is to provide a basis for assessing the overall success and effectiveness of the implementation of the resettlement and compensation processes and measures. Specifically, the M&E system will aim at:

- a) Determine the level of satisfaction of affected people with the resettlement process.
- b) Verify if affected people are compensated in full, before implementation of the project.
- c) Find out if affected individuals, households and generally the community has been able to maintain their pre- project standards of living and even improve on it.

#### Monitoring Indicators

The proposed monitoring indicators are provided in the table below.

#### Monitoring Indicators

Parameter	Indicators
Compensation to PAPs	No. Of PAPs promptly paid out Amount of money paid out to PAPs
Livelihoods restoration	No. Of PAPs with restored assets / activities Community facilities restored No. Of vulnerable PAPs assisted
Public participation & Engagement	No of consultative meetings held No. & Categories of Local leadership engaged / involved No of civil society groups engaged
Grievance redress & management	No of complaints received No of grievances addressed/ resolved promptly No of unresolved/ outstanding grievances
Compliance with legislation and AfDB regulations & safeguards	General relations between project staff & local communities No of local staff employed in project/ civil works contractor



## 9. KEY UPDATES ON RAP AND MEASURES OF MINIMISING RESETTLEMENT

### a) Key Updates Made to the Resettlement Action Plan

The exercise involved a review and Validation of the RAP prepared by KeNHA in October 2020. Because of the recency of the RAP to be updated, a substantial amount of the information obtained remained largely similar.

The updated RAP however has the following key findings and updates on the previous RAP prepared by KENHA.

#### i) Total PAPs

The findings of the RAP review study confirm that One thousand and fifty five (1055 NO) PAPs will be affected by the construction project. This is an increase of one hundred and thirty three (133 NO) over the Nine hundred and twenty two (922 NO) of the previous enumeration period. Care was taken to retain the cut of dates except for the settlements which had not previously been enumerated.

#### ii) Applicable Legal framework and Guidelines. Inclusion of AfDB Operational Standards

The RAP prepared in October 2020 was prepared to comply only with OP 4.12 of the World Bank as well as the Kenyan policies, guidelines and legislations which are triggered for Category B level of impacts for this kind of road.

Critically, the updated RAP recognises that AfDB's Operations Safeguard 2 on Involuntary Resettlement: Land Acquisition, Population Displacement and Compensation has been triggered and is thus applied in the RAP review;

In developing the mitigations measures and appropriate action plans, considerations were made to these standards in comparison to the Kenyan standards, and those found to be more stringent were espoused.

#### iii) Enhanced Entitlement Matrix

The reviewed RAP had developed a more enhanced and updated Entitlement Matrix with more entitlements to the PAPS. Critically, the entitlement matrix was harmonised with the Wajir- Elwak Lot for consistency. This is because the project areas are largely similar and inhabited by the same community with similar social issues. AfDB OS 2 apply,

- iv) Centres and Settlements previously left out now included:

The Updated RAP has enumerated PAPs and settlements previously left out in the October 2020 RAP. Specifically Bambo 2, Bambo 1, Isakura as well as sections of Rhamu, which had been left out have been enumerated and captured in the RAP.

- v) Livelihood Restoration Measures are provided for in the Updated RAP which were not given prominence the earlier RAP. A 5% budgetary provision has been made to take care of suggested livelihood restoration measures during implementation

- vi) Vulnerability Analysis

Vulnerability analysis was conducted as a means of establishing highly vulnerable PAP's in need of immediate and/or tailored assistance or special attention further to compensation entitlements. A total of 41 PAPs were mapped out as vulnerable.

- vii) Update of the Valuation Roll and Amounts and consequent RAP Budget

The review has updated the valuation roll and amounts and harmonised the RAP Budget

The RAP Budget for the Updated RAP comes to KES 577,500,575.90 (Five hundred and seventy seven million, five hundred thousand five hundred and seventy five shillings and ninety cents only) as opposed to KES 586,569,090 (Five hundred and eight six million five hundred and sixty nine thousand and ninety shillings only)

- viii) Update to the Socio Economic Chapter to capture Gender and Vulnerability issues

#### **b) Minimizing Resettlement**

#### **Alternatives and Mechanisms to Minimize Displacement/ Resettlement**

The RAP has provided several alternatives and mechanisms for consideration in order to avoid/minimize displacement/resettlement during the design review and implementation phase of the project. The recommendations are based on the aspirations and concerns raised by the members of the community and other key stakeholders during the public stakeholder consultations as described in section Seven (7) of the revised draft RAP report.

#### **Mechanisms Established to Minimize Resettlement**

From field investigations by the RAP team, it was established that if the RoW of the entire stretch of road was to be maintained at 60m as required of the class A road, majority of the business structures in the centres traversed, especially in Rhamu town, would have to be relocated. As a mitigating measure, the project team adopted a

design of the road with the RoW passing through the centres reduced from 60 meters to 40 meters. This spared very many households and reduced the number of affected households by nearly half.

In Rhamu town, consideration was also made of shifting the road alignment to only affect structures on one side of the road. However, given clan differences where distinct clans occupy either side of the road through the town, negotiations between the two clans in contention (Garre and Degodia) determined that since the road would benefit both clans the project should be implemented without shifting it to one side only. This concession was reached by the impacted communities during the initial ESIA and RAP study public participation meetings and the same was confirmed during consultations undertaken for updating the RAP. For the bypass introduced in Rhamu, the 60 metres wide is maintained.

## 10. TOTAL COST FOR THE FULL IMPLEMENTATION OF THE RAP.

### RAP Costs and Budget

The RAP has proposed a budget covering the estimated costs for structures, livelihood restoration, disturbance allowance and Trees of the RAP implementation as well as the five (5 NO) percent implementation overhead.

### Compensation & Implementation Budgets

The tables below show the budget for RAP compensation and RAP Implementation

**Table 6 : Total Compensation for Structures, Livelihoods and Trees**

Aspect	Value (Kshs)
Compensation for structures	456, 543,679.96
Livelihood restoration 5%	23, 291,342.76
Compensation for trees and crops	9, 283,175.33
Compensation for disturbance (15%)	69, 874,028.29
<b>Total</b>	<b>539, 720,164.39</b>

**Table 7 : RAP Implementation Costs**

Aspect	Value (Kshs)
Financial/Money Management Training/Meetings of Resettlement Committees / Administrative Costs (5%)	26, 986,008.22
External Monitoring and External Coordination for RAP Implementation (2%)	10, 794,403.29
<b>Total</b>	<b>37, 780,411.51</b>

**Table 8 : Total RAP Budget**

<b>Total RAP Cost</b>	<b>Kshs.</b>
Total RAP compensation	539, 720,164.39
RAP Implementation Cost	37, 780,411.51
<b>Grand Total</b>	<b>577, 500,575.90</b>

Below is the proposed RAP Implementation Schedule

Schedule of Activities	Months																							
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Review and Approval of final RAP	█																							
Disclosure of RAP on websites and stakeholders		█																						
Sensitization of PAPS on RAP through Information Disclosure			█		█		█		█		█		█		█		█		█		█		█	
Set up of PIU/GR/RIU				█	█	█																		
NLC Validation of assets, Issuance of awards and actual Compensation Payment							█	█	█	█	█													
Three Months' Notice to PAPS							█	█	█	█	█	█												
Clearance of Road Reserve, Commencement and progress of works										█	█	█	█	█	█	█	█	█	█	█	█	█	█	█
Grievance Management				█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█
Livelihood restoration							█	█	█	█	█	█	█	█	█									
RAP monitoring			█			█			█			█			█			█			█			█
RAP Completion and Audit																								█

