

**EASTERN AFRICA REGIONAL TRANSPORT, TRADE AND DEVELOPMENT
FACILITATION PROJECT (EARTTDFP)**

Financed by: KfW Development Bank, EU-AITF and GoK

**Construction, Supervision and Contract Administration of the Kitale – Morpus Road
(±75 km)**



RESETTLEMENT ACTION PLAN (RAP) REPORT

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EXECUTIVE SUMMARY

1. Background of the project

The Government of Kenya, through the Kenya National Highways Authority (KeNHA) is undertaking the rehabilitation and upgrading of the Kitale-Morpus section (75 km) of the Northern Corridor (NC) in North - Western part of Kenya which is a priority Regional National Trunk Road Network of the East African Community (EAC) with financial support from the Kreditanstalt für Wiederaufbau (KfW), EU-AITF (European Union-Africa Infrastructure Trust Fund) and Government of Kenya (GoK). The Road Project traverses through two (2) Counties of Trans Nzoia (Kitale Town, Makutano and Murukwijit) and West Pokot (Kapenguria and Chepareria Market through the Kamatira Hills to Morpus village). The objectives of the project are to promote and facilitate regional economic integration of South Sudan by providing reliable road access to and from the Port of Mombasa in Kenya, to facilitate ongoing relief and reconstruction efforts in South Sudan and to improve the integration of West Pokot in the Kenyan economy. The beneficiaries of the project include pastoralist communities, farmers and businesses along the road corridor, road users (passengers and freight), tradable sectors of the economy, agriculture, mining and ultimately, consumers and producers both inside and outside the sub-region. Construction will take 36 months.

1.1 Project Components triggering displacement

- i. The road starts at Kitale Junction to Morpus bridge, total of 75 Km
- ii. Upgrading to 11metres road width (7m carriageway and 2m road shoulders on both sides to strengthening the existing road);
- iii. Dualing of the Kamatira section to 4 lanes with a separating barrier;
- iv. Construction of a new Axle Load Control Station (ALCS) on each side of the road and;
- v. Provision of 5.50 meters wide service roads within the Built-up Section(s).

2. Overall objectives of the Resettlement Action Plan (RAP) are:

- i. Avoid or minimize adverse resettlement impacts including physical and economic displacement. Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits.
- ii. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs in accordance with the principles outlined in the World Bank Environmental and Social Standards (ESS 5)
- iii. Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.





- iv. Mitigate adverse social and economic impacts from land acquisition by: a) providing compensation for loss of assets at full cost; b) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected; and c) improve or at least restore the livelihoods and standards of living of affected people.
- v. Provide additional assistance and opportunities (e.g., credit facilities, training, or job opportunities) and improve or at least restore the income-earning capacity, production levels and standards of living of economically displaced persons whose livelihoods or income levels are adversely affected;
- vi. Provide transitional support to affected people, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living.

2.1 Key Principles

The key principles of this RAP are based on the requirements of ESS 5 and constitute the following: -

- i. Compensation and resettlement of project-affected people will be carried out in compliance with Kenyan legislation and World Bank ESS 5
- ii. Where Kenyan legislation is less favourable to Project Affected Households (PAHs) than the requirements of ESS5 the latter shall apply;
- iii. All physically and economically displaced people will be offered an option between either a full resettlement package, including the provision of replacement structures or cash compensation;
- iv. The Project will provide for measures to support sustainable use of cash compensation (money management training) and for mechanisms within the overall monitoring framework to follow up the use of cash compensation;
- v. The Project will assist PAHs in restoring their livelihoods to at least their previous levels through the development and implementation of tailored livelihoods restoration packages for each household
- vi. The Project aims to ensure PAHs are Project beneficiaries; targeted livelihood restoration programs will have this as a core strategy to achieve this goal.
- vii. The RAP implementation and outcomes will be monitored and evaluated as part of a transparent process.
- viii. Key methods of consultations with the communities included Focus Group Discussions (FGDs), Key Informant Interviews (KII) at venues identified and agreed upon via consensus.

3. RAP Methodology

The updating of this Resettlement Action Plan entailed verification of Project Affected Persons (PAPs), the affected assets, the socio-economic baseline data of the PAPs, the scope and the magnitude of the social impacts to be borne by the PAPs and design of an appropriate RAP that will provide social safeguard and compensation measures to effectively remedy the impacts of involuntary resettlement on the livelihoods of the PAPs. The RAP report is based





on final road designs provided KeNHA.

The RAP was therefore prepared in four stages:

Stage one: The first stage-included literature review of relevant project design and safeguard reports and maps. The project documents that were reviewed included: a) Design review reports; b) RAP report 2017; c) Vulnerable and Marginalized Group Plan; d) Relevant Kenyan legal documents including; Constitution of Kenya, Land Act, Land Registration Act (2012); Valuers Act (1985); National Land Commission Act, Land Registration Act; Community Land Act, as well as World Bank ESS 5,7 and 10; and KfW sustainability guidelines.

Establishing land registration status: The PAPs falls in two categories including those with title deeds and those, whose land parcels have not been surveyed. The PAPs without title deeds comprise mainly the structure owners within the trading centers and roadside traders who display their merchandise on the open road without erecting any structures. All these categories of PAPs have been documented and appropriate resettlement strategies has been designed for each category.

Acquisition for land for PAPs whose land have been surveyed and title deed issued: The RAP methodology approach for these PAPs involved the acquisition of the Registry Index Maps (RIM) from the Ministry of land office in Kitale and Kapenguria and digitalization of the same, which were finally superimposed on the road design layout to develop the cadastral maps (annex: iii). The cadastral maps produced contained the size and location of the parcels affected by the project. The cadastral maps were useful during census and valuation. The title land searches to establish the legally registered landowners shall be conducted during RAP implementation.

Compensation of structure owners without title deeds: Most of the structure owners especially those within the trading centers do not have the legal ownership to the lands where they have built the structures as the market centers are public land owned by the county governments. However, the full census has been conducted on the PAPs and they shall be compensated for structures and loss of business.

Compensation for roadside sellers: Roadside sellers especially at Kesogon trading centers shall be allocated alternative market to be constructed by the project on a public land to be provided by the county government. During the public consultation meetings, these PAPs confirmed that public land has been identified for the construction of the market.

Field surveys: The field surveys included; 100% census of affected persons, inventory of affected assets, socio-economic profiling of PAHs and recording preferences of each Project Affected Households (PAHs) with regard to resettlement and rehabilitation. The socio-economic survey was conducted between April and May 2022 alongside the census. Consultations were held directly with individual PAPs, relevant individual stakeholders during the field surveys and data collection period. The stakeholders and PAPs agreed that





compensation for the affected assets will be paid directly to the PAPs by National Land Commission (NLC). During RAP update period, affected assets were identified and inventoried, valued and have been include in the Asset Register.

RAP preparation

The RAP report preparation including valuation of affected assets, social economic data analysis and cadastral maps show attributes of all the parcels of land earmarked for acquisition (marked red on the attached survey plan) as picked from the ground by the land surveyors. The marking and surveying of these parcels was undertaken in consultations with the PAPs and other stakeholders. Land surveyors using a variety of techniques including Geographical Information System (GIS) developed the cadastral maps. The cadastral maps enabled management of both the physical information on each parcel of land and PAPs' socioeconomic attributes.

3.1 The overall approach to the RAP preparation

The Road Project traverses through two (2) Counties of Trans Nzoia (Kitale Town, Makutano and Murukwijit) and West Pokot (Kapenguria and Chepareria Market through the Kamatira Hills to Morpus village). The Luhya and the Kalenjin communities inhabit Trans Nzoia County while Pokot community reside in West Pokot County. All the PAPs in West Pokot county belong to the Pokot community and qualify for special consideration under the World Bank policy ESS7, Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities. From a cursory review of available information, KfW considers it to be good practice to regard the farming subsection of the Pokot to be an indigenous group in accordance with the World Bank's definition of indigenous peoples.

KeNHA has prepared a Vulnerable and Marginalized Groups Plan (VMGP) for the road project (annex: i). As such, the preparation of this RAP has followed the standards outlined in ESS 5, 7 and 10. Specifically, ESS 7 stipulates that Bank-financed projects include measures to (a) avoid potentially adverse effects on the Indigenous Peoples' communities; or (b) when avoidance is not feasible, minimize, mitigate, or compensate for such effects. In the case of Kitale –Morpus road, the design has focused on upgrading existing road and avoidance of densely populated areas while designing the road. Though consultation with the community, measures were taken to minimize the impact on the community. ESS 7 further stipulates that, “in exceptional circumstances, when it is not feasible to avoid relocation, the borrower will not carry out such relocation without obtaining broad support for it from the affected Indigenous Peoples' communities as part of the free, prior, and informed consent.

KeNHA has already obtained the Free Prior and Informed Consent (FPIC) from Pokot community (annex: ii). In such cases, the borrower prepares a resettlement plan in accordance with the requirements of ESS 5, Involuntary Resettlement that is compatible with the Indigenous Peoples' cultural preferences, and includes a land-based resettlement strategy. As part of the resettlement plan, the borrower documents the results of the consultation process. Where possible, the resettlement plan should allow the affected Indigenous Peoples to return to the lands and territories they traditionally owned, or customarily used or occupied, if the reasons for their relocation cease to exist.” As such, the RAP team undertook extensive consultations with the affected community in order to develop a resettlement strategy that is





compatible with the cultural preferences of the affected Pokot community. The road construction project will not lead to physical displacement of PAPs no PAP is losing less than 20% of their land parcels. The PAPs preferred cash compensation as opposed to land for land compensation. A livelihood restoration plan for the PAPs losing business income has been included in this RAP.

3.2 Legal Framework

The RAP has been prepared in accordance with all the relevant legislation pertaining to Constitution of Kenya, Land Act, National Land Commission Act, Land Registration Act, Community Land Act, Traffic Act, Roads Act as well as the World Bank Involuntary Resettlement ESS 5 and Indigenous Peoples ESS 7 and Stakeholder engagement ESS 10, KfW sustainability guidelines among others. The Kenyan land laws and the Constitution of Kenya (CoK) 2010, requires that there should be just compensation to those affected but it is not clear on specifics of what constitutes just compensation. World Bank ESS 5 requires full replacement costs. This RAP requires that full replacement cost to be paid as compensation for land to be acquired and for structures to be affected by the project for all the PAHs as per the World Bank ESS 5. The Bank's ESS 5: Involuntary Resettlement is triggered by the project since the road improvement Project will take up land, affect structures, communal assets, cultural assets, and trees. The Project also triggers ESS 7 as it affects the Pokot community who are classified as vulnerable and marginalized under this standard.

Project impacts

The construction of the road and ALCs will physically and economically affect 410 Households and 1,101 PAPs. The total land take is 14.79 Ha. The economic and physical displacement because of land acquisition for the construction of the road and ALCS will lead to loss of the following:

- 1) land
- 2) Structures
- 3) Trees;
- 4) Graves
- 5) Business income

Road impacts

The construction of the road will physically and economically affect 405 Households and 8 public and community institutions including churches and schools. The total number of project-affected persons (PAPs) is 1057. The project will have minimal land take where 75 PAHs will lose small portions of their affected parcels. The total land to be acquired for the road improvement project is 6.49 Ha. The greatest impacts are on the PAHs who owns business structures within major trading centers along the proposed road corridor. A total of 97 PAHs would lose business structures and income. A total of 63 PAHs will lose residential and Non-Residential structures. At the same time, 240 roadside traders will lose their





business income because of the road improvement project and shall have to be given alternative trading area and appropriate livelihoods recovery options. A total of 4486 trees belonging to 69 PAHs shall also be affected by the project. Five churches and two primary schools are also affected by the road project.

ALCS impacts

The construction of the ALCS will physically and economically affect 5 Households. The total number of project-affected persons (PAPs) is 44. Each of the 5 PAHs would lose part of their land. The total amount of land to be acquired for the ALCS is 8.3 Ha. A total of 20 of business structures belonging to one household would be affected by the project. The PAH will also lose business income. At the same time, 3 PAHs would lose 3 residential structures. A total of 885 trees belonging to 5PAHs shall be affected by the project. Five graves belonging to one household shall be affected by the project. The summary of project impacts is provided in tables 1-6 below.

Table 1: Project affected Households and Persons

PAHs and PAPs	Number of PAHs and PAPs		
	Road	ALCS	Total
Total Project Affected Households (PAHs)	405	5	410
Total Number of project Affected Persons (PAPs)	1057	44	1,101

Table 2: Summary of Impacts

Type of loss	Number of affected households		
	Road	ALCS	Total
PAHs losing Land	75	5	80
PAHs losing Trees	69	5	74
PAHs losing open market trading space at Kesogon market	240	-	240
PAHs Losing residential and Non-Residential structures	63	3	66
PAHs Losing Business Structure & loss of Business	97	1	98
PAHs losing graves	-	1	1
Community Institutions affected			
ACK Church Kamatira	1	-	1
SLA Church Sakat	1	-	1
Gospel Mission Victory Church	1	-	1
Sisters of Mercy	1	-	1
Chepareria Adventist Church	1	-	1
Kamatira Primary School	1	-	1
St. Michael Primary School	1	-	1



Type of loss	Number of affected households		
	Road	ALCS	Total
Kenya Forest Service land	1	-	1
Total Institutions affected	8	-	8

Table 3: Land impacts

Type of loss	Road	ALCS	Total
Total acreage in Hectares	6.49	8.3	14.79

Table 4: Non-land impacts/ economic displacements

Type of loss	Road	ALCS	Total
Number of Trees	4486	885	5371
Number of Open market trading spaces	240	-	240
Number of Non-Residential and residential structures	63	3	66
Number of Business Structures	97	20	98
Number of graves	-	5	5

Table 5: Distribution of loss of business income impacts per trading centers

S/N	Trading center	Number of PAHs
1	Mali Saba	16
2	Kamatira Safari hotel center	1
3	Kamatira Sagat center	29
4	Morpus Market center	20
5	Orolwo Market center	17
6	Kesogon Market center	240
Total =		323

Table 6: Vulnerable PAPs Categories

No.	Vulnerable PAPs Categories	No. PAPs
1.	Physically Challenged Persons	2
2.	Elderly / aged	10
3.	Chronically ill	12
4.	Orphans	8
5.	Widows	3
	Total	35



PAPs and Stakeholder Consultations

Resettlement action planning requires consultations with PAPs and other project stakeholders drawn from the affected areas. Given the importance of consultations with PAPs and other stakeholders, we had a total 26 stakeholder consultations over 12 months period (that is between May 2021 to May 2022).

Summary of issues raised at the stakeholder engagement meetings

During the consultations, the community raised issues concerning the project and they included among others:

- Compensation in particular adequacy and timely of the compensation awards;
- Role of elders in the project especially among the Pokot community that are considered indigenous and therefore vulnerable;
- Protection and preservation of sacred, cultural sites and community resources including water;
- Road Safety especially in the area around Kamatira;
- Need for flyover at Chepareria and Morpus (Sereto Primary School). Involvement of locals in identifying key areas of concern. Walkways to start from Psirgoi centre and provisions for animal crossings;
- Contractor should give priority to the local youths and women when sourcing for unskilled labor. There should be an open advertisement for such jobs;
- The community proposed a number of projects that constitute CSR for the project as follows: 4No. Boreholes to be constructed along the project corridor in West Pokot to mitigate water supply challenges; proposed stadium at Chepareria; Health Centre between Chepareria and Ortum and improvement of access roads to public institutions; need to tarmac the roads leading to public institutions along the project corridor especially schools to enhance accessibility to these institutions
- Environmental Protection; need for proper storm water drainage systems to avoid destruction of farms by surface runoff, destruction of trees along the project route and at the forest;
- Conflict Resolution; local redress mechanisms should be used and the formed committees at the community level to sort out arising issues. There is need for the contractor to be inducted to the community and the council of elders to collaborate and avoid future conflicts arising from misunderstandings and offering alternative dispute resolution mechanisms to arising matters; and
- Information sharing on design: There is need for the community to be informed of the final decisions concerning the road to be constructed especially at the sensitive



Kamatira Hills area. The final design should be shared with community among other key decisions that are to be made concerning the road to enhance reception of the project by the community.

A number of these were addressed during the same period such as preparation of Vulnerable and Marginal Peoples Plan, sensitization on what the community should expect, initial valuation, and proposal on livelihood restoration among others.

Valuation and Compensation: The impacts that will arise from the development of the Kitale-Morpus road project include: i) Loss of land; ii) Loss of trees; iii) Loss of residential structures; iv) Loss of community/public infrastructures; v) Loss of business structure; and vi) Loss of business income. This RAP report therefore requires compensation for loss of all these assets at full replacement cost in accordance with ESS 5. All affected assets have been valued based on full replacement cost for compensation planning purposes.

Grievance Redress and Management: The project has proposed to adopt a four-tier grievance redress system that ensures incorporation of key stakeholders in the reporting, reception and resolution of grievances. This approach will enhance transparency and accountability as well as ensure that the system is people centred and therefore functional and supporting the project in enhancing sustainability and social acceptability of the interventions and the project. The four tiers will also ensure that there is a continuous avenue to follow in the event that the issue is not satisfactory addressed at a previous tier or level.

The four tiers are as follows:

1. First Tier – Locational Grievance Committees Level
2. Second Tier – Project Consultant Level
3. Third Tier – Project Implementation Unit Level
4. Fourth Tier – Multi-stakeholder Grievance Committee Level

RAP Institutional Implementation Arrangements: The project will be implemented through at different levels as per the mandate of each institution for Ministry of Transport and Infrastructure (MoTI) will be responsible for mobilization of financing from The National Treasury (NT) for this RAP. MoTI will request The National Treasury to allocate funds for this RAP and will thereafter give the funds to NLC to compensate all the identified PAPs.

Project Implementing Unit (PIU): KENHA will serve as Project Implementing Unit (PIU) for the RAP, with a team dedicated to carrying out the respective activities, and coordinating with the County and National Government. This team will be from the Environment and Social Interest Unit that already exists within KeNHA and has wide experience in RAP implementation. A PIU specifically for the implementation of this RAP will be established.

On the other hand, The Environmental and Social Unit of KeNHA will be responsible for securing and maintaining the project's social license to operate, during which the project's construction phase will entail the following areas of oversight and responsibility: Oversee and provide quality assurance on the following - resettlement action planning and execution; community relations; socio-economic impact assessment; implementation of social aspects of recruitment and procurement policies; development and execution of additional needed policies for all operational areas of responsibility. It is expected that a RAP Implementation





Consultant will be recruited to supervise and coordinate the implementation of this resettlement action plan (RAP).

The PIU will operate on site, in interaction with the project affected people and direct cooperation with the County Governments. The key implementation processes of the RAP will involve continuous presence in the project area and continuous communication with County Governments, resettlement committees and project affected people. A project office (location yet to be determined,) will be secured to enable maximize efficiency and accessibility of the PIU staff including employment of liaison officers on various segments of the corridor. To properly deliver its mandate, the PIU will be fully established and operational as soon as the decision to go ahead with the project has been made and contact details and telephone numbers of the PIU team and liaison officers will be made public to increase engagement. This is in order to initiate and manage those key RAP implementation activities, which will have to be performed prior to the start of construction (i.e. the compensation process for people affected by construction). The PIU will have the will among others liaise with the National Land Commission to facilitate acquisition of land as follows:

- Provide approval to request made by KeNHA to acquire land for the project;
- Notify landholders in writing of the intention to acquire land;
- Assist in resolving disputes related to compensation;
- Acquire land on behalf of KeNHA;
- Undertake public consultation on intended acquisition;
- Undertake actual payment of entitlement awards to PAPs

Sub County Level Implementing Agencies: Sub County Resettlement Compensation Committee (SCRCC) will be established at the sub County level to ensure participatory and transparent implementation of the RAP. KENHA will help constitute the SCRCC with the help of the NLC and Land Offices at the level and the Sub-County Deputy Commissioner. SCRCC will help Resettlement Compensation Committee carry out their mandates efficiently; particularly, ensuring effective communication between NLC with the affected communities. Members to SCRCC will include representation from the following agencies;

The Sub-County Administration representative, who in this case will be the Sub-County Commissioner who will provide the much needed community mobilization, and support the project in the process of resettlement. The Sub-County Commissioner will chair the SCRCC that will be established.

Locational Level Resettlement and Compensation Committees (LRCC)

Membership to LRCCs will be elected by each category of PAPs except the locational Chief and assistant chiefs who will automatic members of the team by virtue of their positions. Each LRCC will elect their chairperson and a secretary. The roles of LRCCs will include among others the following:

- Conducting extensive public awareness and consultations with the affected people.
- Help ensure that local concerns raised by PAPs as regards resettlement and





compensation are promptly addressed.

- Assist the effective working of RAP consultants in validation and updating of the RAP after the detailed design study is completed
- Resolve manageable disputes that may arise relating to resettlement and compensation process. If it is unable to resolve, help refer such grievances to the SCRCC.
- Ensure that the concerns of vulnerable persons such as the disabled, widowed women affected by the project are addressed.
- Ensure that all the PAPs in their locality are informed about the content of the RAP.
- Validate inventories of PAPs and affected assets;
- Facilitate conflict resolution and addressing grievances; and

This committee meets on a regular basis (as determined by the needs of the project) to ensure that resettlement activities are appropriately designed and executed. A representative elected to act as the Project Liaison Officer acts as the key contact with PAPs and therefore facilitate implementation of consultation, public participation and grievance mechanisms.

RAP Implementation Schedule

The RAP implementation period and timelines will be approximately 2 years while some livelihood restoration programs and monitoring may last beyond the actual resettlement activities.

RAP implementation monitoring

The project will have two forms of monitoring - internal and external. 1) Internal monitoring and reporting which will include: a) monitoring of Construction Activities; and; b) monitoring of Resettlement Activities and Measures. 2) External Monitoring and reporting this will involve; a) RAP Audit Consultant; b) disclosure of Monitoring Reports; and c) Independent Environmental and Social Panel of Expert

RAP Disclosure

The RAP will be disclosed in English while the executive summary (non-technical) will be translated into Kiswahili and Luyha, Kalenjin and Pokot languages. Disclosure of RAP in the local languages and Kiswahili will be done in hard copy at the affected households' level and its contents explained verbally to all PAPs participants and stakeholders during RAP disclosure public meetings to be held at the inception phase of RAP implementation. Disclosure of the RAP in English will be in electronic form on the website of the following institutions namely:

- a) Ministry of Roads, transport and Infrastructure
- b) KeNHA





- c) County Government of Trans Nzoia and Pokot
- d) KfW

Hard copies will be made available in the same offices with additional copies availed at the following sites:

- a) KeNHA regional office
- b) Pokot and Trans Nzoia County Headquarters
- c) Office of contractor
- d) Sub- County Offices
- e) All Locational offices affected by the project
- f) All Ward offices affected by the project

RAP budget

The total budget for resettlement compensation is Kshs. **357,998,310** including disturbance allowance and livelihood restoration, conveyancing and succession and grievance redress. In addition, administration cost of 15 per cent for the RAP implementation and monitoring and evaluation have been considered. However, the total costs of the RAP are bound to change, as the unit prices will further be reviewed by NLC at the early stage of implementation to reflect the market prices and/or value and hence full replacement cost at that time. The RAP budget is provided in table 7 below.

Table 7: RAP Budget

Total RAP Cost	Value (Kshs)
Land	124,893,918
Structures	103,246,794
Crops and Trees	5,608,560
Loss of Business income	2,370,000
Sub Total 1	236,119,272
Disturbance cost (15%)	35,417,890
Sub Total 2	271,537,162
Livelihood Restoration (15%)	40,730,574
Facilitation of Grievance Redress and Resettlement Committees	5,000,000.00
Contingency costs 15% of RAP cost	40,730,574
Sub-Total 3	86,461,148
Grand Total(sub-Total 2+ Sub-total 3)	357,998,310

Final Steps





The Social Safeguards team will in consultations with key stakeholders organise for disclose of the RAP to PAPs and PAHs as well as well as stakeholders for further inputs. In addition, the team will submit final Draft to KEHNA to facilitate transmission of the same to the National Land Commission and avail themselves for consultations on acquisition process that NLC will provide leadership as per the law.





TABLE OF CONTENTS

1. INTRODUCTION.....	21
1.1 Project Background.....	21
2. PROPOSED PROJECT DESCRIPTION.....	24
3. DESIGN APPROACH.....	25
3.1 Road Alignment.....	25
3.2 Road Classification.....	26
3.3 Road Reserve Width.....	26
3.4 Cross Section Type.....	26
3.5 Pavement Design.....	31
3.6 Traffic Analysis and forecasts.....	32
3.7 Design Components.....	33
3.7.1 Fill and Cut Slopes.....	33
3.7.2 Climbing lanes.....	34
3.7.3 Longitudinal drainage ditches (side ditches and cut-off ditches).....	34
3.7.4 Access Culverts.....	34
3.7.5 Waterway crossings.....	34
3.7.6 Check dams.....	34
3.7.7 Vehicular underpasses and Light Vehicular underpasses.....	35
3.7.8 Pedestrian underpasses.....	35
3.7.9 Pedestrian underpass cum culvert.....	35
3.7.10 Cattle underpasses.....	35
3.7.11 Bus bays.....	35
3.7.12 Stone quarries, sand sources, gravel, and construction water sources.....	36
3.8 Temporary Construction Facilities.....	36
3.8.1 Material sites.....	36
3.8.2 Hardstone Sources.....	37
3.8.3 Natural River Sand and Crushed Rock Sand.....	37
3.9 Associated Facilities.....	38
3.10 Road Safety.....	38
4. RAP METHODOLOGY.....	40
4.1 Literature Review.....	40





4.2	Establishing Land Registration Status.....	40
4.2.1	Acquisition for land for PAPs whose land have been surveyed and title deed issued sections.....	40
4.2.2	Structure owners without title deeds.....	41
4.2.3	Roadside sellers.....	41
4.3	Stakeholder Consultations.....	41
4.4	Asset Inventory, Census, Socio-Economic Surveys.....	41
4.4.1	Asset Inventory.....	41
4.4.2	Census and Socio-Economic Survey.....	42
4.5	Training of enumerators.....	42
4.6	Identification of PAHS.....	42
4.7	Cadastral Land Survey.....	42
4.8	Asset Valuation Surveys.....	43
4.9	Data Collection, Entry And Analysis And Rap Report Preparation.....	43
4.10	RAP Team.....	43
5.	LEGAL AND POLICY FRAMEWORK.....	44
5.1	Land Tenure System In Kenya.....	47
5.1.1	Customary Land Tenure.....	47
5.1.2	Freehold Tenure.....	47
5.1.3	Leasehold Tenure.....	48
5.1.4	Public Tenure.....	48
5.2	Land Acquisition Process.....	48
5.2.1	Proof that Compulsory Possession is for Public Good.....	48
5.2.2	Respective Government agency or cabinet must seek approval of National Land Commission (NLC).....	48
5.2.3	Inspection of Land to be acquired.....	49
5.2.4	Publication of Notice of Intention to Acquire.....	49
5.2.5	Serve the notice of inquiry.....	49
5.2.6	Holding of a public hearing.....	49
5.2.7	Valuation of the land.....	50
5.2.8	Matters to be considered in Determining Compensation.....	50
5.2.9	Matters not to be considered in Determining Compensation.....	50
5.2.10	Award of Compensation.....	51
5.2.11	Payment of Compensation.....	51
5.2.12	Transfer of Possession and Ownership to the State.....	51





5.2.13	Opportunity for Appeal.....	52
5.3	World Bank Environmental And Social Standards.....	52
5.4	Basic Principles And Guidelines On Development Based Evictions And Displacement	55
5.5	Voluntary Guidelines On The Responsible Governance Of Tenure Of Land, Fisheries And Forests In The Context Of National Food Security (2012).....	55
5.6	Relevant Kenyan Legislation.....	56
5.7	KfW Sustainability Guideline.....	57
5.8	GAP Analysis.....	57
6.	STAKEHOLDER ENGAGEMENT.....	121
6.1	Introduction.....	121
6.2	Objective Of Stakeholder Engagement.....	121
	Issues raised by the Pokot Community.....	128
	Action Plans.....	128
6.3	RAP disclosure.....	132
7.	BASELINE AND SOCIO-ECONOMIC PROFILE OF PAPS.....	133
7.1	Position And Size Of Trans Nzoia County.....	133
7.2	Demographics.....	133
7.3	Population Distribution By Gender.....	134
7.4	Settlement Patterns (Urban Centres, And Informal Settlement).....	134
7.4.1	Population distribution by age.....	135
7.4.2	Education status.....	136
7.4.3	Employment status.....	137
7.4.4	Income and expenditure.....	138
7.4.5	Ownership of movable assets.....	139
7.4.6	Land ownership categories/ classification.....	140
7.4.7	Agriculture.....	140
7.4.8	Access to different types of transport.....	141
7.4.9	Satisfaction with public transport system.....	142
7.4.10	Assessment of transport usage.....	143
7.4.11	Communication.....	145
7.4.12	Security Agencies.....	145
7.4.13	Markets.....	146
7.4.14	Financial services (Source- Respondents).....	147
7.4.15	Energy Access.....	147





7.4.16	Housing Types.....	148
7.4.17	Water resources.....	150
7.4.18	Sanitation.....	150
7.4.19	Health facilities and staff.....	151
7.4.20	Morbidity.....	152
7.4.21	HIV awareness.....	153
7.4.22	Community Organizations/Non-State Actors.....	153
7.4.23	Religious Facilities.....	153
7.4.24	Gender Issues.....	153
7.4.25	Vulnerable Groups.....	154
7.5	Corporate Social Responsibility.....	154
7.6	West Pokot County.....	155
7.6.1	Position and Size.....	155
7.6.2	Administrative Units.....	155
7.6.3	Political Units.....	155
7.6.4	Population Size.....	155
7.6.5	Population distribution by gender.....	156
7.6.6	Population distribution by age.....	157
7.6.7	Education status.....	158
7.6.8	Employment.....	159
7.6.9	Labour migration.....	159
7.6.10	Income and expenditure.....	160
7.6.11	Ownership of movable assets.....	161
7.6.12	Land ownership Categories/Classification.....	161
7.6.13	Agriculture.....	162
7.6.14	Transport.....	162
7.6.15	Assessment of transport usage.....	163
7.6.16	Satisfaction with public transport system.....	164
7.6.17	Source of household cooking energy.....	165
7.6.18	Housing Types.....	166
7.6.19	Sanitation.....	168
7.6.20	Market.....	168
7.6.21	Financial Services.....	168
7.6.22	Water.....	169



7.6.23	Health.....	170
7.6.24	Morbidity.....	170
7.6.25	HIV awareness.....	170
7.6.26	Cultural Heritage.....	171
7.6.27	Co-operatives Societies.....	171
7.6.28	Public Benefits Organizations (PBOs).....	171
7.6.29	Security.....	171
7.6.30	Religious Facilities.....	171
7.6.31	Gender Issues.....	172
7.6.32	Vulnerable Groups.....	172
7.6.33	Corporate social responsibility.....	172
8.	PROJECT IMPACTS AND MITIGATION MEASURES.....	174
8.1	Avoidance Principle.....	175
8.2	Entitlement Policy, Eligibility And Valuation.....	176
	Entitlement Policy.....	176
	Defining Project Affected People (Who is eligible).....	176
8.3	Eligibility.....	177
8.3.1	Cut-Off Date.....	177
8.3.2	Category of PAH.....	178
8.3.3	Entitlement Matrix.....	178
8.4	Valuation Methods.....	200
8.5	Valuation Process for Land and other Assets.....	200
8.5.1	Land - Market Research and Valuation.....	200
8.6.1.1	Land Market Research - Objectives.....	200
8.6.1.2	Land Market Research - Target PAPs.....	200
8.6.1.3	Valuation of land using Comparison Method.....	200
8.5.2	Valuation of structures using current replacement approach.....	200
8.5.3	Replacement Cost Valuation of Trees.....	201
9.	COMPENSATION PACKAGES.....	202
9.1	Loss of Residential Land.....	202
9.2	Loss of Farmland.....	202
9.3	Loss of Residential Structures.....	202
9.4	Loss of Business Structures.....	202
9.5	Loss of trees.....	202





9.6	Special Measures for Vulnerable Households.....	202
10.	LIVELIHOOD RESTORATION PROGRAM.....	204
10.1	Objectives and Schedule of Activities.....	204
10.2	Aims of Activities.....	205
10.3	Key principles of Livelihood Restoration.....	205
10.4	Context of Livelihood Restoration.....	207
10.5	Potential Livelihood Restoration Options.....	207
	Training on Financial and Business Management.....	207
10.5.1	Agricultural and Livestock Development.....	208
	Cattle Raising.....	208
	Poultry Farming.....	208
10.5.2	Agricultural Extension.....	209
10.5.3	Traditional Shrubs and Tree Planting.....	210
10.5.4	Off-Farm Activities.....	210
10.5.5	Promotion of small scale trading.....	210
10.5.6	Community Infrastructure and Support.....	211
11.	GRIEVANCE REDRESS MECHANISM.....	212
11.1	Types of complaints.....	213
11.2	Proposed Grievance Redress System.....	213
	First Tier – Locational Grievance Committees Level.....	213
11.3	Procedures of Locational Grievance Committees Level.....	214
	Second Tier – Project Consultant Level.....	214
	Third Tier – Project Implementation Unit Level.....	215
	Fourth Tier – Multi-stakeholder Grievance Committee Level.....	215
11.4	Procedure for Grievance Handling.....	216
11.5	Grievance tiers.....	220
12.	INSTITUTIONAL FRAMEWORK FOR RAP IMPLEMENTATION.....	221
12.1	Ministry of Transport and Infrastructure.....	221
12.2	Project Implementing Unit –KeNHA.....	221
12.3	National Land Commission.....	222
12.4	Sub County Level Implementing Agencies.....	222
13.	IMPLEMENTATION, MONITORING, EVALUATION AND BUDGET.....	224
13.1	MONITORING AND EVALUATION.....	225
13.2	ADAPTIVE MANAGEMENT APPROACH.....	225





13.3 INTERNAL MONITORING AND REPORTING.....225

13.4 EXTERNAL MONITORING AND REPORTING.....229

RAP Implementation Consultant.....229

13.5 BUDGET.....229

14 REFERENCES.....231

LIST OF FIGURES

FIGURE 1: THE PROJECTROAD.....28

FIGURE 2: TYPICAL CROSS SECTION TYPE-1.....31

FIGURE 3: TYPICAL CROSS SECTION TYPE-2.....31

FIGURE 4: TYPICAL CROSS SECTION TYPE-3.....32

FIGURE 5: TYPICAL CROSS SECTION TYPE 4.....34

FIGURE 6: TYPICAL CROSS SECTION TYPE-5.....34

FIGURE 7: TOTAL TRAFFIC IN 2021, 2025.....37

FIGURE 8: ADOPTED TRAFFIC GROWTH RATES.....37

FIGURE 9: MINIMUM AREA REQUIRED FOR LARGE TYPE 2 WEIGH STATION....44

DEMOGRAPHIC FIGURES TRANS-NZOIA COUNTY

FIGURE 10: GENDER DISTRIBUTION OF HOUSEHOLD HEADS (SOURCE.....171

FIGURE 11: FAMILY TYPE (SOURCE- RESPONDENTS)171

FIGURE 12: POPULATION DISTRIBUTION (URBAN –RURAL)- (SOURCE-
RESPONDENTS).....172

FIGURE 13: EDUCATION STATUS (SOURCE- RESPONDENTS)173

FIGURE 14: ACCESSIBILITY TO EDUCATIONAL INSTITUTIONS (SOURCE-
RESPONDENTS).....173

FIGURE 15: EMPLOYMENT STATUS (SOURCE- RESPONDENTS).....174

FIGURE 16: INCOME (SOURCE- RESPONDENTS).....175

FIGURE 17: EXPENDITURE (SOURCE- RESPONDENTS)175

FIGURE 18: OWNERSHIP OF MOVABLE ASSETS (SOURCE- RESPONDENTS).....176

FIGURE 19: DOMESTIC ANIMALS KEPT BY THE RESPONDENTS (SOURCE-
RESPONDENTS).....177

FIGURE 20: ACCESS TO DIFFERENT TYPES OF TRANSPORT (SOURCE-
RESPONDENTS).....178

FIGURE 21: REASONS FOR USING TRANSPORT (SOURCE- RESPONDENTS)
.....178

FIGURE 22: LEVEL OF SATISFACTION WITH PUBLIC TRANSPORT (SOURCE-
RESPONDENTS)179

FIG. 23: MOST FREQUENTLY TRAVELLED PLACES (SOURCE- RESPONDENTS)
.....179

FIG. 24: FREQUENCY OF TRAVEL (SOURCE- RESPONDENTS)180

FIG. 25: TRAVEL TIME (SOURCE- RESPONDENTS).....180

FIG. 26: DISTANCE TRAVELLED (SOURCE- RESPONDENTS).....180

FIG. 27: ACCESSIBILITY TO POST OFFICE (SOURCE- RESPONDENTS).....181

FIG. 28: ACCESSIBILITY TO POLICE STATIONS (SOURCE- RESPONDENTS).....182

FIG. 29: ACCESSIBILITY TO MARKET (SOURCE- RESPONDENTS).....182





FIG. 30: ACCESSIBILITY TO BANKS/ ATM (SOURCE- RESPONDENTS).....183

FIG. 31: ACCESS TO ELECTRICITY CONNECTIVITY (SOURCE- RESPONDENTS)
.....184

FIG. 32: ENERGY (SOURCE- RESPONDENTS)184

FIG. 33: ROOF TYPE (SOURCE- RESPONDENTS)185

FIG. 34: WALL TYPE (SOURCE- RESPONDENTS).....185

FIG. 35: HOUSE OWNERSHIP (SOURCE- RESPONDENTS).....185

FIG. 36: ACCESS TO DRINKING WATER (SOURCE- RESPONDENTS)186

FIG. 37: ACCESS TO PRIVATE TOILET FACILITY (SOURCE- RESPONDENTS)187

FIG 38: ACCESS TO PUBLIC TOILET FACILITY (SOURCE- RESPONDENTS)
.....187

FIG 39: ACCESS TO HOSPITALS (SOURCE- RESPONDENTS)188

FIGURE 40: SOURCE OF HIV/AIDS INFORMATION (SOURCE- RESPONDENTS)
.....189

FIG. 41: VULNERABILITY (SOURCE- RESPONDENTS).....190

FIGURE 42: CORPORATE SOCIAL RESPONSIBILITY (SOURCE- RESPONDENTS)
.....191

DEMOGRAPHIC FIGURES WEST POKOT COUNTY

FIGURE 43: GENDER OF THE HOUSEHOLD HEAD (SOURCE- RESPONDENTS)
.....192

FIGURE 44: POPULATION DISTRIBUTION (URBAN /RURAL) (SOURCE-
RESPONDENTS).....192

FIGURE 45: FAMILY TYPE (SOURCE- RESPONDENTS).....193

FIGURE 46: POPULATION DISTRIBUTION BY AGE (SOURCE- RESPONDENTS)
.....193

FIGURE 47: LEVEL OF EDUCATION (SOURCE- RESPONDENTS).....194

FIGURE 48: EMPLOYMENT STATUS (SOURCE- RESPONDENTS).....195

FIGURE 49: LABOR MIGRATION (SOURCE- RESPONDENTS)195

FIGURE 50: MONTHLY INCOME (SOURCE- RESPONDENTS).....196

FIGURE 51: HOUSEHOLD INCOME FROM AGRICULTURAL PRODUCTION.....196

FIGURE52: MONTHLY EXPENDITURE (SOURCE- RESPONDENTS).....197

FIGURE 53: OWNERSHIP OF MOVABLE ASSETS (SOURCE- RESPONDENTS)
.....197

FIGURE 54: DOMESTIC ANIMALS KEPT BY THE RESPONDENTS (SOURCE-
RESPONDENTS).....198

FIGURE 55: TRANSPORT NEEDS (SOURCE- RESPONDENTS).....199

FIGURE 56: FREQUENCY OF TRAVEL (SOURCE- RESPONDENTS).....199

FIG. 57: DISTANCE TRAVELLED (SOURCE- RESPONDENTS).....200

FIG. 58: TRAVEL TIME (SOURCE- RESPONDENTS).....200

FIG. 59: SATISFACTION WITH PUBLIC TRANSPORT SYSTEM (SOURCE-
RESPONDENTS).....201

FIG. 60: REASONS FOR FEELING UNSAFE WITH PUBLIC TRANSPORT.....201

FIGURE 61: FUEL USE BY HOUSEHOLDS (SOURCE- RESPONDENTS)202

FIG. 62: WALL TYPE (SOURCE- RESPONDENTS).....202

FIG. 63: ROOF TYPE (SOURCE- RESPONDENTS).....203

FIG. 64: HOUSE OWNERSHIP (SOURCE- RESPONDENTS).....203

FIG. 65: AVAILABILITY OF TOILET FACILITIES (SOURCE- RESPONDENTS)204





FIG. 66: ACCESS TO DRINKING WATER (SOURCE- RESPONDENTS).....205
 FIG. 67: SOURCE OF DRINKING WATER (SOURCE- RESPONDENTS).....205
 FIG. 68: HIV AWARENESS (SOURCE- RESPONDENTS).....206
 FIGURE 69: VULNERABLE GROUP (SOURCE- RESPONDENTS).....209
 FIG. 70: PROPOSED CSR PROJECTS (SOURCE- RESPONDENTS).....209
 FIGURE 71: GRIEVANCE REDRESS MECHANISM OUTLOOK.....260

LIST OF TABLES

TABLE 1: PROJECT AFFECTED HOUSEHOLDS AND PERSONS7
 TABLE 2: SUMMARY OF IMPACTS7
 TABLE 3: LAND IMPACTS.....8
 TABLE 4: NON-LAND IMPACTS/ ECONOMIC DISPLACEMENTS.....8
 TABLE 5: DISTRIBUTION OF LOSS OF BUSINESS INCOME IMPACTS PER TRADING CENTERS.....8
 TABLE 6: VULNERABLE PAPS CATEGORIES.....8
 TABLE 7: RAP BUDGET.....13
 TABLE 8: TYPICAL CROSS SECTION FOR THE ROAD PROJECT.....30
 TABLE 9: PAVEMENT DESIGN.....35
 TABLE 10: BASIC CAPACITY FOR THE PROJECT ROAD SECTIONS.....36
 TABLE 11: SUMMARY OF THE CUMULATIVE NUMBER OF STANDARD AXLE OBTAINED FOR THE FOUR (4) PROJECT ROAD SECTIONS.....36
 TABLE 12: CLIMBING LANES.....38
 TABLE 13: WATERWAY CROSSINGS.....38
 TABLE 14: VEHICULAR UNDERPASSES AND LIGHT VEHICULAR UNDERPASSES.....39
 TABLE 15: PEDESTRIAN UNDERPASSES.....39
 TABLE 16: PEDESTRIAN UNDERPASS CUM CULVERT.....39
 TABLE 17: BUS BAYS.....40
 TABLE 18: STONE QUARRIES, SAND SOURCES, GRAVEL, AND CONSTRUCTION WATER SOURCES.....41
 TABLE 19: SUMMARY OF MATERIAL SITES.....41
 TABLE 20: HARDSTONE SOURCES.....42
 TABLE 21: SUMMARY OF RELEVANT RESETTLEMENT LEGAL STATUTES APPLICABLE.....52
 TABLE 22: WORLD BANK ENVIRONMENTAL AND SOCIAL STANDARDS.....61
 TABLE 23: GAP ANALYSIS.....66
 TABLE 24: STAKEHOLDER ANALYSIS.....155
 TABLE 25: STAKEHOLDER ENGAGEMENT MEETINGS.....158
 TABLE 26: SUMMARY OF ISSUES RAISED AT THE STAKEHOLDER ENGAGEMENT.....160
 TABLE 27: SUMMARY OF ISSUES RAISED BY ALCS PAPS AND RESPONSES...166
 TABLE 28: THE SUMMARY OF PROJECT IMPACTS211
 TABLE 29: SUMMARY OF IMPACTS212
 TABLE 30: LAND IMPACTS.....212
 TABLE 31: NON-LAND IMPACTS/ ECONOMIC DISPLACEMENTS212
 TABLE 32: DISTRIBUTION OF LOSS OF BUSINESS INCOME IMPACTS PER TRADING CENTERS212





TABLE 33: VULNERABLE PAPS CATEGORIES.....	213
TABLE 34: ELIGIBILITY FRAMEWORK.....	214
TABLE 35: ENTITLEMENT MATRIX.....	216
TABLE 36: VULNERABLE PAPS CATEGORIES.....	239
TABLE 37: IMPACTS OF PROJECT ON LIVELIHOODS	243
TABLE 38: PROPOSED LIVELIHOOD PROGRAMME COMPONENTS.....	245
TABLE 39: MONITORING OF LRP.....	252
TABLE 40: COMMUNITY DEVELOPMENT PLAN (CDP) TO FACILITATE ADDITIONAL BENEFITS TO THE WIDER COMMUNITIES ADJOINING THE PROJECT.....	253
TABLE 41: DISTRIBUTION OF LOSS OF BUSINESS INCOME IMPACTS PER TRADING CENTERS	254
TABLE 42: RAP IMPLEMENTATION SCHEDULE.....	266
TABLE 43: RAP MONITORING INDICATORS.....	268
TABLE 44: RAP BUDGET	271

ACRONYMS AND ABBREVIATIONS

ADR	Alternative Dispute Resolution
AOI	Area of Influence
ALCS	Axle Load Control Station
CoK	Constitution of Kenya
CSOs	Community Support Organizations
CSR	Community Social responsibility
CDP	Community Development Plan
EAC	East African Community
ESS	Environmental and Social Standards
EU-AITF	European Union-Africa Infrastructure Trust Fund
FGDs	Focus Group Discussions
FPIC	Free Prior and Informed Consent
GoK	Government of Kenya
GRM	Grievance Redress Mechanism
GIS	Geographical Information System
KII	Key Informant Interviews
KeNHA	Kenya National Highways Authority
KfW	Kreditanstalt für Wiederaufbau
KURA	Kenya Urban Roads Authority
KURRA	Kenya Rural Roads Authority
KIHBS	Kenya Integrated Household Budget Survey
KFS	Kenya Forestry Services
LRCC	Locational Level Resettlement and Compensation Committees
LRS	Livelihood Restoration Systems
LRP	Livelihood Restoration Programmes
MoTI	Ministry of Transport and Infrastructure
NC	Northern Corridor
NLC	National Land Commission
NGO	Non-Governmental Organization





OSHA	Occupational Safety and Health Act
PAHs	Project Affected Households
PAPs	Project Affected Persons
PIU	Project Implementing Unit
RAP	Resettlement Action Plan
RIM	Registry Index Maps
RPF	Resettlement Policy Framework
ROW	Right of Way
RIC	Rap Implementation Consultant
SCRCC	Sub County Resettlement Compensation Committee
SEP	Stakeholder engagement plan
ToLs	Temporary Occupation Licenses
ToR	Terms of Reference
UN	United Nations
<u>VGGT</u>	<u>Voluntary Guidelines on the Responsible Governance of Tenure</u>
VMGP	Vulnerable and Marginalized Groups Plan
WIBA	Work Injury Benefits Act
WB	World Bank





1. INTRODUCTION

PROJECT BACKGROUND

The Government of Kenya, through the Kenya National Highways Authority (KeNHA) is undertaking the rehabilitation and upgrading of the Kitale-Morpus section (75 km) of the Northern Corridor (NC) in North - Western part of Kenya which is a priority Regional National Trunk Road Network of the East African Community (EAC) with financial support from the Kreditanstalt für Wiederaufbau (KfW), EU-AITF (European Union-Africa Infrastructure Trust Fund) and Government of Kenya (GoK). The Road Project traverses through two (2) Counties of Trans Nzoia (Kitale Town, Makutano and Murukwijit) and West Pokot (Kapenguria and Chepareria Market through the Kamatira Hills to Morpus village). The objectives of the project are to promote and facilitate regional economic integration of South Sudan by providing reliable road access to and from the Port of Mombasa in Kenya, to facilitate ongoing relief and reconstruction efforts in South Sudan and to improve the integration of West Pokot in the Kenyan economy. The beneficiaries of the project include pastoralist communities, farmers and businesses along the road corridor, road users (passengers and freight), tradable sectors of the economy, agriculture, mining and ultimately, consumers and producers both inside and outside the sub-region. Construction will take 36 months.

Overall objectives of the Resettlement Action Plan (RAP) are:

- i. Avoid or minimize adverse resettlement impacts including physical and economic displacement. Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits.
- ii. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs in accordance with the principles outlined in the World Bank Environmental and Social Standards (ESS 5)
- iii. Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.
- iv. Mitigate adverse social and economic impacts from land acquisition by:
 - a. Providing compensation for loss of assets at full replacement cost;
 - b. Ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected; and
 - c. Improve or at least restore the livelihoods and standards of living of affected people.
- v. Provide additional assistance and opportunities (e.g., credit facilities, training, or job opportunities) and improve or at least restore the income-earning capacity, production levels and standards of living of economically displaced persons whose livelihoods or income levels are adversely affected;





- vi. Provide transitional support to affected people, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living.
- vii. The key principles of this RAP are based on the requirements of ESS 5 and constitute the following: -
 - i. Compensation and resettlement of project-affected people will be carried out in compliance with Kenyan legislation and World Bank ESS 5
 - ii. Where Kenyan legislation is less favourable to Project Affected Households (PAHs) than the requirements of ESS5 the latter shall apply;
 - iii. All physically and economically displaced people will be offered an option between either a full resettlement package, including the provision of replacement structures or cash compensation;
 - iv. The Project will provide for measures to support sustainable use of cash compensation (money management training) and for mechanisms within the overall monitoring framework to follow up the use of cash compensation;
 - v. The Project will assist PAHs in restoring their livelihoods to at least their previous levels through the development and implementation of tailored livelihoods restoration packages for each household
 - vi. The Project aims to ensure PAHs are Project beneficiaries; targeted livelihood restoration programs will have this as a core strategy to achieve this goal.
 - vii. The RAP implementation and outcomes will be monitored and evaluated as part of a transparent process.
 - viii. Key methods of consultations with the communities included Focus Group Discussion, Key informant interviews at venues identified and agreed upon via consensus.

Project Components triggering displacement

- i. The road starts at Kitale Junction to Morpus bridge, total of 75 Km
- ii. Upgrading to 11metres road width (7m carriageway and 2m road shoulders on both sides to strengthening the existing road);
- iii. Dualing of the Kamatira section to 4 lanes with a separating barrier;
- iv. Construction of a new Axle Load Control Station (ALCS) on each side of the road and;
- v. Provision of 5.50 meters wide service roads within the Built-up Section(s).

Road impacts

The construction of the road will physically and economically affect 405 Households and 8 public and community institutions including churches and schools. The total number of project-affected persons (PAPs) is 1057. The project will have minimal land take where 75 PAHs will lose small portions of their affected parcels. The total land to be acquired for the road improvement project is 6.49 Ha. The greatest impacts are on the PAHs who owns business structures within major trading centers along the proposed road corridor. A total of 97 PAHs would lose business structures and income. A total of 63 PAHs will lose residential and Non-Residential structures. At the same time, 240 roadside traders will lose their business income because of the road improvement project and shall have to be given alternative trading area and appropriate livelihoods recovery options. A total of 4486 trees belonging to 69 PAHs shall also





be affected by the project. Five churches and two primary schools are also affected by the road project.

ALCS impacts

The construction of the ALCS will physically and economically affect 5 Households. The total number of project-affected persons (PAPs) is 44. Each of the 5 PAHs would lose part of their land. The total amount of land to be acquired for the ALCS is 8.3 Ha. A total of 20 of business structures belonging to one household would be affected by the project. The PAH will also lose business income. At the same time, 3 PAHs would lose 3 residential structures. A total of 885 trees belonging to 5PAHs shall be affected by the project. Five graves belonging to one household shall be affected by the project.



2. PROPOSED PROJECT DESCRIPTION

The project road starts at Kitale at the junction with C48 and ends at Morpus Village a few kilometers from Chepareria market. The total length of project road is 75Km. It commences by spanning an urban setting through Kitale town before traversing a largely rural area with predominantly hilly and mountainous terrain before terminating at Morpus Village, 20.7km from Chepareria Market and 1.28 Km from Sebit market. The main markets along the road are Maili Saba, Kesogon, Makutano and Chepareria markets. Other shopping centres along the road include Kipsaina, Murkwijit, Kipsaina, Karas, Kamatira, Chepkorniswo and Morpus. The road network is provided in fig. 1 below.

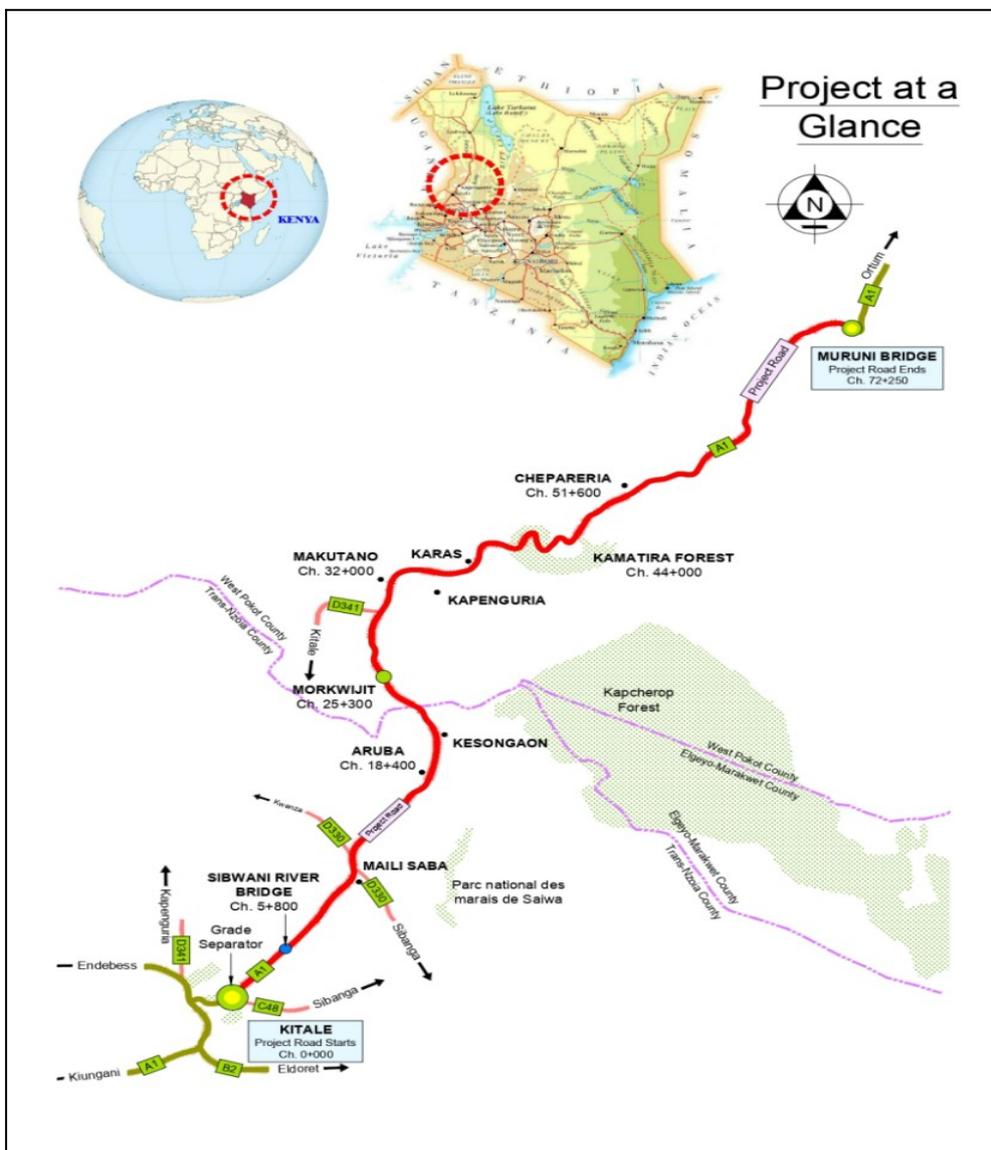


Figure 1: The project Road



3. DESIGN APPROACH

The approaches to the detailed engineering solutions that has been taken into account are:

- Optimized the use of materials for construction;
- Improved geometric deficiencies;
- Improved the junctions;
- Provided access culverts and improved access roads for public convenience to major buildings;
- Provided cross-drainage structures with adequate opening size and proper protection work;
- Providing roadside drainage with adequate capacity;
- Proper outfall connectivity of the longitudinal drains/ ditches, checkdams has been proposed;
- Proper outfall of culverts has been designed;
- River training work has been proposed to eliminate scouring and local flooding;
- Additional dry span will be proposed at locations that will be used as Cattle crossings during rainy season;
- Covered drain-cum-footpath has been proposed for vehicular/pedestrian crossing;
- Proper road-side Furnitures has been proposed as per requirement;
- Road signages, Climbing lane and guardrails has been proposed;
- Sacred trees/ structures are retained with proper engineering solutions;
- Kamatira Hills Section has been designed with maximum road safety, minimum loss of natural vegetation and biodiversity with minimal or no impact on physical and economic displacement of the likely PAPs
- Free Prior Informed Consent (FPIC) from the local people and their opinions is well incorporated during the detailed design in conformity with the Kenya road design manuals and other International Standards.

Road Alignment

The project road alignment follows the existing alignment except at Kamatira hills section where there are significant realignments to streamline the geometry to meet the design manual specifications for a Class A road and address the Road safety concerns for this section of the





road. The design attempts to avoid affecting people’s houses and other properties on both sides of the existing road. The general effect on existing properties has been minimized as much as feasible.

Road Classification

The project road is an International Trunk Road and provides a link to South Sudan. It is therefore classified as a Class A road.

Road Reserve Width /Area of Influence (AOI)

The desirable road reserve width applicable for a Class A road is 40 - 60m, according to the Road Design Manual. This has been adopted for the entire project road. Locally, the necessary right of way can exceed the 40 m corridor (deep cuts/fills).

Though several buildings within some centres along the road and in Kamatira will be affected by the 40m road reserve, it is reasoned that it is a better long-term solution to adopt this reserve width now (and pay appropriate compensation) and enhance safety operation and appearance of the road as well as for provision for future road connections, changes in alignment, road width and development of future junctions.

Cross Section Type

Five types of cross sections have been proposed as shown below.

Table 8: Typical Cross section for the Road Project

Typical Cross Section Type	Areas proposed	Total length
1	Provided in the rural areas where the terrain is flat to rolling	33.290 km
2,2A,2B	Proposed in the build-up sections	14.240 km
3L,3R	Proposed where road is passing through steep gradient thus for safety, climbing lane is proposed	14.260 km
4,4A,4B,4C,4D,4E	Proposed for Kamatira Hill section	9.850 km
5A,5B	Proposed after km 71+640 to end of the project road	0.700 km

The detailed descriptions of the Cross sections have been presented in the Engineering Book of drawing as shown in figures 2- 6 below.

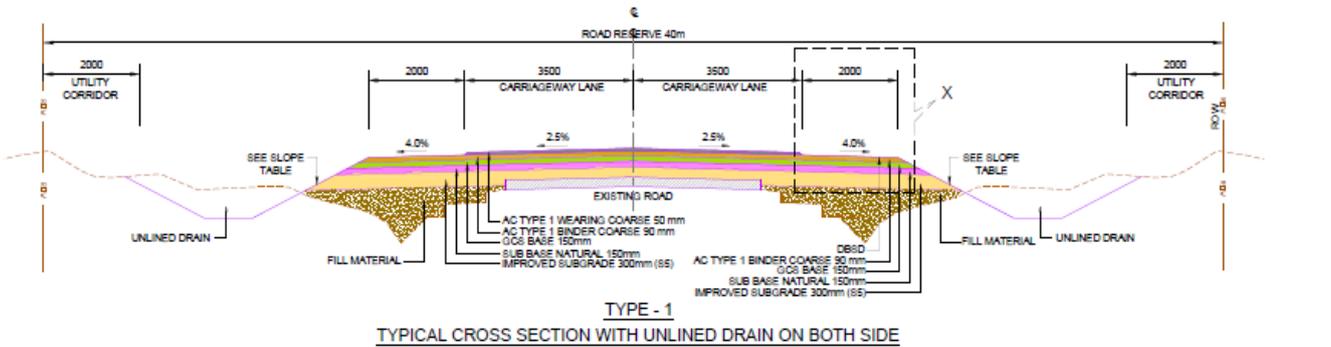


Figure 2: Typical Cross Section Type-1

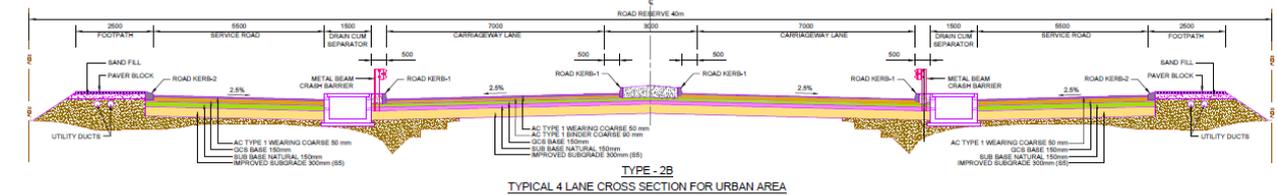
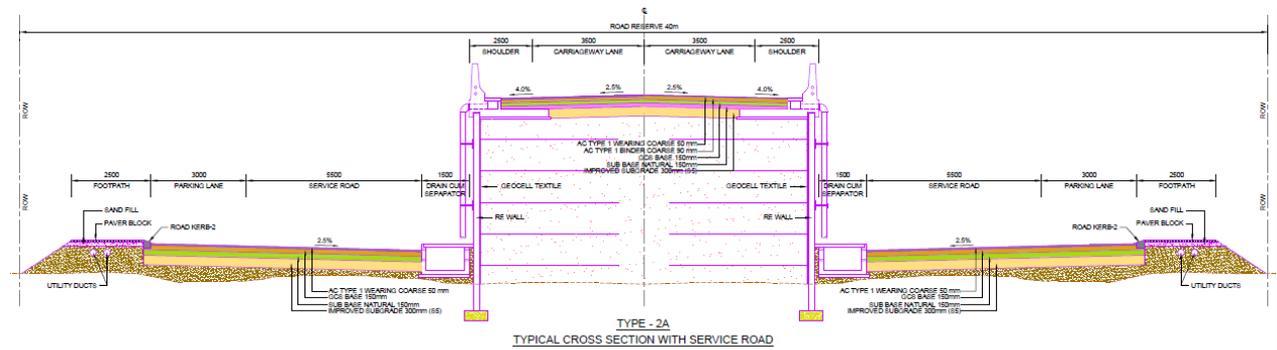
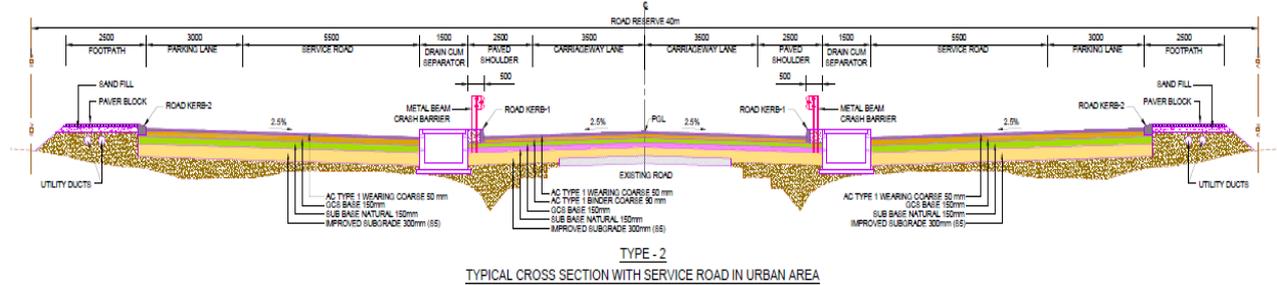
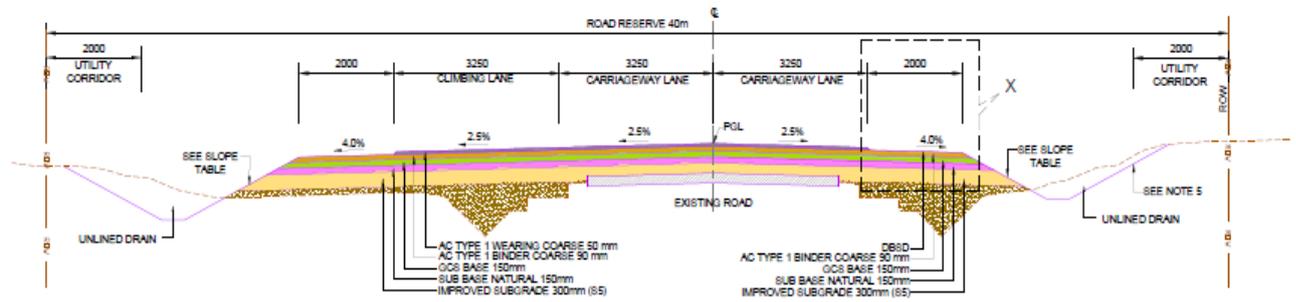
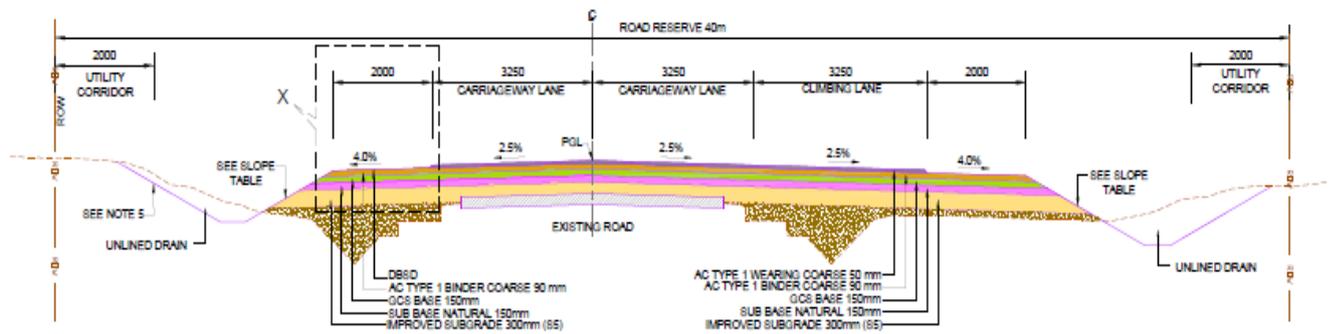


Figure 3: Typical Cross Section Type-2

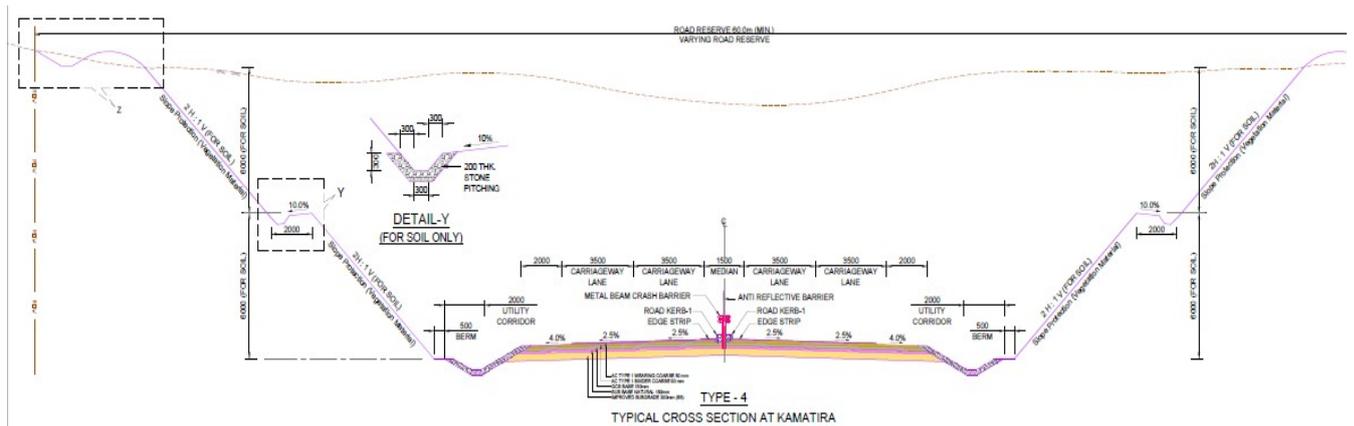


TYPE - 3L
TYPICAL CROSS SECTION WITH CLIMBING LANE ON LHS



TYPE - 3R
TYPICAL CROSS SECTION WITH CLIMBING LANE ON RHS

Figure 4: Typical Cross Section Type-3



TYPE - 4
TYPICAL CROSS SECTION AT KAMATIRA

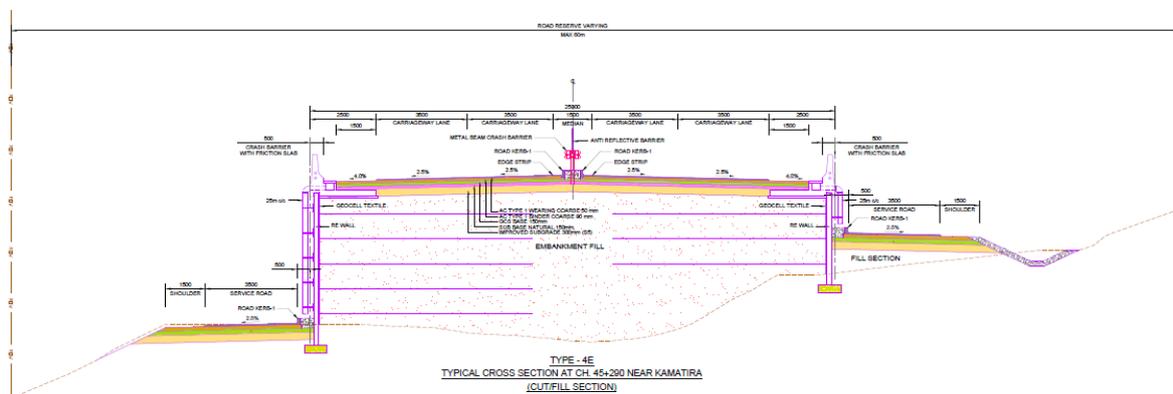
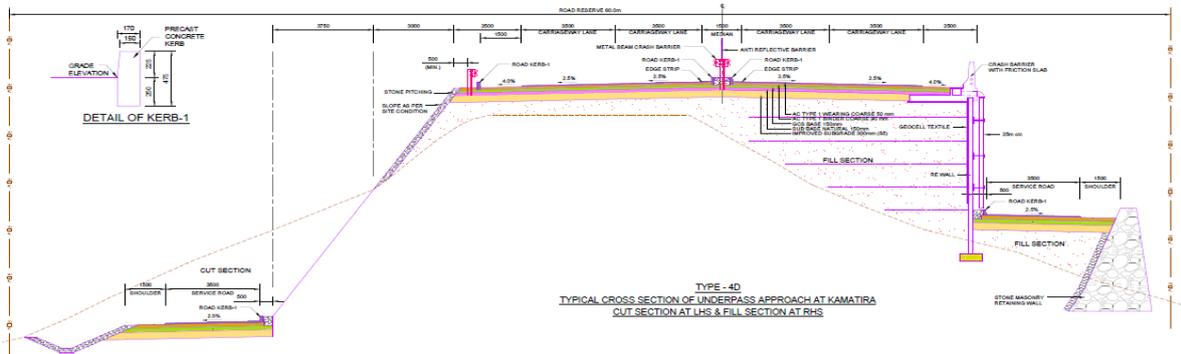


Figure 5: Typical Cross Section Type 4

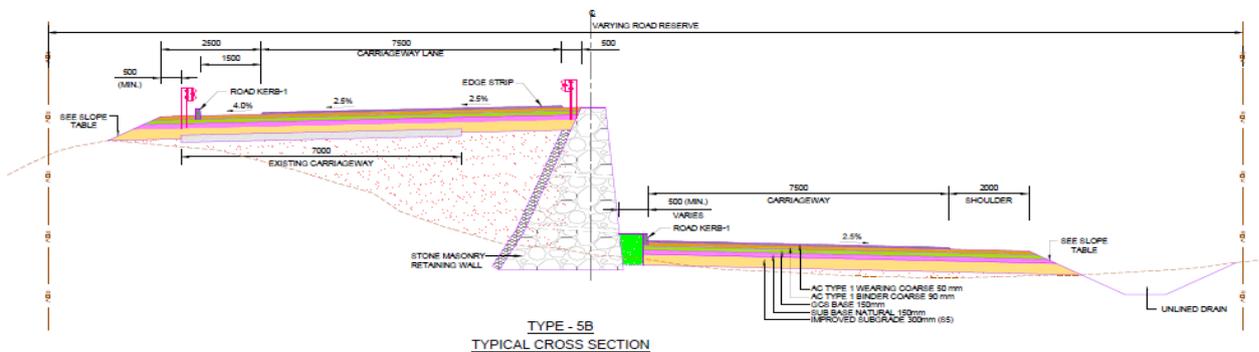
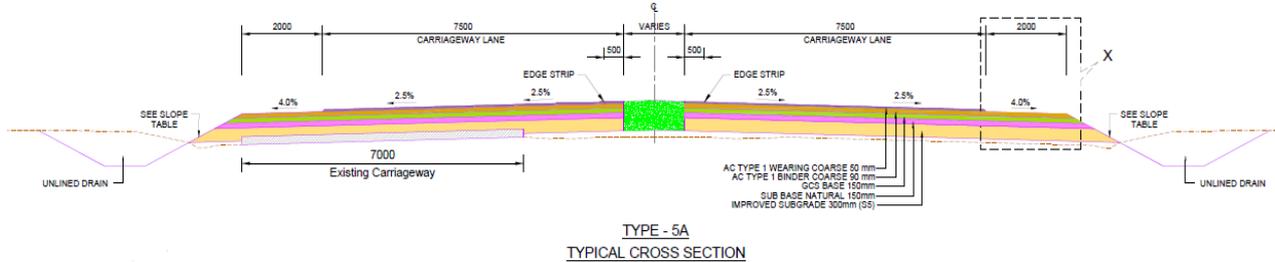


Figure 6: Typical Cross Section Type-5



Pavement Design

Pavement design forms an integral part of highway design. Pavement performance under prevailing and projected traffic and environmental conditions is considered crucial as it has implications on the economic returns from the project. Pavement design is provided in table 9 below.

Table 9: Pavement design

MAIN CARRIAGEWAY		SERVICE ROAD	
Design Traffic Class	T1/T2	Design Traffic Class	T4
Design Subgrade Class	S5 (CBR Range: 15-30)	Design subgrade class	S5 (CBR Range: 15-30)
Earthworks	Material used for earthworks shall be minimum soil class S4 quality (CBR \geq 10%) and be compacted to 95% MDD.	Earthworks	Material used for earthworks shall be minimum soil class S4 quality (CBR \geq 10%) and be compacted to 95% MDD.
Improved Sub-grade	300mm of subgrade shall be minimum soil class S5 quality (CBR \geq 15%) and be compacted to 95% MDD.	Improved Sub-grade	300mm of subgrade shall be minimum soil class S5 quality (CBR \geq 15%) and be compacted to 95% MDD.
Standard Pavement Structure	Surfacing	- Main Carriageway: Type I; 90mm - 0/20mm binder course (Bottom Layer) and 50mm- 0/14mm Wearing course (Top Layer) - Shoulder: Double surface dressing over 90 mm AC-Type I (0/20mm binder course)	- Service Road: 50mm - 0/14mm Wearing course
	Base	- 150mm Graded Crushed Stone (Class A- 0/30, One Layer)	- 150mm Graded Crushed Stone (Class C, One Layer)
	Sub-base	- 150mm Natural Subbase (Min.	- 150mm Natural Subbase (Min.



	CBR> 30%)		CBR> 30%)
Binder	60/70 penetration grade bitumen for AC and surface dressing	Binder	60/70 penetration grade bitumen for AC

Traffic Analysis and forecasts

The project road carries sizable amount of passenger and goods traffic. To appreciate and understand the nature and amount of traffic plying on the roads and to understand characteristics of roads on which the traffic is plying, traffic volume count, O-D survey roadside interview, traffic speeds etc. were carried out and presented below:

Table 10: Basic Capacity for the Project Road Sections.

Road Section	Low Rate	Growth	Medium Rate	Growth	High Rate	Growth
	AADT (pcu)	Cross Section Type	AADT (pcu)	Cross Section Type	AADT (pcu)	Cross Section Type
A1/B15 Junction - Maili Saba	18,652	I	26,262	I	36,197	I
Maili Saba – Kapenguria Junction	12,475	II	16,668	I	22,756	I
Kapenguria Junction - Kamatira Forest	8,194	II	11,368	II	15,218	I
Kamatira Forest - Chepareria	8,257	II	11,728	II	15,620	I ¹

Table 11: Summary of the cumulative number of standard axles obtained for the four (4) project road sections

Road Section	20 Year Design (Medium Growth Rate)		Recommended Loading Class	20 Year Design (High Growth Rate)	
	Cumulative ESA (millions)	Traffic Class		Cumulative ESA (millions)	Traffic Class
A1/B15 Junction - Maili Saba	19.17	T2	T1	25.55	T1
Maili Saba - Kapenguria junction	25.17	T1	T1	33.69	T1
Kapenguria junction - Kamatira Forest	12.09	T2	T2	15.87	T2
Kamatira Forest - Chepareria	8.40	T3	T2	11.09	T2 ²

1

2



The total traffic (normal, diverted, and generated) at year of opening in 2025, are summarised in the figure below.

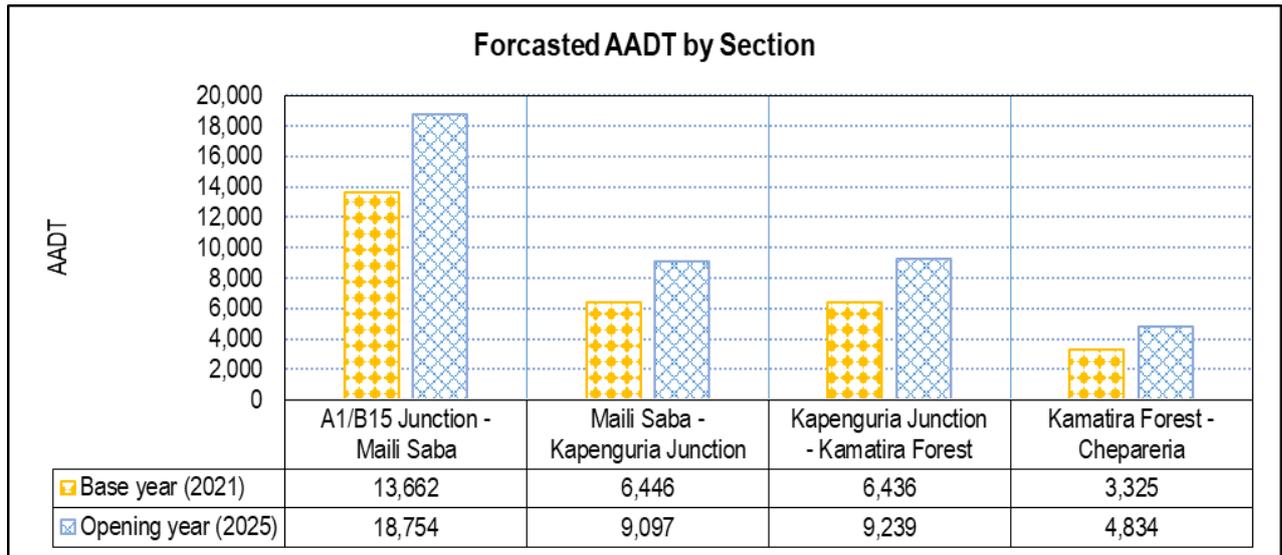


Figure 7: Total Traffic in 2021, 2025

AADTs of the project road at the year of opening (2025), were forecasted for 10 years and a further 20 years based on the adopted traffic growth rates as shown in figure below.

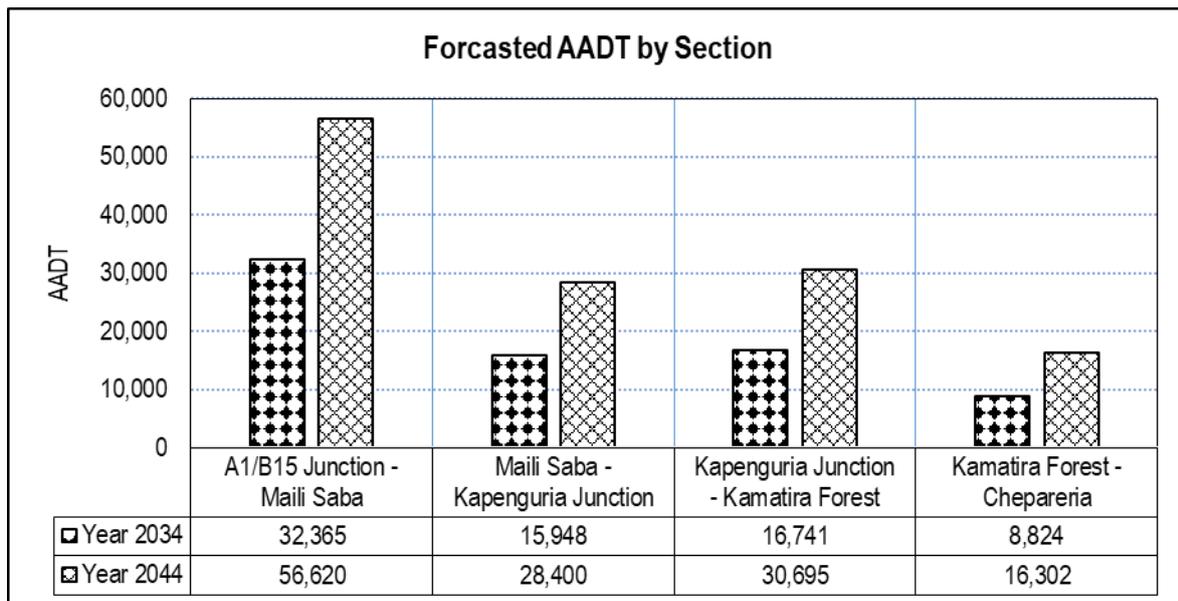


Figure 8: Adopted traffic growth rates



DESIGN COMPONENTS

2.1.1 Fill and Cut Slopes

Table 12: Climbing lanes

Sl. No.	Design Chainage		Length	Type
	From	To		
1	6+460	8+200	1740	3L
2	15+840	17+920	2080	3L
3	21+440	22+080	640	3L
4	26+320	28+000	1680	3L
5	35+150	36+550	1400	3L
6	37+000	37+790	790	3L
7	48+190	49+150	960	3R
8	51+790	52+790	1000	3L
9	56+140	56+940	800	3R
10	59+800	60+760	960	3R
11	65+990	66+590	600	3R
12	70+030	71+640	1610	3R

2.1.2 Longitudinal drainage ditches (side ditches and cut-off ditches)

Erosion control measures are proposed in all side ditches susceptible to scour or erosion and a schedule of the same is provided in the book of drawings.

2.1.3 Access Culverts

The Access Road Pipe Culvert are provided where a paved or unpaved road connects to the project road. There are a total of 515 locations where such types of culverts have been provided with single cell of 900mm diameter.

2.1.4 Waterway crossings

Three new bridges have been proposed for the project as shown below

Table 13: Waterway crossings

Sl.No.	Design Chainage	River Name	Structure Type	Proposal Type
1	5+720	Sabwani	RCC Plank	Reconstruction
2	15+920	Sinyerere	RCC Plank + Box	Reconstruction
3	72+010	Muruni	RCC Integral	New

There are several small and other medium drainage channels currently crossed using single and multiple cells Pipe and Box culverts. Generally, most of the crossings have hydraulically



deteriorated over time with some small and medium size crossings being either silted or clogged at the entrance and the exits.

2.1.5 Check dams

Total of 1489 number of checkdams are provided in the project.

2.1.6 Vehicular underpasses and Light Vehicular underpasses

These are located at the following chainage:

Table 14: Vehicular underpasses and Light Vehicular underpasses

Vehicular Underpasses	Light Vehicular Underpasses
10+426	02+200
32+338	41+770
51+449	45+230

2.1.7 Pedestrian underpasses

Seven pedestrian underpasses have been proposed. These are located at the following locations

Table 15: Pedestrian underpasses

Chainage Location	Remarks / Comments
3+857	There are 3 schools namely <ul style="list-style-type: none"> • St. Patricks Makunga Secondary School • St. Patricks Makunga Nursery School • St. Patricks Makunga primary School
6+180	Located 100m away from a junction and 100m from a School
15+244	100m to a junction and is an access to Saiwa swamp located 4km away
23+525	140m from Murkwijit Primary school and 270m from the junction to Talau
26+800	A densely populated area with 4 junctions within a stretch of 1km
49+300	150m from St. Brendan Chelombai and 60m from the junction to
58+400	Located 100m from Chepkorniswo trading centre and 200m from the junction to Kapchepmogen trading centre

2.1.8 Pedestrian underpass cum culvert

Table 16: Pedestrian underpass cum culvert

Chainage Location	Remarks / Comments
9+415	Start of Maili Saba market. A highly populated trading centre





64+257	Is located at a Cattle Watering point, 150m from Morpus Market
--------	--

2.1.9 Cattle underpasses

A cattle crossing has been provided in Morpus at km 64+257.

2.1.10 Bus bays

A total of 20 bus bays have been proposed in the following locations

Table 17: Bus bays

Bus No.	Station	As Per Review Chainage	Position
1		3+650	RHS
2		3+760	LHS
3		8+130	RHS
4		8+200	LHS
5		13+460	LHS
6		13+520	RHS
7		16+050	RHS
8		15+950	LHS
9		18+250	RHS
10		18+350	LHS
11		23+670	RHS
12		23+800	LHS
13		27+850	RHS
14		27+950	LHS
15		29+900	RHS
16		30+000	LHS
17		37+600	RHS
18		37+500	LHS
19		67+100	LHS
20		67+200	RHS

2.1.11 Stone quarries, sand sources, gravel, and construction water sources

Several rivers, both permanent and seasonal are identified for construction water source.

Table 18: Stone quarries, sand sources, gravel, and construction water sources

No	River	Chainage
1	River Singerere (Permanent)	034 + 500
2	River Kesongon (Permanent)	063 + 480
3	River Ortum (Seasonal)	130 + 080
4	River Moron (Permanent)	148 + 140



TEMPORARY CONSTRUCTION FACILITIES

Temporary construction facilities refer to facilities that shall be required by the contractor to undertake the road construction works. These include borrow pits, quarries, and campsite. The following temporary construction facilities were identified.

2.1.12 Material sites

Eight (8) potential material sites were sampled and tested for suitability. The material sites are summarized in Tables which shows their locations and the general view of the material sites.

Table 19: Summary of Material sites

Ref	Location/ Name	Chainage (km)	Offset (km)	Gravel Type	Status of Quarry	Remarks
MS 2	Chepkoti (W. Pokot)	Km 24+900	7.2 Km - RHS From A 104	Quarzitic/ Limestone Gravel	Extension of an Existing Material Site- Private Land	Base, Sub base, or Improved Subgrade
MS 3	Kortum (W. Pokot)	Km 33+500	1.7 Km - RHS From A 104	Quarzitic/ Limestone Gravel	Extension of An Existing Material Site- Private Land	Base, Sub base, or Improved Subgrade
MS 4	Karas (W. Pokot)	Km 38+700	0.2 from A 104 RHS	Quarzitic/ Limestone Gravel	Extension of An Existing Material Site- Private Land	Base, Sub base, or Improved Subgrade
MS 5	Kipkoris (W. Pokot)	Km 40+200	6.6 from A 104 LHS	Quarzitic/ Limestone Gravel	New-Private Land	Improved Subgrade Only
MS 6	Kamatira (W. Pokot)	Km 41+200	Next to A104-104RHS	Quarzitic/ Limestone Gravel	New-Private Land	Base, Sub base, or Improved Subgrade
MS 7	Chepararia (W. Pokot)	Km 52+200	0.3 from A104- RHS	Quarzitic/ Limestone Gravel	Extension of an Existing Material Site- Private Land	Base, Sub base, or Improved Subgrade
MS 8	(W. Pokot)	Km 75+900	0.3 from A104- RHS	Quarzitic/ Limestone Gravel	Extension of An Existing Material Site- Private Land	Base, Sub base, or Improved Subgrade



2.1.13 Hardstone Sources

Five hardstone sources were assessed. The sources identified are in Soy (Kakamega), along Kitale– Eldoret road, Maili Saba in Uasin Gishu County and one source around Ortum (Muruny quarry). The details are presented in the table below

Table 20: Hardstone Sources

Road	Ref.	Location/ Name	Offset (km)	OFFSET/GPS Coordinates - UT
Kitale- Eldoret- Roads	HS 1	Serigot Quarry (Soy)	3.2 km From Soy Town	X:736734 Y:72552 Z:1911 m
	HS. 2	Yako Quarry (Soy)	1.7 km L.H.S. From Turbo-Soi Road ,13.2 Km	X:736734 Y:72552
Kitale- Eldoret- Roads	HS 3	Hanan Quarry	23 Km from Kitale,0.5 km (L.H.S.)	X:736512 Y:94557 Z:1860 m
Kitale- Eldoret- Roads	HS 4	Mois Bridge Suan 1	23 Km from Kitale,0.5 km(R.H.S.)	X:736512 Y:94557 Z:1860 m
Kitale- Eldoret- Roads	HS 5	Mois Bridge Suan 2	24 Km from Kitale,3.2 km (LHS)	X:736734 Y:72552 Z:1911 m
Kapenguria - Lodwar	HS 6	Murian Quarry (Near Ortum)	Km 87+400 RHS. 1 Km off and 3km from Ortum Shopping Centre	RHS X:764412 Y:161749

2.1.14 Natural River Sand and Crushed Rock Sand

The following potential sources were investigated:

1. River Kanyarkwat sand in West Pokot River Sand
2. River Siyoi River Sand
3. Muruny River, River Sand
4. Crushed Rock Sand from Muruny Quarry
5. Crushed Rock Sand from Moi’s bridge Suan quarry 1
6. Crushed Rock Sand from Sergoit quarry



ASSOCIATED FACILITIES

Associated facilities or activities are third party facilities that are not funded as part of the project and that would otherwise not have been constructed or expanded if the project did not exist and without which the project would not be viable. The facilities are

- (a) directly and significantly related to the project; and
- (b) carried out, or planned to be carried out, contemporaneously with the project; and
- (c) necessary for the project to be viable and would not have been constructed, expanded or conducted if the project did not exist

The associated facilities identified along the project corridor include utilities e.g. power lines, high voltage power lines by KETRACO, water lines by Kapenguria Water and Sewerage Company and Nzoia Water Services; Adjoining roads e.g. Kitale Suam Road, Sudan link road.

ROAD SAFETY

The following road safety measures have been proposed.

- Road Markings - A Yellow line, 10mm wide, along the centreline of each road and a 10 mm wide continuous white line, demarcating the edges of the carriageway, has been provided.
- Road Signs - Road signs have been provided along the alignment and are dependent on the applicable design speed for a specific section of the road as well as the degree of the potential hazard in the section
- Junction opening - There are two locations at km 20+200 and 21+150 where Junction opening is considered for U” turn of the vehicles
- Guard Rails - Guard rails have been provided at locations with embankment height more than 3.0m as well as at bridge approaches.
- Chute Drains - Chute drains have been provided at locations with embankment heights of more than 3.0m as well as at bridge approaches

▪ Axle Load Control Stations

The ALCS project will involve: (1) Construction of two (2) Axle Load Control Stations (ALCS) in Trans Nzoia and West Pokot Counties; (2) Improvement / widening of the road alignment around the ALCS stations to improve traffic circulation and safety; (3) Improvement of drainage within and around the ALCS stations; (4) Environment and Social Safeguards, and, (5) Resettlement Action Plan (RAP).

ALCS Locations, Layout and Design: Two locations have been proposed for installation of the ALCS stations: 1) Kapenguria ALCS03 will be located at Km 29+930 while Morpus ALCS 05 will be located at Km 62+775. Based on the projected truck traffic volumes of **2,151 per day** in both directions, and considering that the project road is a **Class A road**, the proposed ALCS layout proposed is a Large Type 2 Weigh Station Design Flow with Dual screening lane. To



overcome the intrinsic challenges of crossing traffic in the Type 2 layout design, the station is proposed on both sides of the road to cater for both traffic directions separately with a common holding yard and the following:

- Main station with all amenities/facilities on the heavy traffic side
- Slave Station with only static weighbridge and weigh office on less traffic side.
- Both stations will have an HSWIM system on screening lanes.

The detailed design of ALCS station functional components has been carried out in accordance with the **Standard Design Specification and Technical Requirements of a Weigh Station** (SADC, 2019) and other local and international design manuals. A typical layout is shown below.

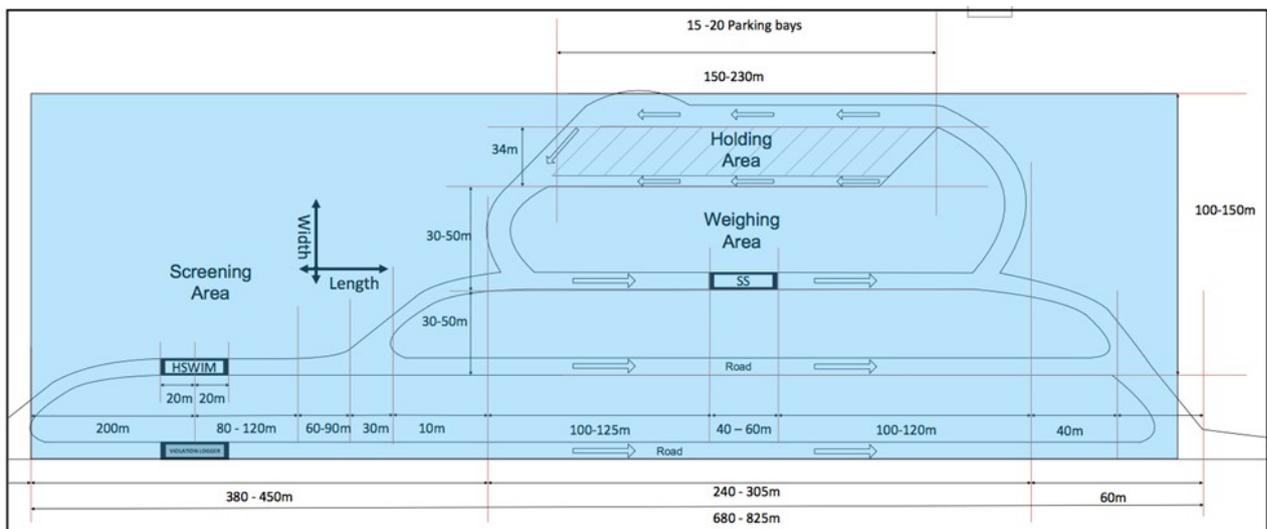


Figure 9: Minimum Area Required for Large Type 2 Weigh Station

The highlighted area is approximately 102,000 m² (10.2 Hectares) of land required for the Large Type 2 Weigh Station.

Pavement Design: Based on the site condition and subgrade material, a JUCP type (Jointed Unreinforced Concrete Pavements) of pavement has been proposed. The design inputs are summarised below:

- Design Period:** 30 years
- Cumulative number of ESAs over the design period:** Say 40×10^6
- Design Subgrade Class:** S5
- Width of paved carriageway:** 3.5m / 7m

The recommended pavement design at the ALCS locations is summarized below:

- **Capping Layer (If required):** 250mm (Min. 15% CBR in case existing subgrade has CBR < 15%)
- **Subbase Layer:** 150mm (Min. 30% CBR)
- **Slab Thickness:** 260mm



- **Transverse joint spacing:** 5m
 - **Longitudinal joint spacing:** 3.5m
 - **Dowels for transverse joints:** 25mm diameter @ 300mm c/c, 470mm long
 - **Tie bars (Deformed) for longitudinal joints:** 12mm diameter @ 600mm c/c, 750mm long
- A separation membrane (such as a polythene sheet) is required between the subbase and concrete slab. The minimum thickness of the polythene sheet shall be 2.6 m

ALCS Components and Facilities: Apart from the essential weighing devices at an ALCS Station (i.e. multi-decks, HSWIM and LSWIM), the other facilities that are provided in a typical ALCS station include the following:

1. Administration Office/ Control office - Weigh office – Main office where the weighbridge operators sit and perform the task of weighing trucks- the main control centre of ALCS. The key components are the weighbridge, public address system, printers and personnel to direct the trucks to the weighbridge and yard/exit. This also comprises of the following:
 - ✓ System Administrators Office – The main office in which the ICT support function is handled. Provides back-office support to ensure equipment like servers, computers, weighbridges, and other ALCS components experience high availability
 - ✓ Prosecutors Office – The Public prosecutor's office is a requirement by the law enforcement unit. Road offenders are prosecuted.
 - ✓ Server Room – Server storage room on site. The main components are the communication equipment like servers, switches, interconnection to other weighbridges and command centre
 - ✓ Board room – For both internal and external weighbridge station team's meetings
 - ✓ KRA / NTSA Office – to be utilised by the KRA Officers to monitor and enforce issues with Revenue and Compliance.
 - ✓ Storage space – for storage of ALCS. Provides physical storage for files, equipment and tools
 - ✓ Toilets Kitchen
2. Ticketing office – for issuing clearance tickets for trucks cleared from the weighbridge station truck;
3. Diversion office is used by officers in charge of diverting overloaded trucks, into the weighbridge from the HWSIM screening lane compliance stage.
4. General Ablution Block – For public use.(In the yard)
5. Police station – for police office enforcement of the law at the ALCS station and consists of the following:
 - ✓ Senior officers' offices
 - ✓ Police booking office
 - ✓ Male & Female cells
 - ✓ Armoury
6. Holding yard- adequate parking capacity with Load re-distribution Zone – Hazardous and Ordinary goods.



7. Police Quarters – Housing Police.
8. Generator / Transformer building – Mains and backup power supply source
9. Amenities:
 - ✓ Drainage – storm water drain
 - ✓ Wastewater management system – Bio digester or septic system
 - ✓ Street lighting – street & yard lighting
 - ✓ Mains / backup/ clean power supply – power supply
 - ✓ Municipal Water supply/ Borehole – portable water source

Construction Materials: Construction materials sources have been adopted from the main road design including natural gravel material sites, hard stone quarries, water sources, sand and crushed rock sand.



4. RAP METHODOLOGY

In preparation of Resettlement Action Plan key principles that were adopted included community consultation and avoidance as overarching. Consequently, the adopted approach largely involved public consultations. At the same time, to realize the gains of avoidance principle preliminary design proposals were discussed with communities to ensure that their concerns, fears and aspirations were captured and integrated into the design. In addition, it should be appreciated that the key aims of consultations and community engagements were to; i) authenticate claims to the affected land, hence document the true ownership of landholders, occupiers and owners of the developments done on such unregistered land for the purpose of valuation and planning for compensation under the RAP; ii) appreciate cultural issues from the perspective of the local community especially the Pokot that are recognized as an indigenous group and iii) to facilitate inclusivity in decision making especially involvement of local communities in as far as the project is concern.

4.1 Non-discriminatory compensation and Transitional hardship assistance for vulnerable households;

Vulnerability include the following:

- i. Poor female headed households without extended family support;
- ii. Elderly poor, especially those without extended family support;
- iii. Orphan and youth headed households;
- iv. Households losing over 20% of productive lands;
- v. Households with small land areas (e.g. Less than one hectare);
- vi. Households experiencing food shortages;
- vii. Physically Challenged Persons
- viii. Chronically ill

This RAP has identified 35 vulnerable PAPs who will require transitional hardship assistance during relocation. The project will support these PAPs to secure their compensation packages including disturbance allowances and transition costs. The PAPs shall be enrolled on various livelihood programmes depending on their current livelihoods strategies.

The Witness NGO (Non-Governmental Organization) shall be procured to support further vulnerability assessment and support the PAPs (The Terms of Reference (ToR) for the witness NGO is provided in annex: xi. This RAP requires additional compensation for vulnerable persons and more specifically livelihood restoration support. A Vulnerable and Marginalized Groups Plan (VMGP) has also been prepared for this project. Vulnerability has been determined on a household basis. VMGP provides details of temporary hardship assistance measures,





including objectives, outcomes, strategies and proposed activities (such as the provision of water, transitional allowances, and local employment during construction). The project will liaise with government social protection departments to align on definitions of vulnerability and any identified households in the AoI. The project team will also liaise with the NLC as well as relevant government Departments and agencies, NGOs, and Community Support Organizations (CSOs) who provide services and who could be partners in the identification of vulnerable households and the design and delivery of assistance. This RAP makes it a requirement to obtain consent of spouses during the compensation process. Where necessary, the couples may be required to open a joint bank account for the purposes of receiving compensation funds.

LITERATURE REVIEW

The first stage included literature review of relevant project design and safeguard reports and maps. The project documents that were reviewed included:

- i. The Design Review Reports
- ii. RAP report 2017
- iii. Vulnerable and Marginalized Group Plan
- iv. Relevant Kenyan legal documents including;
 - Constitution of Kenya,
 - Land Act,
 - Land Registration Act (2012)
 - Valuers Act (1985)
 - National Land Commission Act,
 - Land Registration Act
 - Community Land Act,
- v. World Bank ESS 5,7 and 10
- vi. KfW sustainability guidelines

ESTABLISHING LAND REGISTRATION STATUS

The PAPs falls in two categories including those with title deeds and those whose land parcels have not been surveyed. The PAPs without title deeds comprise mainly the structure owners within the trading centers and roadside traders who display their merchandise on the open road without erecting any structures. All these categories of PAPs have been documented and appropriate resettlement strategies has been designed for each category.

3.1.1 Acquisition for land for PAPs whose land have been surveyed and title deed issued sections

The RAP methodology approach for these PAPs involved the acquisition of the Registry Index Maps (RIM) from the Ministry of land office in Kitale and Kapenguria and digitalization of the same which were finally superimposed on the road design layout to develop the cadastral maps. The cadastral maps produced contained the size and location of the parcels affected by the project. The cadastral maps were useful during census and valuation. The title land searches to establish the legally registered landowners shall be conducted during RAP implementation.

3.1.2 Structure owners without title deeds

Most of the structure owners especially those within the trading centers do not have the legal ownership to the lands where they have built the structures as the market centers are public land





owned by the county governments. However, the full census has been conducted on the PAPs and they shall be compensated for structures and loss of business.

3.1.3 Roadside sellers

Roadside sellers especially at Kesogon trading centers shall be given alternative market to be constructed by the project on a public land to be provided by the county government. During the public consultation meetings, these PAPs confirmed that public land has been identified for the construction of the market.

STAKEHOLDER CONSULTATIONS

Effective resettlement action planning requires regular and thorough consultation with PAPS and a wide range of project stakeholders drawn from the affected area. This wide consultation is intended to include individuals and groups who will be affected by the project. The PAPs and stakeholders' consultations are extremely important for successful preparation and implementation of the RAP. The stakeholder consultations were conducted for a period of 12 months between May 2021 to May 2022. Where additional PAHs are identified within the redefined AoI, the same consultation process that was undertaken during the earlier community engagement process will apply. Adequate disclosure of the project and the cut-off date prior to the commencement of surveys shall be ensured.

ASSET INVENTORY, CENSUS, SOCIO-ECONOMIC SURVEYS

PAHs were consulted individually at their household level during the census and asset valuations. The questionnaires which collected personal and livelihood information including their perceptions, hopes, fears and concerns about the proposed project were administered. The census survey was conducted between January and February 2022 alongside the census. The census and socio-economic survey tools are provided in annexes viii and ix respectively.

3.1.4 Asset Inventory

Asset Inventory covered the following:

- i. Full asset inventory of all affected land, structures and trees
- ii. Full census of all 402 PAHs
- iii. A Socio-Economic Survey to obtain a socio-economic profile of the PAHs in the project area and to further evaluate potential project impacts.

The data was collected using asset inventory forms which captured information on structures, land, crops and trees. The asset inventory also included GPS and photos of affected property

3.1.5 Census and Socio-Economic Survey

The census and socio-economic surveys were conducted by a multidisciplinary team comprising sociologists, surveyor and valuers under the direction of the Team Leader. The survey team employed the following methods as part of the census and socio-economic survey:

- i. Semi structured questionnaires
- ii. Focus Group Discussions
- iii. Key Informant Interviews
- iv. Field observation





The following topics were covered by the census:

- i. Ownership of land, trees and structures
- ii. Economic activities
- iii. Household income;
- iv. Gender,
- v. Age,
- vi. Education,
- vii. Employment status
- viii. Religion

The census and socio-economic survey tools are provided in annex viii and ix.

Training of enumerators

The training was conducted by the RAP expert and covered the following:

- i. Ethical standards (confidentiality and informed consent)
- ii. Familiarity with the tools.

IDENTIFICATION OF PAHS

The surveyors used the design co-ordinates to identify the affected land parcels whose owners were included in the PAHs register. Using the design coordinates, GIS Specialist/ surveyors prescribed the Project Area of Impact using GPS instruments and identified land that would be affected within those boundaries. The land and structure owners for each affected land identified were then interviewed, firstly for the purposes of asset inventory by the valuer, followed by the enumerators with a Census form and a Socio-Economic questionnaire; and if a land owners had more than one piece of affected land, each of this was surveyed, valued and inventoried separately. However, only one Census/ Socio-Economic survey was completed for such PAH.

CADASTRAL LAND SURVEY

The cadastral land surveys included the following activities:

- i. Acquiring of maps (RIMs) from Survey of Kenya
- ii. Geo-referencing of the acquired maps to UTM Arc 1960
- iii. Overlaying of the tertiary canal design on the geo-referenced maps
- iv. Extracting data (areas + co-ordinates) of affected parcels
- v. Ground verification using GPS
- vi. Final calculation of areas of affected parcels
- vii. Confirmation of the ownership of affected parcels by conducting land title searches at the Land Registry (Title search certificates for all the affected parcels have been obtained from the Land registries in Kitale and Kapenguria).



ASSET VALUATION SURVEYS

Asset Valuation Surveys included the following activities:

- i. Conducting market research of land transactions, market prices, construction materials, and labor costs within the project locality.
- ii. Identification of all affected land parcels and ground boundaries
- iii. Measuring the affected portion of land for acquisition
- iv. Local rates from the State Department of Agriculture and markets were adopted for crop valuation, taking into account acreage of each particular crop. The emphasis was to ensure full replacement cost. Valuation of trees adopted the local KFS (Kenya Forestry Services) rates, considering the age factor for trees.
- v. Recording the location of all assets with a GPS machine and taking photographs of affected assets.

DATA COLLECTION, ENTRY AND ANALYSIS AND RAP REPORT PREPARATION

The information obtained from the above surveys were analyzed qualitatively and quantitatively to prepare the RAP report. A database of all the PAHs has been generated and shall be used by the client to implement this RAP. The client will keep on updating the database on a need basis. The valuation roll is provided in (annex: x).

RAP TEAM

The RAP preparation team of experts consisted of the following:

- i. Land Surveyor
- ii. Valuation Expert
- iii. GIS Specialist
- iv. Sociologist
- v. Research Assistants/ enumerators



5. LEGAL AND POLICY FRAMEWORK

This RAP has been designed in accordance with all the relevant legislation pertaining to Constitution of Kenya, Land Act, National Land Commission Act, Land Registration Act, Community Land Act, Traffic Act, Roads Act as well as the World Bank Involuntary Resettlement ESS 5 and Indigenous Peoples ESS 7 and Stakeholder engagement ESS 10, KfW sustainability guidelines among others. The Kenyan land laws and the Constitution of Kenya (CoK) 2010, requires that there should be just compensation to those affected but it is not clear on specifics of what constitutes just compensation. World Bank ESS 5 requires full replacement costs. This RAP requires that full replacement cost be paid as compensation for land to be acquired and for structures to be affected by the project for all the PAHs as per the World Bank ESS 5. The Bank's ESS 5: Involuntary Resettlement is triggered by the project since the road improvement Project will take up land, affect structures, communal assets, cultural assets, and trees. The Project also triggers ESS 7 as it affects the Pokot community who are classified as vulnerable and marginalized under this standard. The summary of legal framework is shown below.

Table 21: Summary of relevant resettlement legal statutes applicable

Legal Framework	Functional Relationship to Resettlement
Constitution of Kenya 2010	Constitution of Kenya 2010 recognizes individuals' right to acquire and own property provided they are citizens of the country in article 40. However, Article 66 of the same Constitution provides for the State to regulate the manner in which these rights may be curtailed for the benefit of the general public. Article 47 of the Constitution provides for administrative action to override the individual rights but the victim has to be given written reason for the action taken that undermines the right.
Environment and Land Court Act, 2011	Article 162 of the constitution provides for the creation of specialized courts to handle all matters on land and the environment. Such a court will have the status and powers of a High Court in every respect. Article 159 on the principles of judicial authority, indicates that courts will endeavour to encourage application of alternative dispute resolution mechanisms, including traditional ones, so long as they are consistent with the constitution. Section 20, of the Environment and Land Court Act, 2011 empowers the Environment and Land Court, on its own motion, or on application of the parties to a dispute, to direct the application of alternative dispute resolution (ADR), including traditional dispute resolution mechanisms.



Legal Framework	Functional Relationship to Resettlement
Community land Act 2016	This act give effect to Article 63 (5) of the Constitution; to provide for the recognition, protection and registration of community land rights; management and administration of community land; to provide for the role of county governments in relation to unregistered community land and for connected purposes
The Land Act 2012 Laws of Kenya	It is the substantive law governing land in Kenya and provides legal regime over administration of public and private lands. It also provides for the acquisition of land for public benefit. The government has the powers under this Act to acquire land for projects, which are intended to benefit the general public. The projects requiring resettlement are under the provision of this Act.
Land Registration Act, 2012	The law provides for the registration of absolute proprietorship interests over land (exclusive rights) that has been adjudicated or any other leasehold ownership interest on the land. Such land can be acquired by the state under the Land Act 2012 in the project area.
National Land Commission Act 2012	The act establishes the National Land Commission with the purpose of managing public land and carrying out compulsory acquisition of land for specified public purposes.
The Land Adjudication Act Chapter 95 Laws of Kenya	Provides for ascertainment of interests prior to land registrations under the Land Registration Act 2012 through an adjudication committee that works in liaison with adjudication officers.
The Valuers Act 532	The act establishes valuers' registration board, which has the responsibility of regulating the activities and conduct of registered valuers in accordance with the provision of the act.
The Environment Management and Coordination Act, 1999(Amended 2015)	The Environment Management and Coordination Act (EMCA), 1999 provides for the establishment of an umbrella legal and institutional framework under which the environment in general is to be managed. EMCA is implemented by the guiding principle that every person has a right to a clean and healthy environment and can seek redress through the High court if this right has been, is likely to be or is being contravened.



Legal Framework	Functional Relationship to Resettlement
Environmental Impact Assessment and Audit Regulations 2003	The Environmental Impact Assessment and Audit Regulations state in Regulation 3 “the Regulations should apply to all policies, plans, programmes, projects and activities specified in Part IV, Part V, and the Second Schedule of the Act. Part III of the Regulations indicates the procedures to be taken during preparation, submission and approval of the study report (This report).
Legal Framework	Functional Relationship to Resettlement
The Environmental Management and Co-ordination Act (Water Quality) Regulations, 2006)	These Regulations were published in the Kenya Gazette Supplement No. 68, Legislative Supplement No. 36, and Legal Notice No. 120 of 29 September 2006. The Regulations provide for sustainable management of water resources including prevention of water pollution and protection of water sources (lakes, rivers, streams, springs, wells, and other water sources). It is an offence under Regulation No. 4 (2), for any person to throw or cause to flow into or near a water resource any liquid, solid, or gaseous substance or deposit any such substance in or near it, as to cause pollution.
Occupational Safety and Health Act, 2007	Occupational Safety and Health Act (OSHA) is an Act of Parliament that provides for the safety, health and welfare of all workers and all persons lawfully present at workplaces, to provide for the establishment of the National Council for Occupational Safety and Health and for connected purposes. It applies to all workplaces where any person is at work, whether temporarily or permanently. The purpose of this Act is to: Secure the safety, health and welfare of persons at work; and protect persons other than persons at work against safety and health arising out of, or in connection with the activities of persons at work.
Work Injury Benefits Act (WIBA), 2007	It is an act of Parliament (No. 13 of 2007) to provide for compensation to workers for injuries suffered in the course of their employment. It outlines the following: Employer’s liability for compensation for death or incapacity resulting from accident; Compensation in fatal cases; Compensation in case of permanent partial incapacity; Compensation in case of temporary incapacity; Persons entitled to compensation and methods of calculating the earnings; No compensation shall be payable under this Act in respect of any incapacity or death resulting from a deliberate self-injury; and Notice of an accident, causing injury to a workman, of such a nature as would entitle him for compensation shall be given in



Legal Framework	Functional Relationship to Resettlement
	the prescribed form to the director.
The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012	This Act of Parliament puts into effect the Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons, and the United Nations Guiding Principles on Internal Displacement. The Act requires that displacement and relocation be carried out only if justified by compelling and overriding public interests, and in accordance with the conditions and procedures of Article 5 of the Protocol, Principles 7-9 of the Guiding Principles, and Sections 21-22 of this Act.
Legal Framework	Functional Relationship to Resettlement
The Matrimonial Property Act 2013	This Act of Parliament outlines the law and procedures for the creation and division of a marital estate, as well as how and by whom matrimonial property should be managed and divided at the end of a marriage. Section 3(2) of the Act asserts that the parties of marriage have equal rights and obligations at the time of marriage and its dissolution. Matrimonial property is vested in the spouses in equal share, regardless of the contribution of either spouse towards its acquisition. Similarly, no estate or interest in the matrimonial property may be alienated without the prior consent of both spouses.

LAND TENURE SYSTEM IN KENYA

Land tenure in Kenya is classified as public, community or private. Public land consists of government forests (other than those “lawfully held, managed or used by specific communities as community forest, grazing areas or shrines”), government game reserves, water catchment areas, national parks, government animal sanctuaries and specially protected areas. The National Land Commission will manage public land. Community land includes land that is “lawfully held, managed or used by specific communities as community forest, grazing areas or shrines,” and “ancestral lands and lands traditionally occupied by hunter-gatherer communities.” Rights are also held through traditional African systems, and rights that derive from the English system introduced and maintained through laws enacted by colonial and then the national parliament. The former is loosely known as customary tenure bound through traditional rules (customary law). The latter body of law is referred to as statutory tenure, secured and expressed through national law, in various Act of parliament e.g. Land Act 2012, Land Registration Act, 2012, Trust Land Act (cap 288) of the Laws of Kenya).

4.1.1 Customary Land Tenure

This refers to unwritten land ownership practices by certain communities under customary law. Kenya being a diverse country in terms of its ethnic composition has multiple customary tenure systems, which vary mainly due to different agricultural practices, climatic conditions and cultural practices. However most customary tenure systems exhibit several similar characteristics as follows: First, individuals or groups by virtue of their membership in some social unit of



production or political community have guaranteed rights of access to land and other natural resources. Individuals or families thus claim property rights by virtue of their affiliation to the group.

4.1.2 Freehold Tenure

This tenure confers the greatest interest in land called absolute right of ownership or possession of land for an indefinite period of time, or in perpetuity. The Land Registration Act, 2012, governs freehold land. The Act provides that the registration of a person as the proprietor of the land vests in that person the absolute ownership of that land together with all rights, privileges relating thereto. A freehold title generally has no restriction as to the use and occupation but in practice there are conditional freeholds, which restrict the use for say agricultural or ranching purposes only. Land individualization was demanded by the colonial settlers who required legal guarantee for the private ownership of land without which they were reluctant to invest.

4.1.3 Leasehold Tenure

Leasehold is an interest in land for a definite term of years and may be granted by a freeholder usually subject to the payment of a fee or rent and is subject also to certain conditions which must be observed e.g. relating to developments and usage. Leases are also granted by the government for government land, the local authorities for trust land and by individuals or organizations owning freehold land. The maximum term of government leases granted in Kenya is 99 years for agricultural land and urban plots. There are few cases of 33 years leases granted by government in respect of urban trust lands. The local authorities have granted leases for 50 and 30 years as appropriate.

4.1.4 Public Tenure

This is where land owned by the Government for her own purpose and which includes unutilized or un-alienated government land reserved for future use by the Government itself or may be available to the general public for various uses. The land is administered under the Land Act 2012. These lands were vested in the president and who has, normally exercised this power through the Commissioner of Lands, to allocate or make grants of any estates, interests or rights in or over un-alienated government land.

LAND ACQUISITION PROCESS

4.1.5 Proof that Compulsory Possession is for Public Good

It is very explicit in the Land Act, 2012, Section 107, that whenever the national or county government is satisfied that it may be necessary to acquire some particular land under section 110 of Land Act 2012, the possession of the land must be necessary for public purpose or public interest, such as, in the interests of public defence, public safety, public order, public morality, public health, urban and planning, or the development or utilization of any property in such manner as to promote the public benefit. Irrigation and drainage are explicitly identified as qualifying for land acquisition as public utility and the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having right over the property, and so certifies in writing, possession of such land may be taken.





4.1.6 Respective Government agency or cabinet must seek approval of National Land Commission (NLC)

The respective Cabinet Secretary or Government agency or the County Executive Committee Member must submit a request for acquisition of private land to the NLC to acquire the land on its behalf. The Commission will prescribe a criteria and guidelines to be adhered to by the acquiring authorities in the acquisition of land. It is important to note that if the NLC is constituted prior to conclusion of land acquisition, it could prescribe criteria and guidelines necessitating variations or revisions to the current RAP. Similar, the Commission has powers to reject a request of an acquiring authority, to undertake an acquisition if it establishes that the request does not meet the requirements prescribed.

4.1.7 Inspection of Land to be acquired

NLC may physically ascertain or satisfy itself whether the intended land is suitable for the public purpose, which the applying authority intends to use as specified. If it certifies that indeed the land is required for public purpose, it shall express the satisfaction in writing and serve necessary notices to land owners and or approve the request made by acquiring authority intending to acquire land.

4.1.8 Publication of Notice of Intention to Acquire

Upon approval, NLC shall publish a notice of intention to acquire the land in the *Kenya Gazette and County Gazette*. It will then serve a copy of the notice to every person interested in the land and deposit the same copy to the Registrar

The courts have strictly interpreted this provision, requiring that the notice include the description of the land, indicate the public purpose for which the land is being acquired and state the name of the acquiring public body. NLC shall ensure that the provisions are included in her notice.

The Land Registrar shall then make entry in the master register on the intention to acquire as the office responsible for survey, at both national and county level, geo-references the land intended for acquisition.

4.1.9 Serve the notice of inquiry

Thirty days after the publication of the Notice of Intention to Acquire, NLC will schedule a hearing for public inquiry. NLC must publish notice of this meeting in the *Kenya Gazette and County gazette 15 days before the inquiry meeting* and serve the notice on every person interested in the land to be acquired. Such notice must instruct owner of land to deliver to the NLC, no later than the date of the inquiry, a written claim for compensation.

4.1.10 Holding of a public hearing

NLC then convenes a public hearing not earlier than 30 days after publication of the Notice of Intention to Acquire. On the date of the hearing, NLC must conduct a full inquiry to determine the number of individuals who have legitimate claims on the land, the land value and the amount of compensation payable to each legitimate claimant. Besides, at the hearing, the Commission shall— make full inquiry into and determine who are the persons interested in the land; and receive written claims of compensation from those interested in the land. For the purposes of an



inquiry, the Commission shall have all the powers of the Court to summon and examine witnesses, including the persons interested in the land, to administer oaths and affirmations and to compel the production and delivery to the Commission (NLC) of documents of title to the land.

The public body for whose purposes the land is being acquired, and every person interested in the land, is entitled to be heard, to produce evidence and to call and to question witnesses at an inquiry. It will also provide opportunity to land owners to hear the justification of the public authority in laying claims to acquire the land.

4.1.11 Valuation of the land

Part III of the Land Act 2012, section 113 (2a) states that “the Commission shall determine the value of land with conclusive evidence of (i) the size of land to be acquired; (ii) the value, in the opinion of the Commission, of the land; (iii) the amount of compensation payable, whether the owners of land have or have not appeared at the inquiry.” This can be interpreted that NLC must determine the value of the land accordingly and pay appropriate just compensation in accordance with the principles and formulae that it will develop. Nonetheless, just compensation could also be interpreted as market rate. The final award on the value of the land shall be determined by NLC and shall not be invalidated by reason of discrepancy, which may be found to exist in the area.

4.1.12 Matters to be considered in Determining Compensation

The market value of the property, which is determined at the date of the publication of the acquisition notice, must be considered. Determination of the value has to take into consideration the conditions of the title and the regulations that classify the land use e.g. agricultural, residential, commercial or industrial.

Increased market value is disregarded when:

- It is accrued by improvements made within two years before the date of the publication of the acquisition notice, unless it is proved that such improvement was made in good faith and not in contemplation of the proceedings for compulsory acquisition.
- It is accrued by land use contrary to the law or detrimental to the health of the occupiers of the premises or public health.
- Any damages sustained or likely to be sustained by reason of severing such land from other land owned by the claimant.
- Any damage sustained or likely to be sustained if the acquisition of the land had negative effects on other property owned by the claimant.
- Reasonable expenses, if as a consequence of the acquisition, the claimant was compelled to change his residence or place of business (i.e., compensation for disruption to the claimant’s life).
- Any damage from loss of profits over the land occurring between the date of the publication of the acquisition notice and the date the NLC takes possession of the land.

4.1.13 Matters not to be considered in Determining Compensation

- The degree of urgency, which has led to the acquisition.
- Any disinclination of the person’s interest to part with the land.
- Damages sustained by the claimant, which will not represent a good cause of action.





- Damages, which are likely to be caused to the land after the publication of the acquisition notice or as a consequence of the future, land use.
- Increased land value accrued by its future use.
- Any development at the time of acquisition notice, unless these improvements were necessary for maintaining the land.

4.1.14 Award of Compensation

The Land Act does not stipulate that compensation must be in the form of money only. Under the Land Act 2012 section 117, the State can award a grant of land in lieu of money compensation (“land for land”), provided the value of the land awarded does not exceed the value of the money compensation that would have been allowable. The law could be interpreted that any dispossessed person shall be awarded the market value of the land. The new law is silent on relocation support or disturbance allowance support.

Upon the conclusion of the inquiry, and once the NLC has determined the amount of compensation, NLC will prepare and serve a written award of compensation to each legitimate claimant. NLC will publish these awards, which will be considered “final and conclusive evidence” of the area of the land to be acquired, the value of the land and the amount payable as compensation. Land Act, Section 115 further stipulates that an award shall not be invalidated by reason only of a discrepancy between the area specified in the award and the actual area of the land. Compensation cannot include attorney’s fees, costs of obtaining advice, and costs incurred in preparing and submitting written claims.

4.1.15 Payment of Compensation

A notice of award and offer of compensation shall be served to each person by the Commission. Section 120 provides that “first offer compensation shall be paid promptly” to all persons interested in land. Section 119 provides a different condition and states that the NLC “as soon as practicable” will pay such compensation. Where such amount is not paid on or before the taking of the land, the NLC must pay interest on the awarded amount at the market rate yearly, calculated from the date the State takes possession until the date of the payment.

In cases of dispute, the Commission may at any time pay the amount of the compensation into a special compensation account held by the Commission, notifying owner of land accordingly. If the amount of any compensation awarded is not paid, the Commission shall on or before the taking of possession of the land, open a special account into which the Commission shall pay interest on the amount awarded at the rate prevailing bank rates from the time of taking possession until the time of payment.

4.1.16 Transfer of Possession and Ownership to the State

Once first offer payment has been awarded, the NLC will serve notice to landowners in the property indicating the date the Government will take possession. Upon taking possession of land, the commission shall ensure payment of just compensation in full. When this has been done, NLC removes the ownership of private land from the register of private ownership and the land is vested in the national or county Government as public land free from any encumbrances.



On the other side also, the Commission has also the power to obtain temporary occupation of land. However, the commission shall as soon as is practicable, before taking possession, pay full and just compensation to all persons interested in the land.

In cases of where there is an urgent necessity for the acquisition of land, and it would be contrary to the public interest for the acquisition to be delayed by following the normal procedures of compulsory acquisition under this Act, the Commission may take possession of uncultivated or pasture or arable land upon the expiration of fifteen days from the date of publication of the notice of intention to acquire.

On the expiration of that time NLC shall, notwithstanding that no award has been made, take possession of that land. If the documents evidencing title to the land acquired have not been previously delivered, the Commission shall, in writing, require the person having possession of the documents of title to deliver them to the Registrar, and thereupon that person shall forthwith deliver the documents to the Registrar.

On receipt of the documents of title, the Registrar shall— cancel the title documents if the whole of the land comprised in the documents has been acquired; if only part of the land comprised in the documents has been acquired, the Registrar shall register the resultant parcels and cause to be issued, to the parties, title documents in respect of the resultant parcels. If the documents are not forthcoming, the Registrar will cause an entry to be made in the register recording the acquisition of the land under this Act.

4.1.17 Opportunity for Appeal

The Kenya Constitution establishes Environment and Land Court. Article 162 of the constitution provides for the creation of specialized courts to handle all matters on land and the environment. Such a court will have the status and powers of a High Court in every respect. Article 159 on the principles of judicial authority, indicates that courts will endeavour to encourage application of alternative dispute resolution mechanisms, including traditional ones, so long as they are consistent with the constitution. Section 20, of the Environment and Land Court Act, 2011 empowers the Environment and Land Court, on its own motion, or on application of the parties to a dispute, to direct the application of Alternative Dispute Resolution (ADR), including traditional dispute resolution mechanisms. Any person whose land has been compulsorily acquired may petition the Environment and Land Court for redress with respect to:

- The determination of such person's right over the land;
- The amount offered in compensation; and
- The amount offered in compensation for damages for temporary dispossession in the case of the Government's withdrawal of its acquisition of the land.

Parties will pay fees as determined by Environment and Land Court or the court may choose to waive them completely or in part on grounds of financial hardship. A summary of land acquisition procedures by NLC is shown in Figure 4 below.

WORLD BANK ENVIRONMENTAL AND SOCIAL STANDARDS

The World Bank ESS set out the requirements for the Project developer relating to the identification and assessment of environmental and social risks and impacts associated with





projects activities. The application of these standards by focusing on the identification and management of environmental and social risks, support the Project developer in their goal to reduce poverty and increase prosperity in a sustainable manner for the benefit of the environment and their citizens. The standards will:

- Support the Project developer achieve good international practice relating to environmental and social sustainability;
- Assist the Project developer in fulfilling their national and international environmental and social obligation;
- Enhance non-discrimination, transparency, participation, accountability and governance and;
- Enhance the sustainable development outcomes of the Project through ongoing stakeholder engagement.

Table below outlines World Bank ESS, as presented in the World Bank Environmental and Social Framework (2017)³

Table 22: World Bank Environmental and Social Standards

WB ESS	Objective
ESS1: Assessment and management of Environmental and Social Risks and Impacts	To manage the risks and impacts of a Project, and improve their environmental and social performance through a risk and outcome based approach in compliance with relevant national and international standards.
ESS2: labour and Working Conditions	Ensure a sound worker management relationship with fair treatment, non-discrimination, equal opportunities to all and safe and healthy working conditions.
ESS3: Resource Efficiency and Pollution Prevention and Management	Promote sustainable use of resource including energy, water and raw materials, pollution prevention and GHG emission avoidance
ESS4:Community Health and safety	Anticipate and avoid impacts on the health and safety of project-affected communities during the Project life cycle from both routine and no routine circumstances.
ESS5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement	Avoid Project induced involuntary resettlement, when unavoidable, minimize involuntary resettlement by exploring project design alternatives and mitigating unavoidable adverse social and economic impacts from land acquisition or restriction on land use by: providing timely compensation for loss of assets at replacement cost and assisting displaced persons

³ The World Bank Environmental and Social Framework (2017) available at : <https://thedocs.worldbank.org/en/doc/837721522762050108-0290022018/original/ESFFramework.pdf>



WB ESS

Objective

ESS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources

in their effort to improve, or at least restore, their livelihoods and living standards.

Protect and conserve biodiversity and habitats by, applying mitigation hierarchy and the precautionary approach in the design and implementation of projects that could have an impact on biodiversity

ESS7: Indigenous Peoples

Avoid adverse impacts of projects on Indigenous People and ensure that the development process fosters a full respect for the human rights, dignity, aspirations, identity, culture and natural resource-based livelihood of Indigenous People.

ESS8: Cultural Heritage

Protect cultural heritage from the adverse impacts of the project activities and support its preservation

ESS9: Financial Intermediaries

Guidance on how FI will assess and manage environmental and social risks and impacts associated with the subprojects it finances

ESS10: Stakeholder Engagement and Information Disclosure

To establish a systematic approach to stakeholder engagement that will help the project developer identify stakeholders and build and maintain a constructive relationship with them, in particular project affected parties

The focus of this assessment, ESS5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement, outline the following objectives for all projects requiring land acquisition:

- To avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring project design alternatives
- To avoid forced eviction
- To mitigate unavoidable adverse social and economic impacts from land acquisition or restriction on land use by:
 - Providing timely compensation for loss of assets at replacement cost; and
 - Assisting displaced persons in their efforts to improve, or at least restore their livelihoods and living standards in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation.
- To improve living conditions of poor or vulnerable persons who are physically displaced, through provision of adequate housing, access to services and facilities, and security of tenure
- To conceive and execute resettlement activities as sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project, as the nature of the project may warrant.





- To ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected.

BASIC PRINCIPLES AND GUIDELINES ON DEVELOPMENT BASED EVICTIONS AND DISPLACEMENT

The basic principles defines the obligation of States to refrain from, and protect against, forced evictions from homes and land arises from several international legal instruments that protect the human right to adequate housing and other related human rights⁴. These include:

- The Universal Declaration of Human Rights,
- The International Covenant on Economic, Social and Cultural Rights (art. 11, para.1),
- The Convention on the Rights of the Child (art.27, para.3)
- The non-discrimination provisions found in article 14, para 2 (h), of the Convention on the Elimination of All Forms of Discrimination against women, and,
- Article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination.

The present guidelines address the human rights implications of development linked evictions and related displacement in urban and/or rural areas. With regard to all relevant definitions of the practice of “forced evictions” in the context of international human rights standards, the guidelines apply to acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon.

The prohibition of forced evictions does not apply to evictions carried out both in accordance with the law and in conformity with the provisions of international human rights treaties.

EVICTION UNDER THE CONSTITUTION OF KENYA

5.5.1 Evictions Guidelines April 2017

According to the Eviction Guidelines section 4.9.1 drafted by Ministry of Lands (2010), the Government shall ensure that evictions only occur in exceptional circumstances. Evictions require full justification given their potential extremely negative impact on a wide range of international recognised human rights. Any eviction must be warranted by law, reasonable in the circumstances, proportionate and can only be carried out in accordance with the Guidelines and international human rights and humanitarian law.

The Government shall ensure that exceptions to the prohibition on forced evictions such as the ‘interest of society’ or ‘public interest’ should be read restrictively, so as to again ensure that evictions only occur in exceptional circumstances.

Where eviction is considered to be justified it should be carried out in strict compliance with the following procedures: -

- (a) Appropriate notice given to the affected individual or groups clearly stating the modalities, day and time of the eviction.

⁴ Basic Principles and Guidelines on development-based evictions and displacement available at :https://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf





- (b) Consultations with the affected individual or group on the proposed eviction modalities and resettlement plans.
- (c) Holding of public hearing with affected persons and other stakeholders to provide an opportunity to discuss alternative proposals for resettlement.
- (d) Provide opportunity for the parties to seek legal redress where there is a stalemate or dispute.
- (e) The eviction notice should contain a detailed justification for the decision, among others: -
 - (i) Be a language that is understood by all individuals concerned
 - (ii) The full details of the proposed alternative
 - (iii) Where no alternatives exist, all measures taken and foreseen to minimize the adverse effects of evictions

Eviction procedure under this RAP

Should there be need for forceful eviction, the process shall be undertaken according to laid down legal procedures in Kenya and the international best practices. Potential persons to be evicted are those who come to the Right of Way (ROW) after the cut-off date and those who fail to relocate from the ROW after the notice period to vacate has expired. PAPs shall be given adequate notice to vacate and this shall be arrived at through a consultative process involving the PAPs representatives. The eviction shall be undertaken in a humane manner and Internal Security department, the council of elders, Kenya National Commission on Human Rights, The County government and the PAP's representatives shall be involved. The project witness NGO and Rap Implementation Consultant (RIC) and the project team shall also oversee this process.

VOLUNTARY GUIDELINES ON THE RESPONSIBLE GOVERNANCE OF TENURE OF LAND, FISHERIES AND FORESTS IN THE CONTEXT OF NATIONAL FOOD SECURITY (2012)

The Voluntary Guidelines strive to improve governance of tenure of land, fisheries and forests⁵. They seek to do so for the benefit of all, with an emphasis on vulnerable and marginalized people. The implementation of these guidelines liaise with States' existing obligation under international law, including the Universal Declaration of Human Rights and other international human rights instruments. These Guidelines seek to:

- Improve tenure governance by providing guidance, information, and information on internationally accepted practices for system that deal with the rights to use, manage and control land, fisheries and forests.
- Contribute to the improvement and development of the policy, legal and organizational framework regulating the range of tenure rights that exist over these resources.
- Enhance the transparency and improve the functioning of tenure system.
- Strengthen the capacities and operations of implementing agencies; judicial authorities; local governments; organizations of farmers and small-scale producers, of fishers, and

⁵ Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security available at: <https://www.fao.org/3/i2801e/i2801e.pdf>



forest users; pastoralists; indigenous peoples and other communities; civil society; private sector; academia; and all persons concerned with tenure governance as well as to promote the cooperation between the actors mentioned.

In accordance with the Voluntary Guidelines, States are encouraged to set up multi-stakeholder platforms and frameworks at local, national and regional levels or use such existing platforms and frameworks to collaborate on the implementation, monitoring and evaluation of these guidelines. This process should be inclusive, participatory, gender sensitive, implementable, cost effective and sustainable.

RELEVANT KENYAN LEGISLATION

Relevant Kenyan legislation pertaining to resettlement and land acquisition includes the following:

- The Constitution of Kenya, 2010;
- The Land Act, 2012 (and the 2016 Amendments);
- The Land Acquisition Act (2010)
- The National Land Commission Act (2012);
- The Environment and Land Court Act (2011);
- The Valuers Act (1984) Chapter 532;
- The Survey Act (1961) Chapter 299;
- The Physical and Land Use Planning Act (2019);
- The Community Land Act (2016);
- The Land Registration Act (2012);
- The Matrimonial Property Act (2013);
- The County Governments Act (2012);
- The Environmental Management and Coordination Act Cap.387 and Amendments 2015; and
- The Eviction Guidelines 2010.

KfW SUSTAINABILITY GUIDELINE

The KfW Sustainability Guideline on the Assessment and management of Environmental, Social and Climate Aspects: Principles and Procedures (October 2019)⁶ aims to promote sustainability and avoid adverse environmental, social and climate impacts and risks. The guideline describes procedures to assess the environmental, social and climate aspects during the preparation and implementation of financial cooperation measures financed by KfW Development Bank.

One of the core principles with regard to project related displacement is “to avoid and minimise involuntary resettlement and forced eviction of people and their living space as well as to

⁶ KfW Sustainability Guideline on the *Assessment and management of Environmental, Social and Climate Aspects: Principles and Procedures* (October 2019); available at: https://www.kfw-entwicklungsbank.de/PDF/Download-Center/PDF-Dokumente-Richtlinien/Nachhaltigkeitsrichtlinie_EN.pdf





mitigate adverse social and economic impacts through changes in land use by reinstating the previous living conditions of the affected population.”

In situations where involuntary resettlement cannot be avoided, the Guideline sets a requirement for a project specific resettlement action plan, a livelihood restoration plan, or resettlement policy framework. No physical or economic resettlement of people shall take place until a project-specific resettlement or livelihood restoration plan has been developed and agreed by KfW Development Bank. The results of the implementation of resettlement and livelihood restoration activities are to be assessed as part of a separate completion audit.

GAP ANALYSIS

The gap analysis between world bank and Kenyan legislation is provided in the table below.



Table 23: GAP Analysis

Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
Eligibility Classification	10	Eligibility Classification	<p>World Bank ESS5: Paragraph 10 of the WBESS5 defines three categories of affected persons who are eligible for coverage under ESS5. While people in all three categories are entitled to assistance of some sort under ESS5, the nature of that assistance may vary.</p> <ul style="list-style-type: none"> Category (a): Affected persons who have formal legal rights to land or assets are those who have formal documentation under national law to prove their rights, or are specifically recognized in national law as not requiring documentation. In the simplest case, an area is registered in the name of individuals or 	<ul style="list-style-type: none"> Article 5, Community Land Act (2016): <ul style="list-style-type: none"> Every person shall have the right, either individually or in association with others, to acquire and own properly, in accordance with Article 40 of the Constitution; Customary land rights, including those held in common shall have equal force and effect in law with freehold or leasehold rights acquired through allocation, registration or transfer; Subject to Article 40 of the Constitution and the Land Act, no interest in, or right over community land may be compulsorily acquired by 	<ul style="list-style-type: none"> Kenyan legislation does not specify resettlement assistance in exception of the 15% disturbance allowance specified in the Land Acquisition Act (2010). In comparison, the ESS5 requirements present detailed information in regard to eligibility of compensation; Those without recognizable rights are not eligible for compensation under Kenyan legislation; ESS5 paragraph 10 makes provision for compensation of persons without recognizable legal right or claim to the land or asset they occupy or use, they are



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<p>communities. In other cases, persons may have a lease on the land and therefore have legal rights.</p> <ul style="list-style-type: none"> Category (b): Affected persons who do not have formal legal rights to land or assets, but who have a recognized or recognizable claim under national law can fall into a number of groups. They may have been using the land for generations without formal documentation under customary or traditional tenure arrangements that are accepted by the community and recognized by national law. In other cases, they may have never been provided formal title or 	<p>the State except in accordance with the law, for a public purpose, and upon prompt payment of just compensation to the person or persons, in full or by negotiated settlement.</p> <ul style="list-style-type: none"> The Schedule section of the Land Acquisition Act (2010) states that, to the amount of compensation so determined, there shall be added a sum equal to 15% of the market value as determined, by way of compensation for disturbance. Article 155 (Land Act 2012) states that unlawful occupation of land relates to any person who - without lawful authority (or without any right or license under customary 	<p>not eligible for land compensation, but are eligible for resettlement and livelihood assistance and compensation for assets.</p> <ul style="list-style-type: none"> UN Basic Principles Paragraph 61 makes provision of compensation for all irrespective of whether they hold title to property lost. <p>RAP APPROACH:</p> <ul style="list-style-type: none"> An entitlement matrix will be developed to identify all affected people (eligible persons), the types of impacts incurred, and the types of compensation and other assistance being provided to eligible



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<p>their documents may be incomplete or lost. They may have a claim for adverse possession if they have occupied land for a certain period of time as defined by national law, without the formal owner contesting the occupation. In such cases, national law often has legal procedures by which such claims can become recognized.</p> <ul style="list-style-type: none"> ▪ Category (c): Affected persons who have no recognizable legal right or claim to the land or assets they occupy or use are eligible for assistance under ESS5. These can be seasonal resource users, such as herders, grazers, fishers, or hunters (although if the 	<p>or statutory land law):</p> <ul style="list-style-type: none"> - Occupies or erects any building on any public land; or - Clears, digs, ploughs, cultivates, harvests or grazes animals over, any public land or part of it. 	<p>persons to address those impacts</p> <ul style="list-style-type: none"> - The project will make provision for compensation to those without recognizable rights to land for non-land assets - Proposed eligibility criteria will be communicated to the NLC to ensure alignment with the Kenyan land acquisition legislation and with the Relevant International Standards



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<p>rights of such users are recognized by national law, they may fall into category (a) or (b)). They can also be persons occupying land in violation of applicable laws. Affected persons in these groups are not eligible for compensation for land, but are eligible for resettlement and livelihood assistance and compensation for assets</p> <p>UN Basic Principles:</p> <ul style="list-style-type: none"> ▪ Paragraph 61 states that all evicted, irrespective of whether they hold title to their property, should be entitled to compensation for the loss, salvage and transport of their properties affected, including the original 		



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<p>dwelling and land lost or damaged in the process.</p> <p>VGGT:</p> <ul style="list-style-type: none"> Paragraph 4.4 states that, all forms of tenure should provide all persons with a degree of tenure security, which guarantees legal protection against forced evictions. 		
	10.1 (c)	Seasonal resource users	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> Affected persons who have no recognizable legal rights or claim to the land or asset they occupy or use are not eligible for compensation for land, but are eligible for resettlement and livelihood assistance and compensation for assets. A social assessment should be conducted address the claims of seasonal resource users 	<ul style="list-style-type: none"> There is no reference to compensation of seasonal resource users in Kenyan legislation. 	<ul style="list-style-type: none"> There is no reference to compensation of seasonal resource users in Kenyan legislation. In comparison, the ESS5 requirements present requirements for identifying seasonal resource users; Kenyan law concentrates on compensation for lost assets whereas ESS5 focuses on compensation for losses



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			who may not be present in the project area during time of the census.		plus livelihood enhancement assistance; <i>RAP APPROACH</i> - All eligible PAPS and owners of pre-cut date assets, crops, etc., regardless of legal tenure, will be considered for the same level of compensation.
Compensation and Benefits for affected persons	12	Compensation	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> Compensation for lost assets is calculated at replacement cost⁷. The process used for determining compensation values should be transparent and easily comprehensible to project affected persons 	<ul style="list-style-type: none"> Article 18 of the Land Acquisition Act (2010) states that whenever the area of the land acquired is greater than the area of the land in respect of which the award has been made, compensation shall be paid for the excess area. The Land Value 	<ul style="list-style-type: none"> Kenyan legislation requires that compensation is based on the State's land value index. Compensation payable cannot exceed the value of the structures and improvements on the land; Although Kenyan

⁷ "Replacement cost" is defined as a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive assets, or the undepreciated value of replacement material and labour for construction of structures or other fixed assets, plus transaction costs



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<p>UN Basic Principles:</p> <ul style="list-style-type: none"> Paragraph 60 states that the State should provide or ensure fair and just compensation for any losses of personal, real or other property or goods, including rights or interest in property. <p>VGGT:</p> <ul style="list-style-type: none"> Paragraph 16.3 states that, States should ensure a fair valuation and prompt compensation in accordance with national law. Among other forms, the compensation may be, for example, in cash, rights to alternative areas, or a combination. 	<p>(Amendment) Act (2019) now allows the NLC to take possession of the land and pay compensation at a later date within a reasonable amount of time (not later than one year). The Act also provides that where the NLC has taken possession of the land, no order stopping any development of the land may be issued by any court if public funds have already been committed to its development.</p>	<p>legislation requires ‘full’ and prompt compensation ‘to all persons interested in the land’, there is no clarification of what is to be compensated. ESS5 provides details of what needs to be compensated for affected persons.</p> <p>RAP APPROACH:</p> <ul style="list-style-type: none"> In kind replacement of assets is preferred to cash compensation to reduce the risk of impoverishment. In kind compensation include measures for replacement land and housing, detailing site identification and selection, house designs, additional permitting, security of



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
					<p>tenure arrangements, eligibility criteria , etc.</p> <ul style="list-style-type: none"> - Proposed compensation approach will be communicated to the NLC to ensure alignment with the Kenyan land acquisition legislation and with the Relevant International Standards - When fully acquired, project land must be registered in line with the registration provisions of the Land Registration Act (2012).
	12.1	In-kind and cash compensation	<p>World Bank ESS5: With regard to land and assets, the calculation of replacement costs takes into account the following:</p> <ul style="list-style-type: none"> ▪ Agricultural (including fallow) land or 	<ul style="list-style-type: none"> ▪ Article 12 of the Land Acquisition Act (2010) states that the Commissioner may agree with the person, whom he has determined to be the proprietor of the land that 	<ul style="list-style-type: none"> ▪ ESS5 requirements encourage that persons with affected land are compensated with ‘land of commensurate quality, size and value’, Kenyan legislation does



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<p>pastureland: Land of equal productive use or potential, located in the vicinity of the affected land or the new housing site, plus the cost of preparation to levels similar to or better than those of the affected land, and transaction costs such as registration and transfer taxes or customary fees.</p> <ul style="list-style-type: none"> ▪ Land in urban areas: The market value of land of equivalent area and use, with similar or improved infrastructure and services, preferably located in the vicinity of the affected land, plus transaction costs such as registration and transfer taxes. ▪ Houses and other 	<p>that person, instead of receiving an award, shall receive a grant of land, not exceeding in value the amount of compensation which the Commissioner considers would have been awarded.</p> <ul style="list-style-type: none"> ▪ Article 18 of the Land Acquisition Act (2010) states that whenever the area of the land acquired is greater than the area of the land in respect of which the award has been made, compensation shall be paid for the excess area. ▪ Article 107 to 120 of the Land Act (2012 and the 2016 Amendments) states that the NLC may agree with a person to grant them land instead of the award 	<p>not present a preference to the type of compensation (i.e. in-kind or cash) while UN Basic Principles emphasis on in kind compensation;</p> <ul style="list-style-type: none"> ▪ Kenyan legislation requires that affected persons are fully compensated, which may be in the form of replacement land, cash or a combination of both; <p>RAP APPROACH:</p> <ul style="list-style-type: none"> - In cases with in-kind replacement, the RAP will ensure that replacement housing plots and land are available and secured, including provision of adequate security of tenure for affected



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<p>structures (including public structures such as schools, clinics, and religious buildings): The cost of purchasing or building a replacement structure, with an area, quality, and location similar to or better than those of the affected structure; or of repairing a partially affected structure, including labor and contractors fees; and transaction costs, such as registration, transfer taxes, and moving costs.</p> <ul style="list-style-type: none"> ▪ Loss of access to natural resources: The market value of the natural resources, which may include, among others, wild medicinal plants, firewood, and other non-timber forest products, 		<p>households</p> <ul style="list-style-type: none"> - Proposed compensation approach will be communicated to the NLC to ensure alignment with the Kenyan land acquisition legislation and with the Relevant International Standards



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			<p>meat, or fish.</p> <p>UN Basic Principles:</p> <ul style="list-style-type: none"> Paragraph 60 states that, Cash compensation should under no circumstances replace real compensation in the form of land and common property resources. Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better. 		
		Compensation valuation	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> Compensation is to be provided at full cost, which includes the following: <ul style="list-style-type: none"> Where functioning markets exist, replacement cost is the market value as 	<ul style="list-style-type: none"> Chapter 532 of the Valuers Act (1984) states that no person can carry on the business as a practicing valuer of movable or immovable property unless the person is registered with the Valuers Registration 	<ul style="list-style-type: none"> Kenyan law concentrates on compensation for lost assets (which falls short of compensation at full replacement cost). Paragraph 12 of ESS5 focuses on full replacement loss (i.e.



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<p>established through independent and competent real estate valuation, plus transaction costs;</p> <ul style="list-style-type: none"> - Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive assets, or the undepreciated value of replacement material and labour for construction of structures or other fixed assets, plus transaction costs. ▪ Transaction costs include administrative charges, registration or title fees, reasonable moving expenses, and any similar 	<p>Board (Article 21);</p> <ul style="list-style-type: none"> ▪ Chapter 299 of the Survey Act (1961) states that only a surveyor licensed by the Land Surveyors Board under the Survey Act can survey land for the purpose of preparing a plan that is referenced in a title document or for delimiting boundaries (Article 35). ▪ Article 8 of the Land Acquisition Act (2010) states that where land is acquired compulsorily, full compensation shall be paid promptly to all persons interested in the land; ▪ The Schedule section of the Land Acquisition Act (2010) states that, to the amount of compensation so determined, there shall 	<p>compensation for losses plus livelihood enhancement, or as a minimum restoration) while VGGT advocates for publicized national standards for valuation for governmental, commercial and other purposes;</p> <ul style="list-style-type: none"> ▪ Kenyan legislation requires that: <ul style="list-style-type: none"> - Valuations be carried out by a person registered with the Valuers Registration Board; - That a registered surveyor survey the Project land; - The use of the State's land value index, as well as valuation of structures and improvements on the



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<p>costs imposed on affected persons.</p> <p>UN Basic Principles:</p> <ul style="list-style-type: none"> Paragraph 61 states that, all those evicted, irrespective of whether they hold title to their property, should be entitled to compensation for the loss, salvage and transport of their properties affected, including the original dwelling and land lost or damaged in the process. <p>VGGT:</p> <ul style="list-style-type: none"> Paragraph 18. Valuation: States should ensure that appropriate systems are used for the fair and timely valuation of tenure rights for specific purposes, such as operation of markets, security for loans, 	<p>be added a sum equal to 15% of the market value as determined, by way of compensation for disturbance.</p> <ul style="list-style-type: none"> The Schedule section of the Land Acquisition Act (2010) also states that, in determining the amount of compensation to be awarded for land acquired under this Act, the following matters, and no others, shall be taken into consideration: <ul style="list-style-type: none"> The market value of the land at the date of publication in the Gazette of the notice of intention to acquire the land); Damage sustained or likely to be sustained by persons interested at the time of the Commissioner's taking 	<p>land.</p> <ul style="list-style-type: none"> The ESS5 requirements provide a more detailed description of physical assets and economically assessable damage to be considered for compensation; <p>RAP APPROACH:</p> <ul style="list-style-type: none"> The RAP will explain the valuation methodologies used to determine rates of compensation for different types of impacted assets. This includes detailed description on how to calculate replacement costs for affected assets (i.e. land, structures and permanent crops and trees) Proposed compensation approach will be



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<p>transactions in tenure rights as a result of investments, expropriations and taxation.</p>	<p>possession of the land by reason of severing the land from his other land;</p> <ul style="list-style-type: none"> - Damage sustained or likely to be sustained by persons interested at the time of the Commissioner's taking possession of the land by reason of the acquisition injuriously affecting his other property, whether movable or immovable, in any other manner or his actual earnings; - If, in consequence of the acquisition, any of the persons interested is or will be compelled to change his residence or place of business, reasonable expenses incidental to the change; and - Damage genuinely 	<p>communicated to the NLC to ensure alignment with the Kenyan land acquisition legislation and with the Relevant International Standards</p>



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
				<p>resulting from diminution of the profits of the land between the date of publication in the Gazette of the notice of intention to acquire the land and the date the Commissioner takes possession of the land.</p> <ul style="list-style-type: none"> ▪ Article 5, Community Land Act (2016) states that no interest in, or right over community land may be compulsorily acquired by the State except in accordance with the law, for a public purpose, and upon prompt payment of just compensation to the person or persons, in full or by negotiated settlement; ▪ The Land Value (Amendment) Act (2019) makes the following 	



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
				<p>amendments to Section 107 of the Land Act (2012):</p> <ul style="list-style-type: none"> ▪ Valuation of freehold land and community land for purposes of compensation under this Act shall be based on the provision of the land value index (i.e. the State’s analytical representation showing the spatial distribution of land values at a specific time); ▪ In addition to any other principle that may be employed in calculating the land value index, the declared value of the land for purposes of payment of rates, rents or stamp duty shall be taken into account. ▪ The Land Value (Amendment) Act (2019) 	



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
				states that the compensation payable shall not in any case exceed the value of the structures and improvements on the land.	
	12.4	Sub-standard living condition	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> The replacement cost should establish a minimum standard that should enable the purchase or construction of housing that meets acceptable minimum community standard of quality and safety, even though the house being replaced may have been substandard. <p>UN Basic Principles:</p> <ul style="list-style-type: none"> Paragraph 56 (d): No affected persons, groups or communities shall suffer detriment as far as their human rights are 	<ul style="list-style-type: none"> There is no mention of improving living standards for displaced persons in sub-standard living conditions. 	<ul style="list-style-type: none"> Kenyan legislation makes no mention of improving living standards for displaced persons in sub-standard living conditions; <p>RAP APPROACH:</p> <ul style="list-style-type: none"> Resettlement will be conducted with the objective of restoring or improving the livelihoods and associated standards of living of PAPs to pre-project levels or higher. Proposed compensation



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			concerned, nor shall their rights to the continuous improvement of living conditions be subject to infringement. This applies equally to host communities at resettlement sites, and affected persons, groups and communities subject to forced eviction.		approach will be communicated to the NLC to ensure alignment with the Kenyan land acquisition legislation and with the Relevant International Standards
	13	Compensation for housing/structure	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> ▪ In cases of loss of houses and other structures, replacement offers must satisfy the criteria defined for ESS5 – Paragraph 12.1 ▪ Information about compensation standards, formulas, and rates should be provided in a transparent and consistent manner 	<ul style="list-style-type: none"> ▪ Section 91 (1) of the Traffic Act states that encroachment of a private asset/ structure on a land reserved for roads or easements are not eligible for compensation; ▪ The Land Act of 2012 (Amended 2016) 5 states that there shall be equal recognition and enforcement of land rights arising under all tenure systems and non- 	<ul style="list-style-type: none"> ▪ Kenyan legislation requires the use of the State’s land value index, as well as valuation of structures and improvements on the land; ▪ ESS5 requirements provide a more detailed description of physical assets and economically assessable damage to be considered for compensation;



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
				<p>discrimination in ownership of, and access to land under all tenure systems;</p> <ul style="list-style-type: none"> ▪ The Land Value (Amendment) Act (2019) states that the compensation payable shall not in any case exceed the value of the structures and improvements on the land. ▪ Article 6 of the Land Acquisition Act (2010) states the following: <ul style="list-style-type: none"> - Notwithstanding that plant and machinery are attached to land or permanently fastened to the land, the person interested in such plant and machinery may, after receipt by him of the notice of intention to 	<p>RAP APPROACH:</p> <ul style="list-style-type: none"> - In-kind replacement of assets is preferred to cash compensation. (for houses and other structures, it is the market cost of material to build replacement structure with an area and quality similar to or better than those of 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



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
				<p>acquire the land and not later than fifteen days before the inquiry appointed under section 9 (1), serve on the Commissioner a notice in writing that he desires to sever and remove the plant and machinery and the Commissioner shall within fifteen days, in writing, notify the person interested whether the plant and machinery may be severed and removed or whether they are required for the purpose for which the land is intended to be compulsorily acquired.</p> <p>- Where the</p>	<p>registration and transfer taxes).</p> <ul style="list-style-type: none"> - Compensation rates will not take into account depreciation. - Proposed compensation approach will be communicated to the NLC to ensure alignment with the Kenyan land acquisition legislation and with the Relevant International Standards



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
				<p>Commissioner notifies the person interested that the plant and machinery may be severed and removed the person interested shall sever and remove them at his own expense at any time before the Commissioner takes possession; and the plant and machinery shall not be included in the computation of the compensation payable under this Act.</p> <ul style="list-style-type: none"> ▪ Sections 27 of the Land Acquisition Act (2010) states that, whenever land is needed solely as a means of access to other land, then the compensation to be paid 	



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
				shall be limited to the damage done to trees, plants, growing crops and permanent improvements on the land, together with a periodical sum for diminution in the profit	
	15	Compensation payment	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> With regard to compensation for land and assets, or assistance in lieu of compensation will be made available before possession of acquired land. In certain cases there may be significant difficulties related to the payment of compensation to particular affected persons, the project developer may deposit compensation funds as required by the plan into an interest-bearing 	<ul style="list-style-type: none"> Article 119 of the Land Act of 2012 (Amendment 2016) states that payment of compensation shall be made only upon the exercise of due diligence which shall include final survey and the determination of acreage, boundaries, ownership and value. Articles 10 and 11 of the Land Acquisition Act (2010) state that, upon the conclusion of the inquiry, the Commissioner shall prepare a written award, in which he shall make a 	<p>RAP APPROACH:</p> <ul style="list-style-type: none"> Compensation payment will be paid in entirety prior to displacement (or commencement of civil works on the impacted land)



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<p>escrow or other deposit account and proceed with the relevant project activities</p>	<p>separate award of compensation to each person whom he has determined to be interested in the land. On making an award, the Commissioner shall serve on each person whom he has determined to be interested in the land a notice of the award and offer of compensation.</p> <ul style="list-style-type: none"> ▪ Article 13 of the Land Acquisition Act (2010) states that, after notice of an award has been served, the Commissioner shall, as soon as practicable, pay compensation in accordance with the award to the persons entitled thereunder, except in a case where: <ul style="list-style-type: none"> - There is no person competent to receive 	



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
				<p>payment;</p> <ul style="list-style-type: none"> - The person entitled does not consent to receive the amount awarded; or - There is a dispute as to the right of the persons entitled to receive the compensation or as to the shares in which it is to be paid. <ul style="list-style-type: none"> ▪ In any of the cases referred above, the Commissioner may at any time pay the amount of the compensation into Court, notifying any persons interested accordingly. ▪ Article 16 of the Land Acquisition Act (2010) states that, where the amount of any compensation awarded is 	



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				<p>not paid or paid into Court on or before the taking of possession of the land, the Commissioner shall pay interest on the amount awarded at such rate as may be prescribed which shall not be less than 6% per annum from the time of taking possession until the time of payment or payment into Court. Where additional compensation is payable, there shall be added to the amount of the additional compensation interest thereon at such rate as may be prescribed which shall not be less than 6% per annum from the time when possession was taken or compensation was paid, whichever is the earlier.</p>	



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				<ul style="list-style-type: none"> Article 25 of the Land Acquisition Act (2010) states that compensation payable may be in the form of a single sum of money or in the form of periodical payments of money, or in such other form as may be agreed. 	
	16	Non-discriminatory compensation	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> Compensation and income restoration measures must be implemented without discrimination based on gender, race, ethnicity, religion, disability or other prohibited grounds; Develop a comprehensive planning process that includes identification of: <ul style="list-style-type: none"> women's means of income generation and livelihoods, 	<ul style="list-style-type: none"> The Land Act of 2012 (Amended 2016) states that there shall be equal recognition and enforcement of land rights arising under all tenure systems and non-discrimination in ownership of, and access to land under all tenure systems; Article 6 and 7 of the Matrimonial Property Act (2013) provides that matrimonial property is owned by the spouses 	<ul style="list-style-type: none"> Those without recognisable rights are not eligible for compensation under Kenyan legislation. ESS5 requirements make provision for compensation of affected persons without recognizable legal right or claim in relation to non-land assets (such as structures that they own and occupy, and for any other improvements to land at full replacement



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<p>including non-formal activities such as gathering natural resources, or trading and bartering services and wares;</p> <ul style="list-style-type: none"> - women's social and economic networks, including extended family ties; and - Women ownership of affected assets, including land and crops, in order to appropriately compensate them. <ul style="list-style-type: none"> ▪ Documentation of ownership or occupancy and compensation payments should be issued in the names of both spouses or single heads of households as relevant and other resettlement assistance, 	<p>according to their contribution towards its acquisition, regardless of who is the registered owner. Matrimonial property includes the home or homes.</p> <ul style="list-style-type: none"> ▪ Section 27 of the Constitution (2010) states that the State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth 	<p>cost);</p> <p><i>RAP APPROACH:</i></p> <ul style="list-style-type: none"> - All eligible owners will be considered for the same level of compensation and have equally access to livelihood restoration programs - Acquisition of any matrimonial property affected by the Project will need to be cognizant of the provisions of the Matrimonial Property Act and ensure the consent of the spouses’; - Proposed compensation approach will be



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			<p>such as skills training, access to credit, and job opportunities, should be equally available to women and adapted to their needs. Where national law and tenure systems do not recognize the rights of women to hold or contract in property, measures should be considered to provide women as much protection as possible with the objective to achieve equity with men.</p> <p>UN Basic Principles:</p> <ul style="list-style-type: none"> Paraphrase 62 states that women and men must be co-beneficiaries of all compensation packages. Single women and widows should be entitled to their own compensation. 		<p>communicated to the NLC to ensure alignment with the Kenyan land acquisition legislation and with the Relevant International Standards</p>



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			<p>VGGT:</p> <ul style="list-style-type: none"> Paragraph 4.6 states that, States should remove and prohibit all forms of discrimination related to tenure rights, including those resulting from change of marital status, lack of legal capacity, and lack of access to economic resources. 		
Community Engagement	17	Stakeholder identification and consultation.	<p>World Bank ESS5 and ESS10:</p> <ul style="list-style-type: none"> Engagement with affected communities, including host communities should follow stakeholder engagement process described in ESS10 Stakeholders for the purpose of ESS5 include: <ul style="list-style-type: none"> economically and/or physically displaced persons; 	<ul style="list-style-type: none"> Article 107 to 120 of the Land Act (2012 and the 2016 Amendments) states that interested persons include: <ul style="list-style-type: none"> Any person whose interests appear in the land register; The spouse or spouses of any such person; and Any person actually occupying the land and the spouse or 	<ul style="list-style-type: none"> Although Kenyan legislation requires inclusive participation, there is no indication, apart from landowners, of key stakeholders to consider; ESS10 requirements provide details of key stakeholders to be considered; <p>RAP APPROACH:</p> <ul style="list-style-type: none"> Project Stakeholder Engagement Plan



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			<ul style="list-style-type: none"> - the host community ; - Governmental agencies or other parties responsible for approving and/or delivering resettlement-related plans and assistance. ▪ All relevant stakeholders must be given the opportunity for informed participation in resettlement planning with the goal that mitigation of adverse project impacts is appropriate and the potential benefits of resettlement are sustainable. <p>UN Basic Principles:</p> <ul style="list-style-type: none"> ▪ Paragraph 39 states that, during the planning processes, opportunities 	<p>spouses of such person.</p> <ul style="list-style-type: none"> ▪ Environmental (Impact Assessment and Audit) (Amendment) Regulations (2019) requires the preparation of a strategic communication plan to ensure inclusive participation during the study and provide a summary of issues discussed at the public participation forum. ▪ The Physical and Land Use Planning Act (2019) applies to the planning and implementation of resettlement sites. Developments require planning permission under the Physical Planning Act from the respective local authority, which may not be issued unless the 	<p>will be developed to ensure informed participation throughout life of the project, from inception to completion.</p> <ul style="list-style-type: none"> - The engagement process will be designed to be culturally appropriate and attend to the needs of disadvantaged or vulnerable groups. Stakeholder engagement activities will be tracked and monitored through resettlement planning and implementation in order to gauge effectiveness;



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			<p>for dialogue and consultation must be extended effectively to the full spectrum of affected persons, including women and vulnerable and marginalised groups, and, when necessary, through the adoption of special measures or procedures.</p> <p>VGGT:</p> <ul style="list-style-type: none"> Paragraph 16.2 states that, States should ensure that the planning and process for expropriation are transparent and participatory. Anyone likely to be affected should be identified, and properly informed and consulted at all stages. 	<p>development complies with a county or local development plan. Subdivision of private land requires the approval of the local authority, and must comply with a local physical development plan. Development plans require the approval of the responsible Minister at the County level;</p> <ul style="list-style-type: none"> Article 114 of the County Governments Act (2012) provides that development of nationally significant development projects must be preceded by public hearings in each affected county. 	<p>corrective measures will be incorporated as necessary.</p>
	18	Inclusive consultation	<p>World Bank ESS5 and ESS10:</p> <ul style="list-style-type: none"> Opportunities for 	<ul style="list-style-type: none"> Environmental (Impact Assessment and Audit) (Amendment) Regulations 	<p>RAP APPROACH:</p> <ul style="list-style-type: none"> Project Affected Persons and their



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			<p>dialogue and consultation must be extended effectively to the full spectrum of affected persons, paying particular attention to the full participation in the consultation process of women, vulnerable and marginalised groups and, where necessary, adopting additional/complementary special measures or procedures;</p> <ul style="list-style-type: none"> ▪ Women’s and men’s preferences in terms of compensation mechanisms, such as replacement land or alternative access to natural resources rather than in cash, should be explored. ▪ The resettlement planning process needs to 	<p>(2019) requires the following:</p> <ul style="list-style-type: none"> - Preparation of a strategic communication plan to ensure inclusive participation during the study and provide a summary of issues discussed at the public participation forum; - Vulnerable groups must be identified and included. All State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, 	<p>communities will receive timely and relevant information, will be consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement. Detailed Stakeholder Engagement Plan and communication strategy will ensure informed participation throughout the project life</p>



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			<p>consider the situation of women and to adapt the engagement process as necessary to ensure that women have a role in decision making.</p>	<p>youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.</p> <ul style="list-style-type: none"> ▪ Article 107 to 120 of the Land Act (2012 and the 2016 Amendments) requires consultation with the Cabinet Secretary for submitting a request to the National Land Commission to acquire land on behalf of the national government. On approval of the request, NLC publishes a notice to that effect in the National Gazette and County Gazette and delivers a copy to the Registrar of the Land Register (who makes an entry in the 	



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				<p>register) and to persons who appear to be interested.</p> <ul style="list-style-type: none"> ▪ Article 107 to 120 of the Land Act (2012 and the 2016 Amendments) states that interested persons include: <ul style="list-style-type: none"> - Any person whose interests appear in the land register; - The spouse or spouses of any such person; and - Any person actually occupying the land and the spouse or spouses of such person. 	
Grievance mechanism	19	Implementation and maintenance	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> ▪ The project developer should ensure that a grievance mechanism for the project is in place, in accordance with ESS10. 	<ul style="list-style-type: none"> ▪ Under NEMA, the EMCA has established a Public Complaints Committee, which provides the administrative mechanism for addressing 	<ul style="list-style-type: none"> ▪ While there is a formal process for managing disputes as part of the resettlement process under Kenyan Law, there is no provision for



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			<ul style="list-style-type: none"> ▪ The mechanism should allow prompt addressing of specific concerns about compensation and relocation from the affected people and host communities and other directly involved entities; ▪ The mechanism should be easily accessible, culturally appropriate, widely publicized, and well integrated in the developer's project management system. It should enable the promoter to receive and resolve specific grievances related to compensation and relocation by affected persons or members of host communities, and use the grievance log to monitor cases and 	<p>environmental harm;</p> <ul style="list-style-type: none"> ▪ The Environment and Land Court Act (2011) gives effect to Article 162 of the Constitution (2010); to establish a superior court to hear and determine disputes relating to the environment and the use and occupation of, and title to, land, and to make provision for its jurisdiction functions and powers, and for connected purposes. The principal objective of this Act is to enable the Court to facilitate the just, expeditious, proportionate and accessible resolution of disputes governed by this Act. In the event of any land disputes for a Project, the Environment 	<p>establishing a grievance mechanism as required under the ESS10 requirements;</p> <p><i>RAP APPROACH:</i></p> <ul style="list-style-type: none"> - A three-tier project specific GRM will be developed involving communities, districts and national administrative agencies. The GRM will be accessible, reliable and transparent - Proposed grievance management approach will be communicated to the NLC to ensure alignment with the Kenyan land acquisition



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			<p>improve the resettlement process.</p>	<p>and Land Court will need to manage the dispute in line with the provisions of this Act.</p> <ul style="list-style-type: none"> ▪ The Land Value (Amendment) Act (2019) establishes the Land Acquisition Tribunal (the Tribunal) to hear disputes related to the compulsory land acquisition process. In determining such disputes, the Tribunal can confirm, vary or reject the decision of the NLC. The Act also provides that where the NLC has taken possession of the land, no order stopping any development of the land may be issued by any court if public funds have already been committed to its development. ▪ Article 112 of the Land 	<p>legislation and with the Relevant International Standards</p>



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				<p>Act of 2012 (Amendment 2016) states that at least thirty days after publishing the notice of intention to acquire land, the Commission shall appoint a date for an inquiry to hear issues of propriety and claims for compensation by persons interested in the land, and shall:</p> <ul style="list-style-type: none"> - Cause notice of the inquiry to be published in the Gazette or county Gazette at least fifteen days before the inquiry; and - Serve a copy of the notice on every person who appears to the Commission to be interested or who claims to be 	



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				<p>interested in the land.</p> <ul style="list-style-type: none"> Article 128 of the Land Act of 2012 (Amendment 2016) states that any dispute arising out of any matter provided for under this Act may be referred to the Land and Environment Court for determination; Article 50 of the Constitution (2010) states that every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body. 	
Planning and Implementation	20	Census and baseline surveys	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> The project developer will conduct a census: <ul style="list-style-type: none"> - to identify the 	<ul style="list-style-type: none"> Environmental (Impact Assessment and Audit) Regulations (2019) requires the 	<ul style="list-style-type: none"> Kenyan legislation only requires very basic background information relating to the project



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			<p>persons who will be affected by the project,</p> <ul style="list-style-type: none"> - to establish an inventory of land and assets to be affected, - to determine who will be eligible for compensation and assistance, and, - To discourage ineligible persons, such as opportunistic settlers, from claiming benefits. <ul style="list-style-type: none"> ▪ The social assessment should address the claims of communities or groups who, for valid reasons, may not be present in the project area during the time of the census, such as seasonal resource users. 	<p>reporting of the following:</p> <ul style="list-style-type: none"> - Location of the project (including GPS coordinates and the physical area that may be affected by the project's activities); - Nature of the project, including the preliminary design of the project, project costs and the activities that shall be undertaken during the project construction, operation and decommissioning phases; - The international, national and county legislative and regulatory frameworks on the 	<p>and the legislative framework, and does not specify the need for a census/socio-economic survey;</p> <ul style="list-style-type: none"> ▪ In comparison, the ESS5 requirements present detailed information in regard to census and baseline surveys; <p>RAP APPROACH:</p> <ul style="list-style-type: none"> - Resettlement planning will include the completion of a census and asset survey of all displaced households and landowners based on the Project Area of Influence.



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			<ul style="list-style-type: none"> The census identifies affected persons, and includes pertinent demographic (age, gender, family size, births, and deaths) and related social and economic information (ethnicity, health, education, occupation, income sources, livelihood patterns, productive capacity, and so forth), which serves as a reference point against which income restoration and the results of other rehabilitation efforts can be measured. 	<p>environment and socio-economic matters.</p> <ul style="list-style-type: none"> Article 4 of the Land Acquisition Act (2010) states that the Commissioner may in writing authorize any person, together with servants and workmen, to enter upon any land specified, in a notice published, to survey the land; Section 58 of the Environmental Management and Coordination Act and Amendments 2015 requires the need to undertake Environmental Impact Assessments of all projects likely to cause negative impacts to the environment. 	



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	20.2	Cut off dates	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> The project developer will establish a cut-off date for eligibility, information regarding the cut-off date will be well documented and will be disseminated throughout the project area at regular intervals in written and (as appropriate) non-written forms and in relevant local languages. This will include posted warnings that persons settling in the project area after the cut-off date may be subject to removal. Diligent efforts should be made to ensure that the claims of individuals or groups who, for valid reasons, are not present at the time of the census but 	<ul style="list-style-type: none"> Articles 3 to 6 of the Land Acquisition Act (2010) state the following: <ul style="list-style-type: none"> Whenever the Minister is satisfied that the need is likely to arise for the acquisition of some particular land, the Commissioner may cause notice thereof to be published in the Gazette, and shall deliver a copy of the notice to every person who appears to him to be interested in the land. The Commissioner may in writing authorize any person, together with servants and workmen, to enter upon any land specified in a 	<ul style="list-style-type: none"> The Land Acquisition Act provides information on the process to follow when initiating a compensation/valuation exercise. This commences with a publication in the Gazette of the intention to acquire land. This date of publication forms the cutoff date for all land to be acquired as outlined in the Notice. The ESS5 requirements present detailed information in regard to cut-off dates; <p>RAP APPROACH:</p> <ul style="list-style-type: none"> Prior to declaration of the cut-off date and commencement of survey activities, the Project will



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			<p>who have a claim to land or assets, are addressed</p>	<p>published notice and to survey the land and to do all things which may be reasonably necessary to ascertain whether the land is suitable for the purpose for which it may be required.</p> <ul style="list-style-type: none"> - An authorization shall not empower a person to enter a building, or an enclosed court or garden attached to a dwelling house, unless consent has been obtained from the occupier, or failing consent, served the occupier with not less than seven days' notice in writing of his intention so to enter. 	<p>engage with those affected to explain the survey process, and the cut-off date and its implication. Engagement will continue following declaration of the cut-off date to ensure people remain informed.</p> <ul style="list-style-type: none"> - Communicate the application of cut-off dates with the National Land Commission (NLC) to ensure alignment with Kenyan land acquisition institutions, particularly in light of the Schedule Section of the Land Acquisition Act (2010) and with the



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				<ul style="list-style-type: none"> - Where the Minister is satisfied that any land is required for the purposes of a public body (and the necessity therefor is such as to afford reasonable justification for the causing of any hardship that may result to any person interested in the land), and so certifies in writing to the Commissioner, he may in writing direct the Commissioner to acquire the land compulsorily. ▪ The Schedule section of the Land Acquisition Act (2010) states that if the market value of land (i.e. the market value of the 	Relevant International Standards



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				<p>land at the date of publication in the Gazette of the notice of intention to acquire the land) has been increased, or is currently increased, in the following way, the increase shall be disregarded:</p> <ul style="list-style-type: none"> ▪ An increase by reason of an improvement made by the owner or his predecessor in title within two years before the date of publication in the Gazette of the notice of intention to acquire the land, unless it is proved that the improvement was made bona fide and not in contemplation of proceedings for the acquisition of the land. ▪ Section 9 of the Land Acquisition Act (2010) 	



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				<p>states that the Commissioner shall appoint a date, not earlier than 30 days and not later than 12 months after the publication of the notice of intention to acquire, for the holding of an inquiry for the hearing of claims to compensation by persons interested in the land, and shall serve notice of the inquiry to be published in the Gazette at least fifteen days before the inquiry - and serve a copy of the notice on every person who appears to him to be interested or who claims to be interested in the land.</p> <ul style="list-style-type: none"> Section 19 of the Land Acquisition Act (2010) states that, after the award has been made, the 	



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				<p>Commissioner shall take possession of the land by serving on every person interested in the land a notice that on a specified day, which shall not be later than sixty days after the award has been made, possession of the land and the title to the land will vest in the Government. Upon taking possession of land, the Commissioner shall also serve, upon the registered proprietor of the land and the Registrar, a notice that possession of the land has been taken and that the land has vested in the Government. Upon taking of possession, the land shall vest in the Government absolutely free from encumbrances.</p>	



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	20.4	Revision of census	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> A census, inventory and evaluation of assets may be revised if there is a significant time lag between the completion of the census and implementation of the resettlement or livelihood restoration plan (such as more than three years). 	<ul style="list-style-type: none"> There is no reference to the revision of the census. 	<ul style="list-style-type: none"> There is no reference to the revision of the census in Kenyan legislation; The ESS5 requirements present information in regard to revision of census and inventory data; <p>RAP APPROACH:</p> <ul style="list-style-type: none"> If required, the Project will review assets inventory data base to ensure it is up to date as stated in section 20.4
Relocation sites	27	Choice of relocation	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> Replacement land will have combined characteristics of productive potential, advantage of location, security of tenure, as well as the legal nature of the 	<ul style="list-style-type: none"> Article 42 of the Constitution (2010) states that every person has the right to: <ul style="list-style-type: none"> A clean and healthy environment; The highest attainable standard of health, 	<ul style="list-style-type: none"> Although Kenyan legislation includes requirements for environmental and resettlement planning, there is no reference to relocation sites. The Constitution does



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			<p>land title or use rights are at least equivalent to those of the original site</p> <ul style="list-style-type: none"> ▪ New resettlement sites will offer living conditions at least equivalent to those previously enjoyed, or consistent with prevailing minimum codes or standards, whichever set of standards is higher. ▪ Adequate housing options are those that allow access to employment options, markets, and other means of livelihood such as agricultural fields, as well as basic infrastructure and services, such as water, electricity, sanitation, health care, and education, depending on 	<p>which includes the right to:</p> <ul style="list-style-type: none"> • Health care services, including reproductive health care; • Accessible and adequate housing, and to reasonable standards of sanitation; • Be free from hunger, and to have adequate food of acceptable quality; • Clean and safe water in adequate quantities; and • Education. <p>▪ The Physical and Land Use Planning Act (2019) applies to the planning and implementation of resettlement sites. Developments require</p>	<p>provide general guidelines for basic human rights.</p> <ul style="list-style-type: none"> ▪ Although Kenyan legislation requires the investigation of alternative sites, few details are provided. In comparison, ESS5 present highly detailed requirements; <p>RAP APPROACH:</p> <ul style="list-style-type: none"> - A specific section will be developed detailing the process how resettlement sites were/are selected, any ESIA requirements in respect of these sites, planning and permitting requirements, house design



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			the local context.	<p>planning permission under the Physical Planning Act from the respective local authority, which may not be issued unless the development complies with a county or local development plan. Subdivision of private land requires the approval of the local authority, and must comply with a local physical development plan. Development plans require the approval of the responsible Minister at the County level.</p> <ul style="list-style-type: none"> ▪ Environmental (Impact Assessment and Audit) (Amendment) Regulations (2019) requires the analysis of available alternatives including an alternative to the project site, design, technologies 	<p>development, replacement land availability including the provision of security of tenure, the choices made available to PAPs, and how affected households and any host communities have been involved in the process.</p> <ul style="list-style-type: none"> - Communicate proposed relocation sites with the NLC to ensure alignment with Kenyan land acquisition institutions and with the Relevant International Standards.



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Resettlement assistance	27.2	Provision of assistance	<ul style="list-style-type: none"> ▪ The resettlement plan provides for transitional relocation assistance to people who are physically displaced. Such assistance may include: <ul style="list-style-type: none"> - transportation, - food, shelter, and - Social services that are provided to affected persons during the relocation to their new site. ▪ Additional measures may be necessary for vulnerable groups during physical relocation, particularly pregnant women, children, the 	<p>and processes – as well as the reasons for preferring the proposed site, design, technologies and processes.</p> <ul style="list-style-type: none"> ▪ The Schedule section of the Land Acquisition Act (2010) states that, to the amount of compensation so determined, there shall be added a sum equal to 15% of the market value as determined, by way of compensation for disturbance. 	<ul style="list-style-type: none"> ▪ Kenyan legislation does not specify resettlement assistance in exception of the 15% disturbance allowance specified in the Land Acquisition Act (2010). ▪ ESS5 requirements require compensation for land, structures, other assets, and livelihood restoration; <p>RAP APPROACH</p> <ul style="list-style-type: none"> - All Project related resettlement will be conducted under the standard and expectation of restoring or improving



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			<p>elderly, and the disabled. Assistance may also include cash allowances that compensate affected persons for the inconvenience associated with resettlement and defray the expenses of relocating to a new location, such as moving and lost workdays</p>		<p>livelihoods and associated standards of living to pre-project levels. The Entitlements Framework will include transitional resettlement support such as cost of preparing agricultural land to levels similar to those of affected land, transport/moving allowances, cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes.</p> <ul style="list-style-type: none"> - Further assistance will be given to vulnerable groups to enable them



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					<p>restore their living standards</p> <ul style="list-style-type: none"> - Communicate the proposed resettlement approach with the NLC to ensure alignment with Kenyan land acquisition institutions and with the Relevant International Standards.
	35	Livelihood restoration	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> ▪ As noted in 12.1, compensation alone is not sufficient to restore or improve the livelihoods and social welfare of displaced households and communities ▪ Examples for the design 	<ul style="list-style-type: none"> ▪ There is no mention of provision for assistance with livelihood restoration programs. 	<ul style="list-style-type: none"> ▪ Kenyan legislation makes no provision for assistance to affected persons beyond compensation for land and structures; ▪ ESS5 requirements recommends, where possible, additional support through



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			<p>of measures to improve or restore livelihoods that are land based, wage based and enterprise based:</p> <ul style="list-style-type: none"> - Land-based livelihoods: <ul style="list-style-type: none"> a) physical preparation of farmland ; (b) fencing for pastureland or cropland; (c) agricultural inputs; (d) veterinary care; (e) small scale credit; (f) access to markets - Wage-based livelihoods: Wage earners in the affected households and communities may benefit from skills training and job placement, provisions made in 		<p>livelihood restoration programs;</p> <p>RAP APPROACH:</p> <ul style="list-style-type: none"> - A comprehensive livelihood restoration strategy including measures for re-establishing existing livelihoods will be included in the Project RAP. This strategy will include measures to address the particular needs of vulnerable households. - Communicate the proposed resettlement approach with the NLC to ensure alignment with Kenyan land acquisition



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			<p>contracts with project contractors for temporary or longer term employment of local workers, and small-scale credit to finance start up enterprises</p> <ul style="list-style-type: none"> - Enterprise-based livelihoods: Established and start up entrepreneurs and artisans may benefit from credit or training (such as business planning, marketing, inventory, and quality control) to expand their businesses and generate local employment. 		institutions and with the Relevant International Standards.
Forced	31	Acceptable	World Bank ESS5:	<ul style="list-style-type: none"> ▪ The Eviction Guidelines 	<ul style="list-style-type: none"> ▪ Both the ESS5, UN



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eviction		circumstances for forced evictions.	<ul style="list-style-type: none"> Eviction is not considered to be forced eviction if it conforms to: <ul style="list-style-type: none"> National law, including compliance with, and completion of, all relevant legal and administrative procedures, including appeals processes; Complies with all the relevant requirements of ESS5, and Is carried out in a way that respects basic principles of due process. <p>UN Basic Principles:</p> <ul style="list-style-type: none"> Paragraph 21 states that, States should ensure that evictions only occur in exceptional 	<p>prepared by the Ministry of Lands (2010) commits the Government of Kenya to ensure that evictions only occur in exceptional circumstances. Any eviction must be warranted by law, reasonable in the circumstances, proportionate and can only be carried out in accordance with the Guidelines, international human rights, and humanitarian law. The Government shall ensure that exceptions to the prohibition on forced evictions such as the ‘interest of society’ or ‘public interest’ should be read restrictively, so as to again ensure that evictions only occur in exceptional</p>	<p>Basic Principles requirements and Kenyan legislation provide a comprehensive set of requirements for forced evictions while VGGT advises States to protect legitimate tenure rights;</p> <ul style="list-style-type: none"> Although the Kenyan Eviction Guidelines consider international human rights and humanitarian law, it does not offer the alternative negotiating in situ land development arrangements by which those to be affected may elect to accept a partial loss of land or localized relocation in return; <p>RAP APPROACH:</p> <ul style="list-style-type: none"> Resettlement planning will



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			<p>circumstances and require full justification given their adverse impacts on a wide range of internationally recognized human rights. Any eviction must be:</p> <ul style="list-style-type: none"> - Authorized by law - Carried out in accordance with international human rights law - Undertaken solely for the purpose of promoting the general welfare - Reasonable and proportional - Regulated so as to ensure full and fair compensation and rehabilitation, and - Carried out in accordance with the present guidelines 	<p>circumstances.</p> <ul style="list-style-type: none"> ▪ According to the Eviction Guidelines, where eviction is considered to be justified it should be carried out in strict compliance with the following procedures: <ul style="list-style-type: none"> - Appropriate notice given to the affected individual or groups clearly stating the modalities, day and time of the eviction; - Consultations with the affected individual or group on the proposed eviction modalities and resettlement plans; - Holding of public hearing with affected persons and other stakeholders to 	<p>comply with national and international standards, should there be need for forceful evictions during the land acquisition process; it will be handled in line with the provisions of the Eviction Guidelines- as well as relevant laws and international human rights standards,</p> <ul style="list-style-type: none"> - Communicate the forced eviction approach with the NLC to ensure alignment with Kenyan land acquisition institutions and with the Relevant



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			<p>VGGT:</p> <ul style="list-style-type: none"> ▪ Paragraph 4.4 guides examination of tenure rights in line with national law, and guides states to provide legal recognition for legitimate tenure rights not currently protected by law. ▪ Paragraph 4.5 states that, States should protect legitimate tenure rights, and ensure that people are not arbitrarily evicted and that their legitimate tenure rights are not otherwise extinguished or infringed. 	<p>provide an opportunity to discuss alternative proposals for resettlement;</p> <ul style="list-style-type: none"> - Provide opportunity for the parties to seek legal redress where there is a stalemate or dispute; - The eviction notice should contain a detailed justification for the decision, among others; - Be a language that is understood by all individuals concerned; - The full details of the proposed alternative; and - Where no alternatives exist, all measures taken and foreseen to minimize the adverse 	<p>International Standards.</p>



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				<p>effects of evictions.</p> <ul style="list-style-type: none"> ▪ The process to be followed during eviction as stated in the Eviction Guidelines is: <ul style="list-style-type: none"> - Presence of Local government officials or their representatives during eviction or demolitions; - Proper identification of those taking part in the eviction or demolition; - Presentation of formal authorization for the action; - Transparency, openness and compliance with international Human Rights Principles; - Eviction must not take place in bad 	



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				<p>weather, at night, during festivals or religious holidays, prior to election, during or just prior to school examinations;</p> <ul style="list-style-type: none"> - Eviction should be carried out in a manner that respects the dignity, right to life and security of those affected; - Special measures must be taken to ensure that women are not subject to gender-based violence, any other forms of discrimination in the course of evictions, and that the human rights of children are fully protected; - Special measures 	



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				<p>must be taken to ensure no arbitrary deprivation of property or possessions take place as a result of eviction. Property and possession left behind involuntarily should be protected against destruction, arbitrary, and illegal appropriation, occupation or use;</p> <ul style="list-style-type: none"> - Legal use of force must respect the principles of necessity and proportionality, and any national or local code of conduct consistent with international law enforcement and Human Rights 	



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				Standards; <ul style="list-style-type: none"> - The affected persons shall be given the first priority to demolish and salvage their property. Where they fail to comply, demolition will take place taking due consideration to people with disabilities, elderly, women and children and the sick; - Provision of legal remedies; and - Provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts. 	
Screening and appraisal	21	Environmental and social risk classification	World Bank ESS5: <ul style="list-style-type: none"> ▪ The applicability of ESS5 to the project developer 	<ul style="list-style-type: none"> ▪ N/A 	RAP APPROACH: <ul style="list-style-type: none"> - Project risk assessment and



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			<p>will be determined during the environmental and social risk classification. The project developer will indicate as early as possible, any expropriation, land acquisition and leasing and/or involuntary movement of people and likely restrictions on access to land, shelter and/or livelihood and subsistence strategies resulting from the proposed investment. If one or more of these potential impacts is identified, the standards laid out in this document will be applied.</p> <p>VGGT:</p> <ul style="list-style-type: none"> Paraphrase 16.7, where eviction are considered to be justified for a public 		<p>classification will have conducted in line with World Bank ESS1 and lenders' requirements.</p>



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			purpose as a result of expropriation of land, fisheries and forests. States should conduct such evictions and treat all affected parties in a manner consistent with their relevant obligations to respect, protect, and fulfill human rights.		
	21	Resettlement plans	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> ▪ The scope and level of detail of the plan varies with the magnitude of displacement and complexity of the measure required to mitigate adverse impacts ▪ To address the issues identified in the environmental and social assessment, the Borrower will prepare a plan proportionate to the risks and impacts associated 	<ul style="list-style-type: none"> ▪ Environmental (Impact Assessment and Audit) Regulations (Amendment) Regulations (2019) requires the reporting of the following: <ul style="list-style-type: none"> - The potential environmental impacts of the project and the mitigation measures to be taken during and after implementation of the project; - The economic and socio-cultural 	<ul style="list-style-type: none"> ▪ Kenyan legislation requires environmental and social impact/risk assessments, although makes no references to resettlement planning; ▪ There is no legal requirement for livelihood restoration in Kenyan Legislation; ▪ The ESS5 and UN Basic Principles requirements provide a comprehensive set of requirements for



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			<p>with the project:</p> <ul style="list-style-type: none"> - For projects with minor land acquisition or restrictions on land use, as a result of which there will be no significant impact on incomes or livelihoods, the plan will establish eligibility criteria for affected persons, set out procedures and standards for compensation, and incorporate arrangements for consultations, monitoring, and addressing grievances; - For projects causing physical displacement, the 	<p>impacts to the local community and the nation in general;</p> <ul style="list-style-type: none"> - An action plan for the prevention and management of possible accidents during the project cycle. 	<p>identifying the nature, magnitude and risks associated with the proposed resettlement while VGGT states the need to define the concept of public purpose in law, in order to allow for judicial review;</p> <p><i>RAP APPROACH:</i></p> <ul style="list-style-type: none"> - The Resettlement Plan will be developed in conjunction with the ESIA to be developed for the Project.



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			<p>plan will set out the additional measures relevant to relocation of affected persons;</p> <ul style="list-style-type: none"> - For projects involving economic displacement with significant impacts on livelihoods or income generation, the plan will set out the additional measures relating to livelihood improvement or restoration; and - For projects that may impose changes in land use that restrict access to resources in legally designated parks or protected areas or other common property resources 		



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			<p>on which local people may depend for livelihood purposes, the plan will establish a participatory process for determining appropriate restrictions on use and set out the mitigation measures to address adverse impacts on livelihoods that may result from such restrictions.</p> <p>UN Basic Principles:</p> <ul style="list-style-type: none"> ▪ Paragraph 56 states the context of any case of resettlement and criteria to be adhered to <p>VGGT:</p> <ul style="list-style-type: none"> ▪ Paragraph 16.1 states that, States should expropriate only where 		



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			rights to land, fisheries or forests are required for public purpose, and should clearly define the concept of public purpose in law, in order to allow judicial review.		
	21.2	Process framework	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> ▪ For access restriction in relation to legally designated parks, protected areas or other common property the resettlement plan may take the form of a process framework. It is used to: <ul style="list-style-type: none"> - Design project activities, - Determine eligibility criteria, - Reach agreement on access restrictions - Identify measures to assist affected persons in improving 	<ul style="list-style-type: none"> ▪ There is no mention of process frameworks 	<p><i>RAP APPROACH</i></p> <ul style="list-style-type: none"> - The resettlement planning will comply with the World Bank Standards as stated in section 21.2



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			<ul style="list-style-type: none"> - or restoring their livelihoods, - Manage conflicts and grievances, and - Arrange for participatory implementation and monitoring 		
Planning tools	37	Collaboration with Other Responsible Agencies or Subnational Jurisdictions	<ul style="list-style-type: none"> ▪ The project developer/financier will establish means of collaboration between the agency or entity responsible for project implementation and any other governmental agencies, subnational jurisdictions or entities that are responsible for any aspects of land acquisition, resettlement planning, or provision of necessary assistance. ▪ In addition, where the capacity of other 	<ul style="list-style-type: none"> ▪ Environmental (Impact Assessment and Audit) (Amendment) Regulations (2019) requires the preparation of a strategic communication plan to ensure inclusive participation during the study and provide a summary of issues discussed at the public participation forum. ▪ The Physical and Land Use Planning Act (2019) applies to the planning and implementation of resettlement sites. 	<p><i>RAP APPROACH:</i></p> <ul style="list-style-type: none"> - Project stakeholder engagement plan will be developed and roles and responsibilities for RAP implementation defined to ensure collaboration between agencies



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			<p>responsible agencies is limited, the project developer/financier will actively support resettlement planning, implementation, and monitoring.</p> <ul style="list-style-type: none"> If the procedures or standards of other responsible agencies do not meet the relevant requirements of this ESS, the developer/financier will prepare supplemental arrangements or provisions for inclusion in the resettlement plan to address identified shortcomings. The plan will also specify financial responsibilities for each of the agencies involved, appropriate timing and sequencing for 	<p>Developments require planning permission under the Physical Planning Act from the respective local authority, which may not be issued unless the development complies with a county or local development plan. Subdivision of private land requires the approval of the local authority, and must comply with a local physical development plan. Development plans require the approval of the responsible Minister at the County level.</p> <ul style="list-style-type: none"> Article 107 to 120 of the Land Act (2012 and the 2016 Amendments) requires consultation with the Cabinet Secretary for submitting a request to the National Land 	



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			implementation steps, and coordination arrangements for addressing financial contingencies or responding to unforeseen circumstances	Commission to acquire land on behalf of the national government. On approval of the request, NLC publishes a notice to that effect in the National Gazette and County Gazette and delivers a copy to the Registrar of the Land Register (who makes an entry in the register) and to persons who appear to be interested.	
		Voluntary and involuntary resettlement.	<p>World Bank ESS5: The project developer is encouraged to seek negotiated settlement with affected persons in a manner meeting the requirements of ESS5 in order to help avoid administrative or judicial delays associated with formal expropriation, and to the extent possible to reduce the</p>	<ul style="list-style-type: none"> Environmental (Impact Assessment and Audit) (Amendment) Regulations (2019) requires the preparation of "...a plan to ensure the relocation or resettlement of persons affected by the project"; The Land Act of 2012 (Amended 2016) states that there shall be equal 	<ul style="list-style-type: none"> Although there is no mention of resettlement in Kenyan legislation, there is recognition of land rights, full compensation and forced evictions. This is aligned to the ESS5 requirements; <p>RAP APPROACH:</p> <ul style="list-style-type: none"> - The RAP will



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			<p>impacts on affected persons associated with formal expropriation.</p>	<p>recognition and enforcement of land rights arising under all tenure systems and non-discrimination in ownership of, and access to land under all tenure systems;</p> <ul style="list-style-type: none"> ▪ Article 8 of the Land Acquisition Act (2010) states that where land is acquired compulsorily, full compensation shall be paid promptly to all persons interested in the land; ▪ The Eviction Guidelines prepared by the Ministry of Lands (2010) commits the Government of Kenya to ensure that evictions only occur in exceptional circumstances. As per these guidelines, any eviction must be 	<p>include the establishment of Local Resettlement Committees (LRCs) that may include community leaders, Project Affected Households (PAH) (including representation of women and vulnerable groups), including host communities, and representatives of relevant local government departments that will be involved in capacity building, sensitization, consultation on resettlement and livelihood initiatives,</p>



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				warranted by law, reasonable in the circumstances, proportionate and can only be carried out in accordance with the Guidelines and international human rights and humanitarian law. The Government shall ensure that exceptions to the prohibition on forced evictions such as the ‘interest of society’ or ‘public interest’ should be read restrictively, so as to again ensure that evictions only occur in exceptional circumstances.	<p>monitoring of sign-off and moves, and participation in the grievance process.</p> <ul style="list-style-type: none"> - Communicate the proposed land acquisition and resettlement approach with the NLC to ensure alignment with Kenyan land acquisition institutions and with the Relevant International Standards.
Involuntary Resettlement Instruments	Annex 1	Resettlement Plan	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> ▪ The scope of requirements and level of detail of the resettlement plan vary with the magnitude and 	<ul style="list-style-type: none"> ▪ There is no mention of the recommended structure of a RAP. 	<ul style="list-style-type: none"> ▪ The ESS5 requirements provide comprehensive guidance in regard to the structure of a RAP, whereas Kenyan legislation provides



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			<p>complexity of resettlement. The plan is based on up-to-date and reliable information about:</p> <ul style="list-style-type: none"> - the proposed project and its potential impacts on the displaced persons and other adversely affected groups, - appropriate and feasible mitigation measures, and - The legal and institutional arrangements required for effective implementation of resettlement measures. <p>▪ minimum element of a Resettlement Plan are:</p> <ul style="list-style-type: none"> - <i>Description of the project.</i> General 		<p>none; RAP APPROACH:</p> <ul style="list-style-type: none"> - Project Resettlement Plan will be developed in line with World Bank requirement .



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			<p>description of the project and identification of the project area;</p> <ul style="list-style-type: none"> - Potential impacts. Identification of: <ul style="list-style-type: none"> • The project components or activities that give rise to displacement, explaining why the selected land must be acquired for use within the time frame of the project; • The zone of impact of such components or activities; • The scope and scale of land acquisition and impacts on 		



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			<p>structures and other fixed assets;</p> <ul style="list-style-type: none"> • Any project-imposed restrictions on use of, or access to, land or natural resources; • Alternatives considered to avoid or minimize displacement and why those were rejected; and • The mechanisms established to minimize displacement, to the extent possible, during project implementation <p>▪ <i>Objectives.</i> The main objectives of the resettlement program.</p>		



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			<ul style="list-style-type: none"> ▪ <i>Census survey and baseline socioeconomic studies.</i> The findings of a household-level census identifying and enumerating affected persons and, with the involvement of affected persons, surveying land, structures, and other fixed assets to be affected by the project. The census survey also serves other essential functions ▪ <i>Legal framework.</i> The findings of an analysis of the legal framework, covering: <ul style="list-style-type: none"> • The scope of the power of compulsory acquisition and imposition of land use restriction and the nature of 		



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			<p>compensation associated with it, in terms of both the valuation methodology and the timing of payment;</p> <ul style="list-style-type: none"> • The applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal time frame for such procedures, and any available grievance redress mechanisms that may be relevant to the project; 		



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			<ul style="list-style-type: none"> • Laws and regulations relating to the agencies responsible for implementing resettlement activities; and • Gaps, if any, between local laws and practices covering compulsory acquisition, imposition of land use restrictions and provision of resettlement measures and ESS5, and the mechanisms to bridge such gaps. <ul style="list-style-type: none"> ▪ <i>Institutional framework.</i> The findings of an analysis of the 		



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			<p>institutional framework covering:</p> <ul style="list-style-type: none"> • The identification of agencies responsible for resettlement activities and NGOs/CSOs that may have a role in project implementation, including providing support for displaced persons; • An assessment of the institutional capacity of such agencies and NGOs/CSOs; and • Any steps that are proposed to enhance the institutional capacity of 		



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			<p>agencies and NGOs/CSOs responsible for resettlement implementation.</p> <ul style="list-style-type: none"> ▪ <i>Eligibility.</i> Definition of displaced persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates. ▪ <i>Valuation of and compensation for losses.</i> The methodology to be used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation for land, natural resources, and other assets under local law and such 		



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			<p>supplementary measures as are necessary to achieve replacement cost for them.</p> <ul style="list-style-type: none"> ▪ <i>Community participation.</i> Involvement of displaced persons (including host communities, where relevant). ▪ <i>Implementation schedule.</i> An implementation schedule providing anticipated dates for displacement, and estimated initiation and completion dates for all resettlement plan activities. ▪ <i>Costs and budget.</i> Tables showing categorized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other 		



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			<p>contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.</p> <ul style="list-style-type: none"> ▪ <i>Grievance redress mechanism.</i> The plan describes affordable and accessible procedures for third-party settlement of disputes arising from displacement or resettlement; such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms. ▪ <i>Monitoring and evaluation.</i> 		



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			<p>Arrangements for monitoring of displacement and resettlement activities by the implementing agency, supplemented by third-party monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; evaluation of results for a reasonable period after all resettlement activities have been completed; using the results of resettlement monitoring to guide subsequent</p>		



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		Resettlement Framework	<p>implementation.</p> <p>World Bank ESS5:</p> <ul style="list-style-type: none"> ▪ The purpose of the resettlement framework is to clarify resettlement principles, organizational arrangements, and design criteria to be applied to subprojects or project components to be prepared during project implementation. ▪ The resettlement policy framework covers the following elements: <ul style="list-style-type: none"> - A brief description of the project and components for which land acquisition and resettlement are required, and an explanation of why a resettlement policy framework rather 	<ul style="list-style-type: none"> ▪ There is no mention of the recommended structure of a RPF. 	<ul style="list-style-type: none"> ▪ The ESS5 requirements provide comprehensive guidance in regard to the structure of a RFP, whereas Kenyan legislation provides none; <p>RAP APPROACH:</p> <ul style="list-style-type: none"> - Project Resettlement Plan will be developed in line with World Bank requirement .



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			<p>than a resettlement plan is being prepared;</p> <ul style="list-style-type: none"> - Principles and objectives governing resettlement preparation and implementation - A description of the process for preparing and approving resettlement plans; - Estimated displacement impacts and estimated numbers and categories of displaced persons, to the extent feasible; - Eligibility criteria for defining various categories of displaced persons; - A legal framework reviewing the fit 		



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			<p>between borrower laws and regulations and Bank policy requirements and measures proposed to bridge any gaps between them;</p> <ul style="list-style-type: none"> - Methods of valuing affected assets; - Organizational procedures for delivery of compensation and other resettlement assistance, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer; - A description of the 		



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			<p>implementation process, linking resettlement implementation to civil works;</p> <ul style="list-style-type: none"> - A description of grievance redress mechanisms; - A description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements; - A description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and 		



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<ul style="list-style-type: none"> - monitoring; and - Arrangements for monitoring by the implementing agency and, if required, by third-party monitors. 		
Implementation and monitoring	22	RAP implementation and monitoring	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> ▪ The project developer will establish: <ul style="list-style-type: none"> - The roles and responsibilities to financing and implementation, and include arrangements for contingency financing to meet unanticipated costs as well as arrangements for timely and coordinated response to unforeseen circumstances; 	<ul style="list-style-type: none"> ▪ Environmental (Impact Assessment and Audit) (Amendment) Regulations (2019) requires the reporting of the potential environmental impacts of the project and the mitigation measures to be taken during and after implementation of the project. 	<ul style="list-style-type: none"> ▪ ESS5 provides detailed guidance in regard to RAP implementation and monitoring; ▪ Kenyan legislation only implies the requirement for reporting of impacts and mitigation measures during and after the project; <p>RAP APPROACH:</p> <ul style="list-style-type: none"> - A monitoring and evaluation program will be developed and built into the overall project management process.



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
			<ul style="list-style-type: none"> Procedures to monitor and evaluate the implementation. <p>UN Basic Principles:</p> <ul style="list-style-type: none"> Paragraph 69 states that, States should actively monitor and carry out quantitative and qualitative evaluations to determine the number, type and long-term consequences of evictions including forced evictions. 		
		RAP completion	<p>World Bank ESS5:</p> <ul style="list-style-type: none"> Implementation of the RAP will be considered complete when the adverse impacts of resettlement have been addressed in a manner that is consistent with the relevant plan, as well as the objective of ESS5 	<ul style="list-style-type: none"> Environmental (Impact Assessment and Audit) Regulations (Amendment) Regulations (2019) requires the reporting of the potential environmental impacts of the project and the mitigation measures to be taken during and after implementation of the project. 	<ul style="list-style-type: none"> Kenyan legislation requires the reporting of the potential environmental and social impacts of the project and the mitigation measures to be taken during and after implementation of the project; The ESS5 provides



Category	Guidance note	ESS Requirement Summary	World Bank ESS, United Nations (UN) Basic Principles and VGGT Requirement Description	Kenyan Legislation	Gap/Observation/RAP Approach
					<p>more detailed guidance in regard to RAP completion;</p> <p>RAP APPROACH:</p> <ul style="list-style-type: none"> - The RAP will comprise a detailed description of the process for finalization of agreements regarding delivery of all entitlements including compensation payments, resettlement site and house designs, allocation of replacement land and livelihood programs/ additional assistance/vulnerable assistance.



6. STAKEHOLDER ENGAGEMENT

6.1 INTRODUCTION

Effective resettlement action planning requires regular and thorough consultation with PAPS and a wide range of project stakeholders drawn from the affected area. This wide consultation is intended to include individuals and groups who will be affected by the project. The PAPS and stakeholders' consultations are extremely important for successful preparation and implementation of the RAP. ESS10 recognizes the importance of open and transparent engagement between the Borrower and project stakeholders as an essential element of good international practice. Effective stakeholder engagement can improve the environmental and social sustainability of projects, enhance project acceptance, and make a significant contribution to successful project design and implementation.

6.2 Stakeholder engagement plan (SEP)

Stakeholder engagement during the RAP preparation was conducted in line with the project SEP. (The plan is provided in annex: v). The SEP ensure the provision of opportunities for stakeholders to participate in the planning and implementation of the compensation process.

SEP outline the following:

- Engagement objectives and principles
- Area of Influence of the Project
- Key standards and legislation guiding stakeholder engagement (as defined in the Stakeholder Engagement Strategy);
- Project stakeholder identification, analysis and stakeholder mapping
- Approach to stakeholder communication, specifying a differentiated approach for vulnerable PAHs/ persons.
- Stakeholder engagement to date (with detailed appendices or annexes if appropriate);
- Future stakeholder engagement, including information disclosure, consultation, negotiation, participatory planning and implementation measures;
- A Stakeholder Engagement Schedule
- Reference to the Grievance Redress Mechanism (GRM);
- Resources, roles and responsibilities for stakeholder engagement;
- Potential partnerships in stakeholder engagement;
- Monitoring, reporting and evaluation of stakeholder engagement activities.



6.3 OBJECTIVE OF STAKEHOLDER ENGAGEMENT

The objectives of engaging stakeholders and the community during the ESIA process include:

- Disseminate and inform the stakeholders about the project while ensuring understanding
- Gather comments, suggestions and concerns of stakeholders
- Building Relationships: through supporting open dialogue, engagements help establish and/ or maintain a productive relationship between the Project and stakeholders.
- Engaging Vulnerable People
- Managing Expectations

Ensuring Compliance: the process is designed to support compliance with Kenyan regulatory requirements and international best practice.

6.4 Stakeholder identification and analysis

Various stakeholders were identified and analysed as shown in the table below.

Table 24: Stakeholder Analysis

Stakeholder Groups	Key Stakeholders	Level of Interest	Level of Influence	Level of engagement (High, Medium or Low)	Engagement Technique
National government agencies (Lead agencies mandated to review and advise on the project's development)	Ministry of roads, transport infrastructure	High	High	High	Collaborates
	KfW/AITF	High	High	High	Collaborates
	National Environment Management Authority (NEMA)	High	High	High	Collaborate
	Kenya Forest Service (KFS)	Medium	High	High	Collaborate
	National Land Commission (NLC)	High	High	High	Collaborate
	Kenya Wildlife Service (KWS)	Low	Low	Low	Keep informed
	KERRA	Medium	Medium	Medium	Keep informed
	KURA	Medium	Medium	Medium	Keep informed
	WARMA	Low	Low	Low	Keep informed
	KP&LCo	High	High	High	Keep informed, Collaborate



Stakeholder Groups	Key Stakeholders	Level of Interest	Level of Influence	Level of engagement (High, Medium or Low)	Engagement Technique
	LVNWDA	Low	Low	Low	Keep informed
	RVWDA	Low	Low	Low	Keep informed
	Water User Association (NZOWASCO) Kapenguria Water And Sewerage Services	High	High	High	Collaborate
	Ministry of Interior and coordination of national government functions	High	High	High	Collaborate
	Social, Gender, and Youth Development	Medium	Medium	Medium	Keep informed
	Ministry of Agriculture	Medium	Medium	Medium	Keep informed
Local County Government (Trans-Nzoia and West Pokot Counties)	Governors, MCAs CEC roads Environment, agriculture and lands	High	High	High	Collaborate
Members of the National assembly from the two counties					
Project Affected Communities	Indigenous People (The Pokot community in Kamatira hills)	High	Low (need to be empowered)	High	Collaborate
	Project Affected people in Trans-Nzoia County (Non-Indigenous)	High	Medium	Medium	Collaborate



Stakeholder Groups	Key Stakeholders	Level of Interest	Level of Influence	Level of engagement (High, Medium or Low)	Engagement Technique
	PAPs)				
	Vulnerable groups Women, elderly, youths, illiterate, persons with disabilities, sick	High	Low (Need to be empowered)	High	Collaborate
	Businesses, utilities and other infrastructure Owners Affected businesses Bodaboda groups with Shades on road reserve	High	High	High	Collaborate
Civil Society Organizations	NGOs and local associations	Medium	Medium	Medium	Keep informed
	Political Leaders: i. Members of Parliament ii. Members of County Assembly (specifically Hospital & Bidii Wards)				
Press and media	Local and national press and media	Low	Low	Low	Keep informed
Religious Community	Churches, Mosques etc.	High	High	High	Collaborate



6.5 Stakeholder engagement meetings

The stakeholder consultations were conducted for a period of 12 months between May 2021 to May 2022. Additional stakeholder engagement for ALCS was conducted in January, 2023. The minutes and attendance register are provided in annexes vi and vii respectively. The details of the meetings are provided in the table below.

Table 25: Stakeholder engagement meetings

No	Meeting	Date	Venue
1	Stakeholder engagement meeting	5 th May 2021	Aturkan Hotel, Kitale
2	FPIC seeking kick off meeting for West Pokot Indigenous people affected by Kitale-Morpus Road	6 th May 2021	Horizon Hotel
3	Stakeholder engagement meeting for Kibomet and Bidii locations	10 TH MAY 2021	St. Mary's centre,
4	Stakeholder engagement meeting for Kaisagat and Sinyereri locations	12 TH May 2021	Kesogon centre,
5	FPIC seeking sensitization meeting for Mnagei location	13 TH May 2021	Makutano Town
6	FPIC seeking sensitization meeting for Kapkoris and Kapenguria locations	17 TH May 2021	AST. chief's office at Karas,
7	FPIC seeking sensitization meeting for Kipkomo location	18 TH May 2021	Chief's Camp Chepareria,
8	FPIC seeking sensitization meeting for Kipkomo location	18 TH May 2021	Kamatira (Louun Centre)
9	FPIC seeking sensitization meeting for Ywalatekei location	19 TH May 2021	Chepkoroniswo Centre,
10	FPIC seeking sensitization meeting for Batei location	19 TH May 2021	Morpus centre,
11	Consultative meeting with Pokot Council of Elders to Plan for the good faith negotiation, community consultative feedback and the signing of FPIC agreement	20 TH May 2021	Horizon Hotel
12	Free Prior and Informed Consent Negotiation with the Pokot Council of Elders and Grievance	13 TH October 2021	Evangelical Lutheran Church of Kenya Centre, Kapenguria



No	Meeting	Date	Venue
	Redress Committees meeting		
13	Free Prior And Informed Consent negotiation meeting between KeNHA and Pokot council of elders	14 TH October 2021	Evangelical Lutheran Church Of Kenya Centre, Kapenguria
14	Community feedback meeting to validate the free prior and informed consent agreement at Kipkomo location	18 TH October 2021	Chief's Camp Chepareria, Kipkomo Location
15	Community feedback meeting to validate the free prior and informed consent agreement at Batei location	19 TH October 2021	Assistant's chief's office-Karas,
16	Community feedback meeting to validate the free prior and informed consent agreement at Batei location	21 ST October 2021	Morpus centre,
17	Community feedback meeting to validate the free prior and informed consent agreement at Mnagei location	21 ST October 2021	KAG church,
18	Community feedback meeting to validate the free prior and informed consent agreement at Kapkoris location	22 nd October 2021	Safari hotel centre,
19	Community feedback meeting to validate the free prior and informed consent agreement at Ywaletekei location	22 nd October 2021	Chepkoriniswo Centre
20	Stakeholder engagement meeting for Kibomet/Bidii locations	26 th April 2022	St. Mary's market centre
21	Stakeholder engagement meeting for Kaisagat/Sinyereri locations	27 th April 2022	Kesogon Centre Locations
22	FPIC agreement disclosure meeting for Managei location	28 th April 2022	Makutano Town
23	FPIC agreement disclosure meeting for Kipkomo location	4 th May 2022	Chepareria Market Centre
24	FPIC agreement disclosure meeting for Ywalatekei location	6 th May 2022	Chepkoriniswo Market Centre
25	FPIC agreement disclosure meeting for Batei location	6 th May 2022	Morpus Market Centre
26	Stakeholder engagement and FPIC process for ALCS	3 rd Jan 2023	ALCs : Site one and site two



Table 26: Summary of issues raised at the stakeholder engagement meetings

Issues raised by the Pokot Community	Action Plans
<p>Compensation; there was need for property to be affected to be compensated adequately and timely including farms, homes, crops and beehives with duration of process of the compensation process to be made known.</p> <p>Disturbance allowance; that despite the compensation to be given, those affected should be paid to relocate to cater for the shock of being moved from their native homes to unfamiliar territories to pave way for the road.</p>	<ul style="list-style-type: none"> • The actual land to be taken and other assets along the road corridor have been identified and the owners have been engaged. The valuer has done the initial valuation and the final valuation shall be conducted by the National Land Commission (NLC). All PAPs shall sign an agreement with the NLC with details of all the affected property and the compensation amount before being compensated by the NLC. • Specific chapter on livelihood restoration has been included in the Resettlement Action Plan (RAP) with livelihood restoration measures and capacity building for Pokot community and especially for the vulnerable members of the community to enable them restore livelihoods which may be affected by the construction of the road project. (Livelihood restoration expert has been appointed by KeNHA to support this programme)
<p>Role of Elders in the project; it was noted that the elders play an important role in the community as mediators, community representative and custodians of the Pokot culture. They demanded for the involvement of the elders in reconciliation through alternative dispute resolution</p>	<p>The elders have been involved intensively and consulted regularly during finalization of the alignment structures and preparation of safeguards documents. They have been involved in all public consultation meetings.</p> <p>All the concerns raised by the elders and the community have been incorporated in the design of the project and the technical and safeguards teams have explained to them in the FPIC Consent disclosure meeting.</p>
<p>Protection and preservation of sacred, cultural sites and community resources including water; emphasis was made on the existence of such sites and the need to preserve them by</p>	<ul style="list-style-type: none"> • The preservation of sacred and cultural sites has been given priority in the design. The elders identified The <i>simotwo</i> tree at Makutano which the community refers to as <i>Mnagei</i> (ancestral clan) which is currently within the existing



Issues raised by the Pokot Community	Action Plans
<p>all means. The <i>simotwo</i> tree (<i>Mnagei</i>) was conspicuously highlighted and the graves at Kamatira, circumcision sites among others to be identified and listed through the process and the importance of cleansing rituals by the elders should there be need for destruction.</p>	<p>KeNHA right of way and said that the tree is sacred for the community and should be preserved. The final design of the road kept the tree protected by providing toe wall in the embankment which will keep the tree undisturbed.</p> <ul style="list-style-type: none"> • The water springs which are the source of drinking water to the Pokot Community located within the ROW at Kamatira section will also remain after the construction of the new road. During construction the contractor will identify the source of the spring and provide temporary pipeline for uninterrupted water supply during construction.
<p>Road Safety: The elders were concerned about the accidents at Kamatira and the risks that shall come with the improvement of the roads including the impacts of speeding vehicles on the pedestrians, animals and school children.</p>	<p>Regarding road safety, the highway design considered the following attributes:</p> <p>To increase road safety in Kamatira Hills the road has been designed with:</p> <ul style="list-style-type: none"> • Dual carriageway with median and anti-reflective barriers. • Runway ramps. • Climbing lanes. • Guardrails. • Reduced steep slopes. • Smoothened sharp curves. • Underpasses for cattle and people. • Warning and priority Road signs. • Adequate Road markings. • Adequate Box and pipe culverts. • Longitudinal drains with check dams. • Road studs/illuminators. <p>The requirement and need of the community are well incorporated and they were explained to the community by the technical and safeguards teams in the FPIC Consent disclosure meeting.</p> <p><i>The council of elders and the design engineers visited Kamatira section and the elders were shown the design futures as part of the consenting process.</i></p>
<p>Need for flyover at Chepareria and Morpus (Sereto Primary School). Involvement of locals in identifying key areas of concern. Walkways to</p>	<p>All major market centers along the corridor are designed considering maximum road safety and community usage and are proposed with:</p> <ul style="list-style-type: none"> • Main carriageway of 12m.



Issues raised by the Pokot Community	Action Plans
<p>start from Psirgoi centre and provisions for animal crossings.</p>	<ul style="list-style-type: none"> • Covered Drain of 1.50m both sides • Service Road of 5.50m both sides • Parking lane of 3m both sides • Footpath of 2.50m both sides • Street lights • Pipe culverts • Access culverts • Underpasses (animal/pedestrian crossing) • Warning and priority Road signs. • Adequate Road markings. • Road studs/illuminators. • Bus bays. <p>The requirement and need of the community are well incorporated and they were explained to the community by the technical and safeguards teams in the FPIC Consent disclosure meetings.</p>
<p>The contractor should give priority to the local youths and women when sourcing for unskilled labor. There should be an open advertisement for such jobs.</p>	<ul style="list-style-type: none"> • The community were made aware of the employment process during the construction phase where the contractor will be involved. • They were informed that the works contract will have the provision for employment of the locals for semi-skilled and unskilled labours including youth and women. • Priority access to construction employment (to be agreed upon with contractor) including capacity building through construction.
<p>Community Social responsibility (CSR): The following were listed as proposals for CSR consideration.</p> <ul style="list-style-type: none"> i At least four boreholes to be constructed along the project corridor in West Pokot to mitigate water supply challenges. ii Proposed stadium at Chepareria iii Health Centre between Chepareria and Ortum iv Access to public institutions; need to tarmac the roads leading to public 	<p>Regarding CSR: The following have been agreed upon with the community:</p> <ul style="list-style-type: none"> • Boreholes for the community will be constructed by the contractor for their use during construction and shall be handed over to the community after the completion of the project. • Primary Health Centre around Kamatira Hills section to handle the emergency of nearby settlements. • All the access roads to the public institutions are upgraded up to 20m to enhance the accessibility to these institutions.



Issues raised by the Pokot Community	Action Plans
<p>institutions along the project corridor especially schools to enhance accessibility to these institutions</p>	
<p>Environmental Protection; need for proper storm water drainage systems to avoid destruction of farms by surface runoff, destruction of trees along the project route and at the forest.</p>	<p>Both side continuous drains parallel to the road has been proposed considering maximum discharge due to storm water. The water will be discharged in the streams and natural waterways without affecting private land and houses.</p>
<p>Protection of Vulnerable groups: as the contractor comes to site, girls and women are exposed to sexual exploitation by incoming workforce. Persons with disability welfare should be considered during the design of the road and other opportunities to be presented by the road project.</p>	<p>KeNHA will appoint the Witness NGO and their assignment will focus on the support of the Pokot community in terms of continuous consultation, especially of women and youth and other vulnerable parts of the community; including mentoring and including targeted awareness rising and sensitization on risks from presence of construction workforce and also prepare Gender based violence action plan to address such issues during the project.</p>
<p>Conflict Resolution; local redress mechanisms should be used and the formed committees at the community level to sort out arising issues. There is need for the contractor to be inducted to the community and the council of elders to collaborate and avoid future conflicts arising from misunderstandings and offering alternative dispute resolution mechanisms to arising matters</p>	<p>The supervision consultant will monitor the functioning of Grievance redress mechanisms and also supported by the Witness NGO to deal with the arising issues in the project.</p> <p>A functioning grievance redress mechanism for the project has been provided in the SEP and also in the RAP.</p> <p>The local community representatives, chiefs, church elders are part of the grievance committees to foster unity and also provide alternative dispute resolution mechanisms.</p>
<p>Information sharing on design: There is need for the community to be informed of the final decisions concerning the road to be constructed especially at the sensitive Kamatira Hills area. The final design should be shared with community among other key decisions that are to be made concerning the road to enhance reception of the project by the</p>	<p>All the design information and all the information on the project sought by the West Pokot community have been provided to them by the technical and safeguards teams during FPIC Consent disclosure meetings.</p> <p>A communication plan for the project has been provided in the SEP.</p>



Issues raised by the Pokot Community	Action Plans
community.	

6.6 sample photos of stakeholder engagement meetings.



The ACC addressing the members of the public at Makutano town



The project engineer addressing the members of the public at Makutano town



The Chairman of the Council of elders addressing the members of the public at Makutano town



6.7 Additional consultation with ALCS PAPs

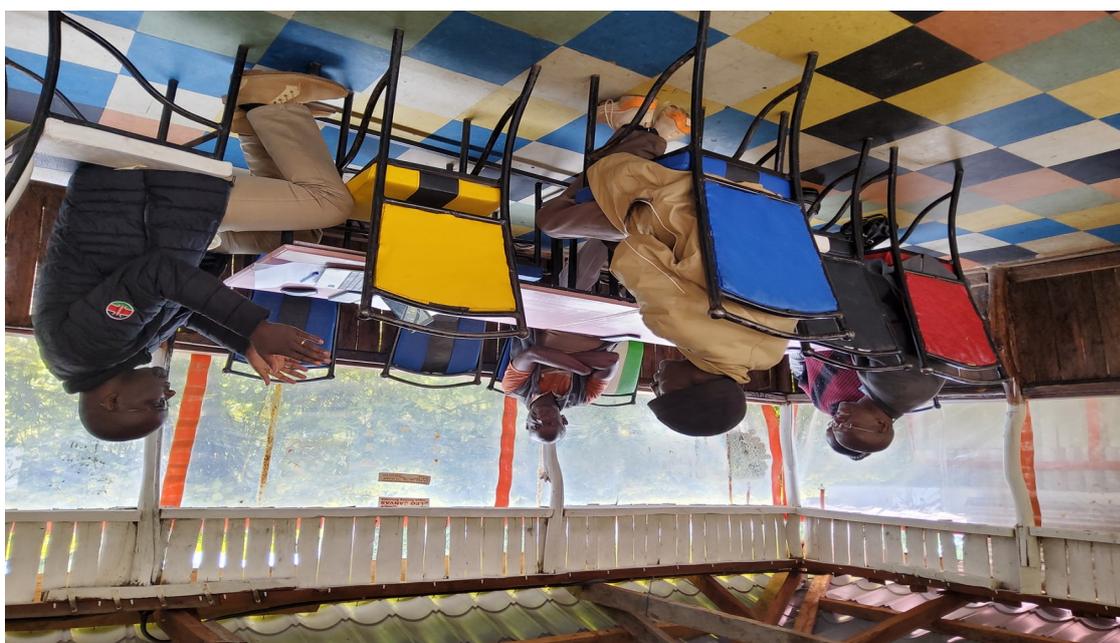
Additional Consultation with the ALCS PAPs was conducted at the ALCS site one and two on 3rd January 2023. The meeting was attended by all the land owners and their representatives. The issues raised in the meeting I provided below.

Table 27: Summary of issues raised by ALCS PAPs and responses

Issues raised by PAPs	Response
Does the government intend to lease or purchase the land for the proposed ALCS construction	The government intends to purchase and not lease the land
To whom will the compensation be made to bearing in mind the case where land has been sub-divided informally among the sons and wives as inheritance though the title of the land was still under the father's name.	The land owners should involve and communicate with their immediate family members to avoid conflicts and ensure a smooth compensation process. The project will ensure that compensation is made to all interested parties through opening of joint accounts and monitoring.
The safety of children and livestock during road construction and at the ALCS	Public safety and reliability of the road by users including bumps, zebra crossings, guard rails etc. will be considered. This issue will be addressed adequately by the contractor during construction.
Relocation of graves	The grave sites had been noted and the land owner will be allowed to move the remains and perform any cultural rituals as required for the sacred sites. The project will provide compensation for the process to be undertaken.
Will the compensation include cost of disturbance	Compensation will be done at full replacement cost. The current market value and appreciation cost will be considered and developments' on land will be paid at full replacement cost in addition to the statutory 15% disturbance allowance.
Cost of the transfer of land ownership to the government	The project will cater for the cost of transfer of ownership of the land to the government.
Will neighbours be compensated for dust pollution during the ALCS	Dust pollution will be mitigated adequately as per the developed Environmental and Social



construction	Management Plan.
The duration of the compensation process	Compensation is a continuous process and communication will be made on need basis in close consultation with the land owners
Room for negotiation should the land owner not agree to the price offered for compensation and if he has a right to seek the service of a private valuer to ascertain the value of his property.	The National Land Commission has designated valuation officers who will undertake the valuation exercise but the land owners are at liberty to contract private valuers should they feel unsatisfied
Will the compensation money be taxed	Compensation money is not taxed
Will the future planned developments be compensated.	Compensation of future developments is not possible as there is already a cut-off date in place.





Consultation with PAPs at ALCS site One



Consultation with PAPs at ALCS site two



6.8 Rap Disclosure

The RAP will be disclosed in English while the executive summary (non-technical) will be translated into Kiswahili and Luyha, Kalenjin and Pokot languages. Disclosure of RAP in the local languages and Kiswahili will be done in hard copy at the affected households' level and its contents explained verbally to all PAPs participants and stakeholders during RAP disclosure public meetings to be held at the inception phase of RAP implementation. Disclosure of the RAP in English will be in electronic form on the website of the following institutions namely: -

- i. Ministry of Roads, transport and Infrastructure
- ii. KeNHA
- iii. County Government of Trans Nzoia and Pokot
- iv. KfW

Hard copies will be made available in the same offices with additional copies availed at the following sites:

- i. KeNHA regional office
- ii. Pokot and Trans Nzoia County Headquarters
- iii. Office of contractor
- iv. Sub- County Offices
- v. All Locational offices affected by the project
- vi. All Ward offices affected by the project



7 ■ BASELINE AND SOCIO-ECONOMIC PROFILE OF PAPS

The Road Project traverses through two (2) Counties of Trans Nzoia and West Pokot. The total area for the two counties is 11,665 km², where West Pokot has the largest area of 9,169 km² followed by Trans Nzoia which has 2,496 km². The road starts in Aturkan junction in Kitale town and ends at the Morpus Bridge. There are various administrative centers along the project road including Kitale Town, Makutano and Murukwijit in Trans Nzoia and Kapenguria and Chepareria Market through the Kamatira Hills to Morpus village in West Pokot.

POSITION AND SIZE OF TRANS NZOIA COUNTY

Trans Nzoia County lies approximately between latitudes 00° 52' and 10° 18' North of the equator and longitudes 340° 38' and 350° 23' East of the great Meridian. The County covers an area of 2,495.6 square kilometres. The County is ranked the 37th in terms of size in relation to the 47 Counties in Kenya. The County borders the Republic of Uganda to the West, Bungoma and Kakamega Counties to the South, West Pokot County to the East, Elgeyo Marakwet and Uasin Gishu Counties to the South East. The County is situated in the North Rift of the former Rift Valley province. The County is home to Mt. Elgon the second highest mountain in Kenya, a trans- boundary feature shared with the Republic of Uganda. The International Trunk road A1 that links Isebania to Tanzania border and Nadapal to the Southern Sudan border, transverse the county.

Administrative and Political Units

Trans Nzoia County comprises of five administrative Sub-counties namely Kiminini, Saboti, Cherang'any, Endebess and Kwanza. The Sub-counties are further sub-divided into twenty-five administrative wards. Under the National government, the County comprises of five administrative Sub-counties namely; Kiminini, Trans Nzoia West, Trans Nzoia East, Endebess and Kwanza. The Sub-counties are further sub-divided into 39 locations, 63 sub-locations and 1,610 Villages.

Political Units

Trans Nzoia County has five constituencies namely Kwanza, Endebess, Saboti, Kiminini and Cherangany. These constituencies are further sub-divided into 25 electoral wards.

DEMOGRAPHICS

Trans Nzoia County is among top fifteen densely populated Counties in the Country. The population density is projected to have risen from 328 persons per square kilometer in 2009, to 445.5 people per square kilometer in 2018. This is expected to rise further to 507.2 by 2022. The Population and Housing Census conducted in 2019 enumerated a total of 990,341 persons in Trans Nzoia County, of these, 489,107 were male, 501,206 females and 28 intersexes.

In line with the Urban Areas and Cities Act, 2011 Trans Nzoia County has two main urban centres namely Kitale and Kiminini towns. The total projected population for these towns was 160,008 in 2018 and 182,186 in 2022. The County Government of Trans Nzoia will plan for the increasing population specifically by harnessing the demographic dividend and benefit accruing to it, by creating more job opportunities and training the youth in entrepreneurial



skills. In addition, the County residents should embrace the growing trend for undertaking farming as a business.

POPULATION DISTRIBUTION BY GENDER

The female population in Trans-Nzoia County is slightly higher than that of males. There were 501,206 females and 489,107 males in the County according to the census report for 2019. However, the data from the respondents indicates that 165 household heads were males while 101 were female as shown in figure 5.1 below. The data suggests that most of the surveyed households are headed by males. Nuclear family is the most preferred family type by most of the respondents interviewed within the project area as shown in the figure below. The changing cultural and social norms and the high cost of living are driving most people to coalesce around nuclear family setup as shown in the figures 10 and 11 below.

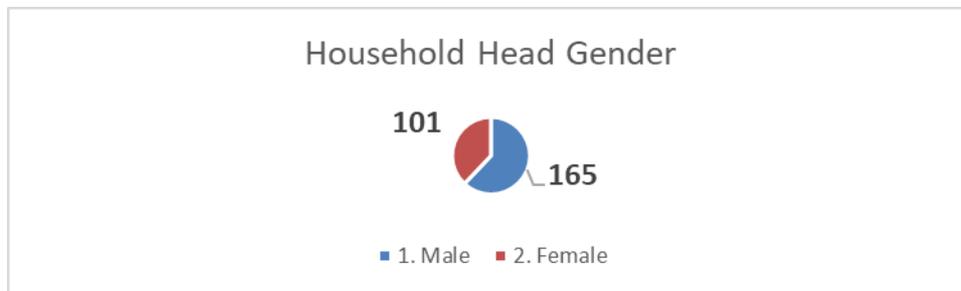


Figure 10: Gender Distribution of Household Heads (Source- Respondents)

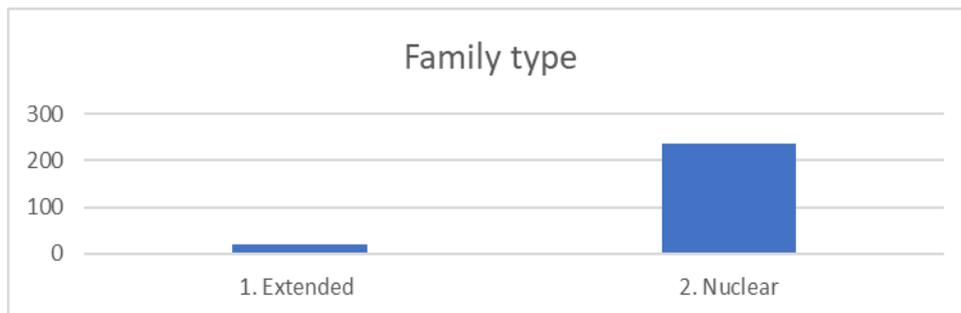


Figure 11: Family type (Source- Respondents)

SETTLEMENT PATTERNS (URBAN CENTRES, AND INFORMAL SETTLEMENT)

The population and settlement pattern in the County is predominantly rural in character. Most of the population in the County have settled sparsely in the rural areas with concentration of population in the existing urban areas. Kitale town accommodates the largest share of urban population with other people settled in the remaining Sub-county headquarters including Kiminini, Kwanza, Endebess, Saboti and Kachibora. The information from 2019 census report indicates that 811,607 people in Trans Nzoia County reside within the rural areas while



178,734 are found within urban settlements. Even though, most of the population within the County reside within the rural area, the results of the data obtained from the respondents indicates that most of the respondents within the project area reside within the major centers along the road corridor. The results of the survey are provided in figure 12 below. The samples largely concentrated on urban dwellers in major town centers where the project impacts are likely to be greater.

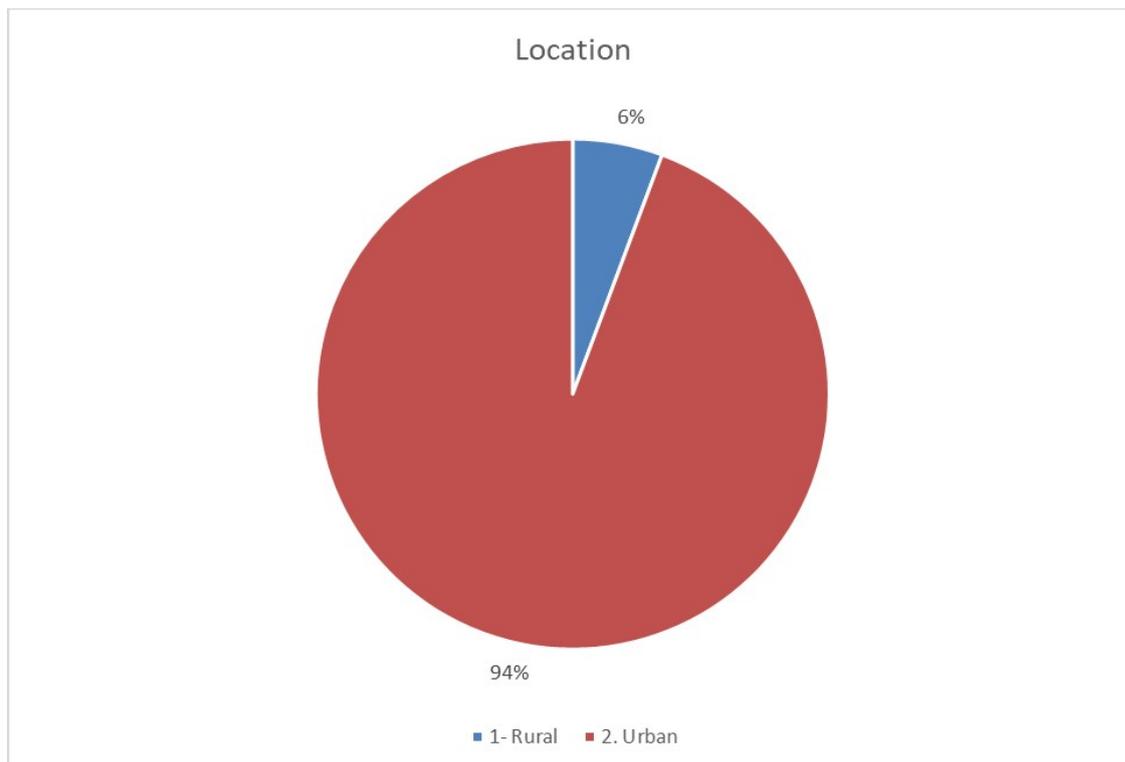


Figure 12: population distribution (Urban –Rural)- (Source- Respondents)

6.1.1 Population distribution by age

The majority of the respondents are youthful with those aged 19-35 and 36-49 years accounting for 48 % and 36 % respectively. The survey data points to availability of young population which could easily be tapped to provide labor during the construction of the proposed road project.

6.1.2 Education status

Human Capital is a very important aspect of the development process given that the quality of skilled labour and entrepreneurship determines the level of development. Currently, Trans-Nzoia County has 715 ECDE Centres, 648 Primary Schools, 261 Secondary Schools, 1 National Polytechnic, 3 Technical Vocational Education and Training Centres, 2 medical Training Colleges, 30 Vocational Training Centres, 4 Private Accredited Colleges, 1 Teacher training College for P1 and 16 ECDE training Centres. In addition, the County has 8 affiliate





campuses of the major Universities. Majority of the respondents have attained middle level and secondary education as shown in the figure 13 below. However, there are a few illiterate respondents who may require assistance during the implementation of the road project. Access to educational institutions within the project area is good and almost all the respondents indicated that they have access to educational institutions as shown in figure 14.

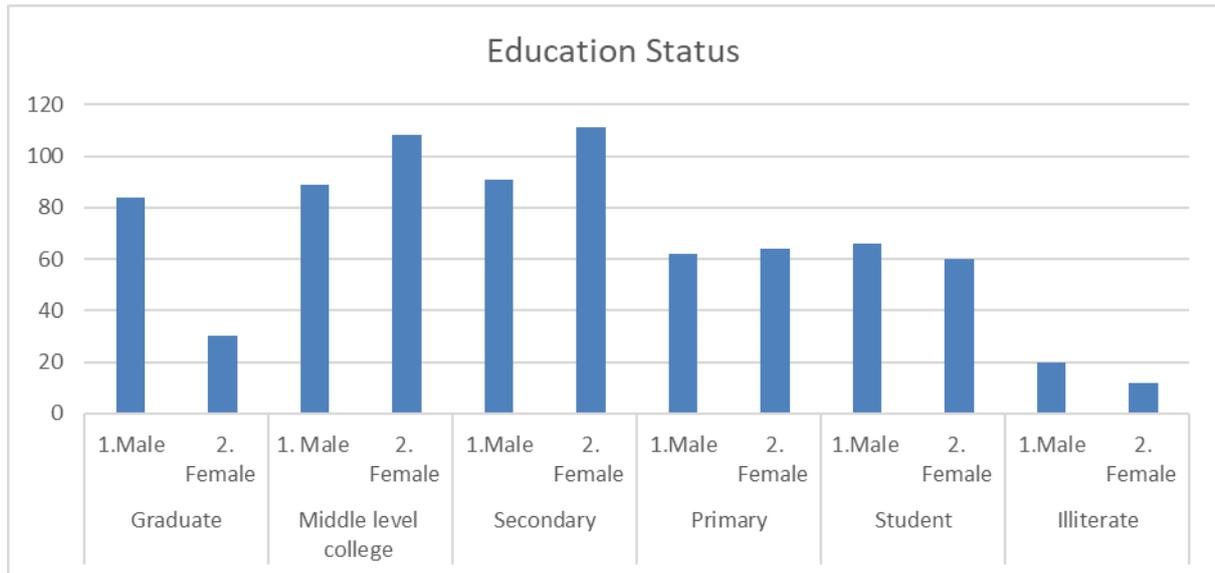


Figure 13: Education status (Source- Respondents)

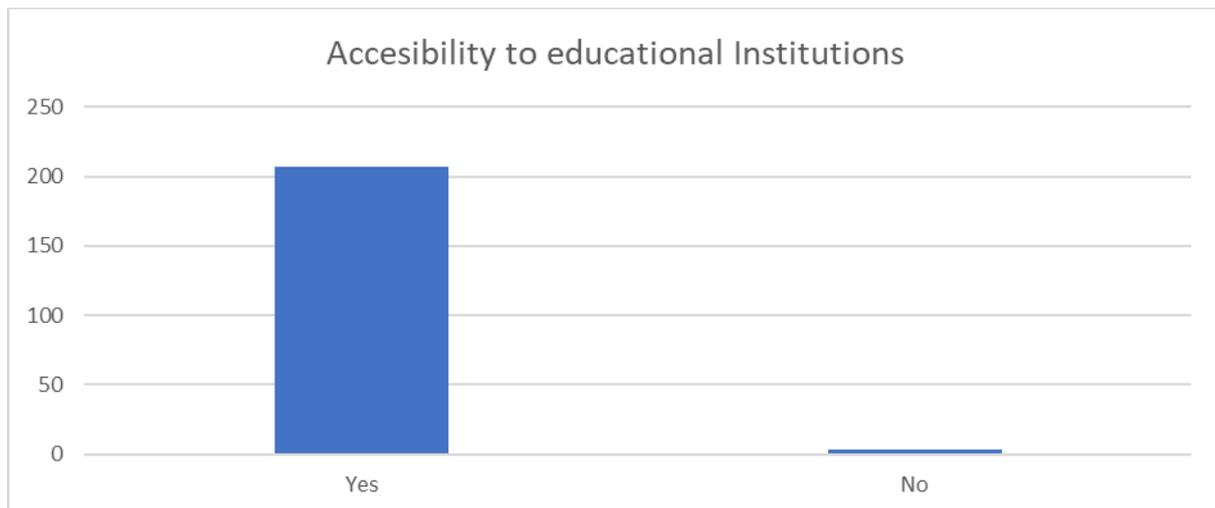


Figure 14: Accessibility to educational institutions (Source- Respondents)

6.1.3 Employment status

Based on the population projection data, the number of wage earners in the County is estimated at 450,952 workers. Male workers are estimated to be 236,650 while the female workers are 214,302. Most of the wage earners in the County are employed in rural areas. In 2017, an estimated 294,641 wage earners were employed in rural areas, with 148,500 being male and 146,051 being female. Those employed in urban areas included 88,150 males and



68,251 female totaling to 156,311. The number of those employed in rural areas is higher than those employed in the urban areas. This is because many jobs in the rural areas are seasonal. Most of those employed in the rural areas were employed in maize plantations and flower farms, where labour is only required during planting, weeding and harvesting seasons. According to the Labour Department in the County, wage earnings as at 2017 vary within different sectors and skill levels. In the agriculture sector, the unskilled earn an average of KES 6,912 while the skilled and semi-skilled earn an average of KES 9,014 per month. Those with artisan qualifications earn an average of KES 21,580 for those working in urban areas and KES 19,348 for those in rural areas. In other sectors, the skilled and semi-skilled earn an average of KES 17,867 in urban areas and KES 14,835 per month in the rural areas. Most of the respondents indicated that they are self-employed as shown in figure 15 below.

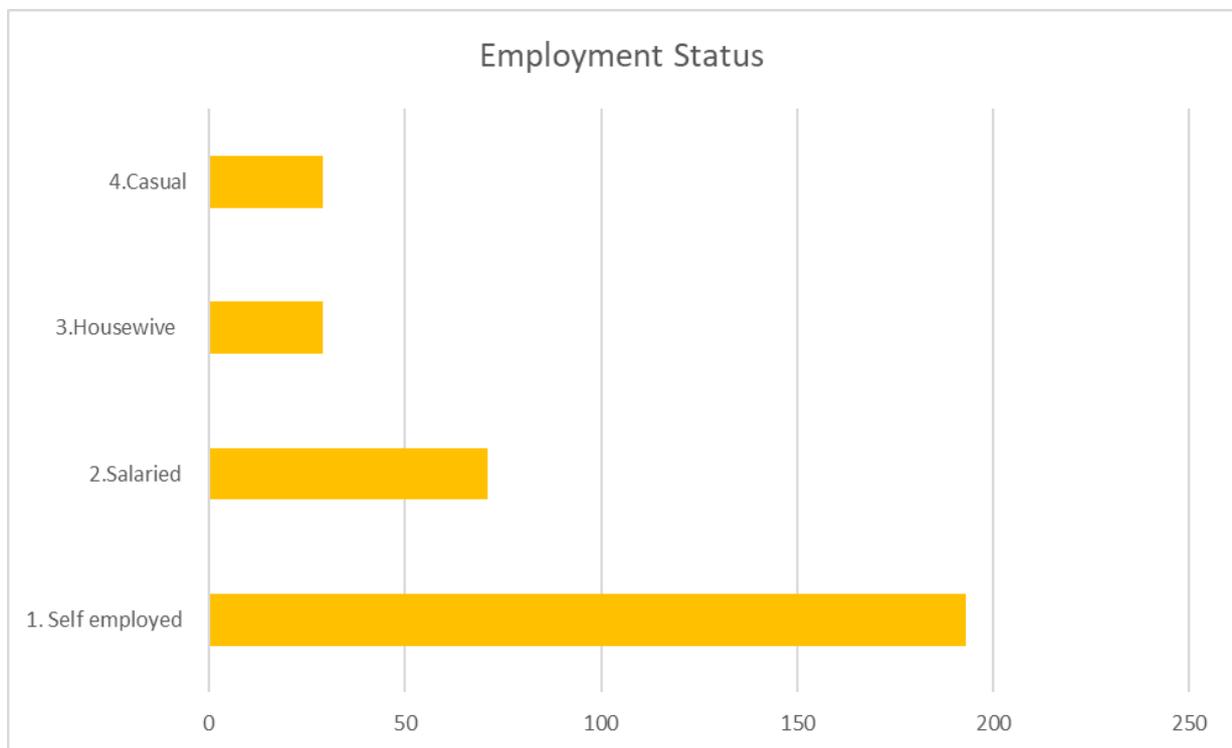


Figure 15: Employment status (Source- Respondents)

6.1.4 Income and expenditure

Majority of the respondents earn a monthly income of KES. 20,000 and below as shown in figure 16. This shows that income levels of the population within the project area is low. Much of the income is spent on food, education and agriculture as shown in figure 17

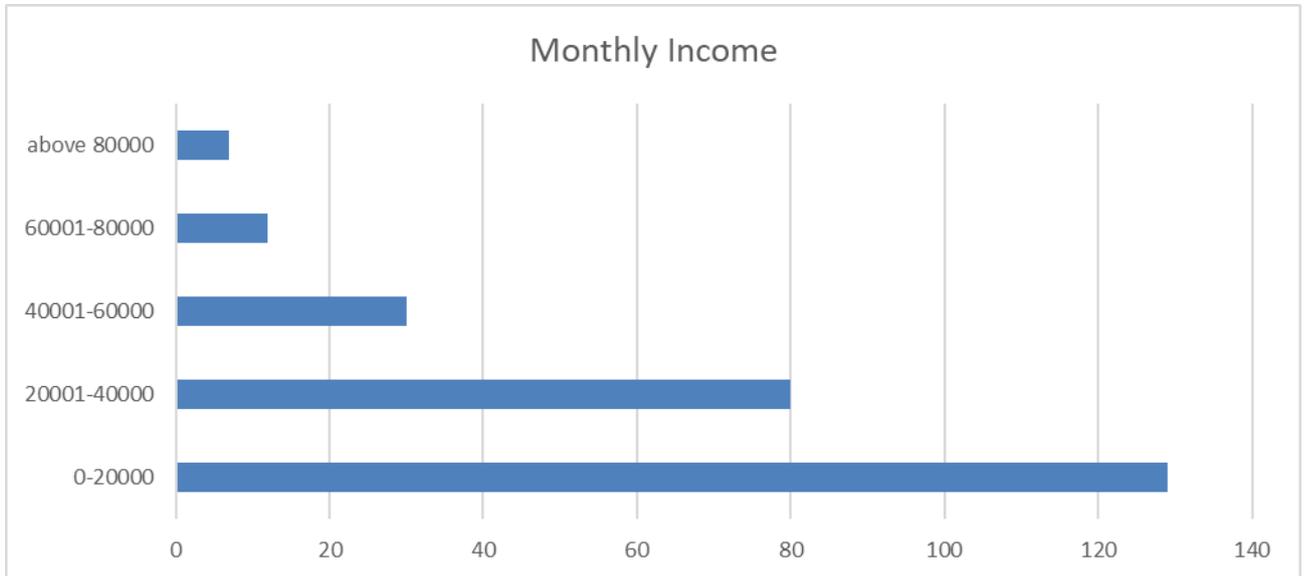


Figure 16: Income (Source- Respondents)

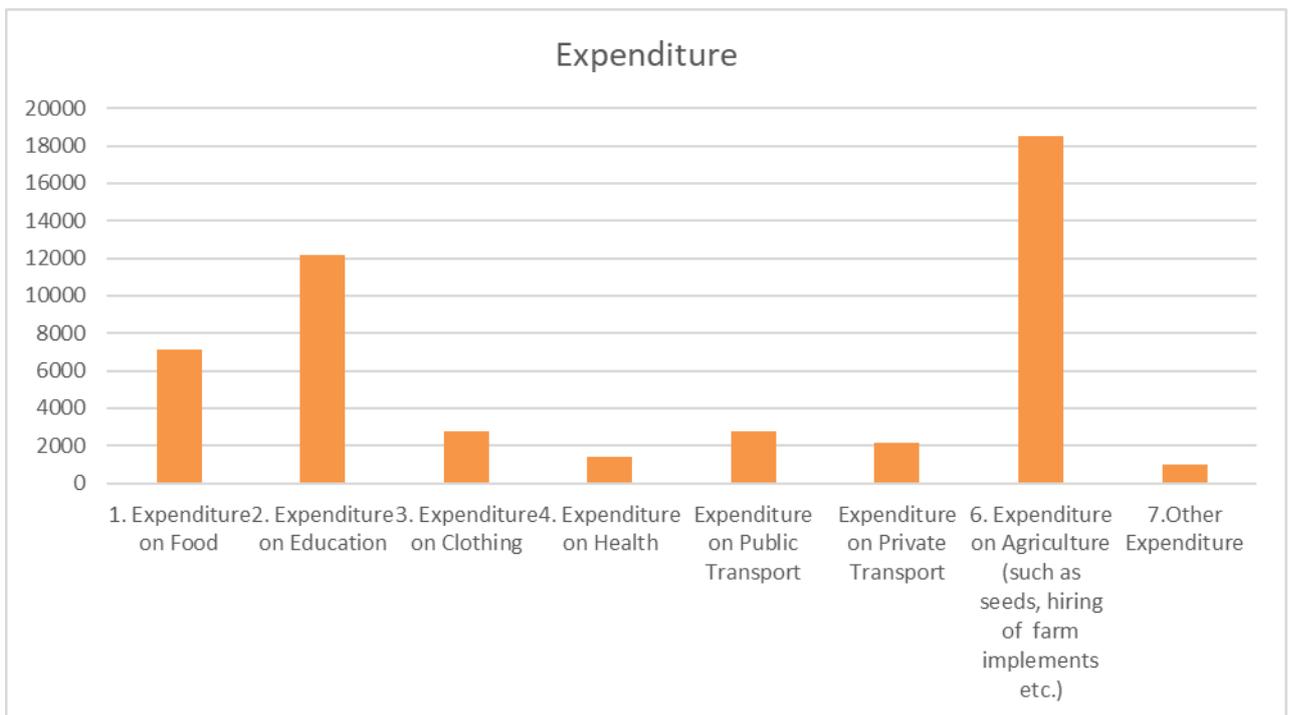


Figure 17: Expenditure (Source- Respondents)



6.1.5 Ownership of movable assets

Majority of the respondents own Radios, television, cooking gas and mobile phones as shown in figure 18 below.

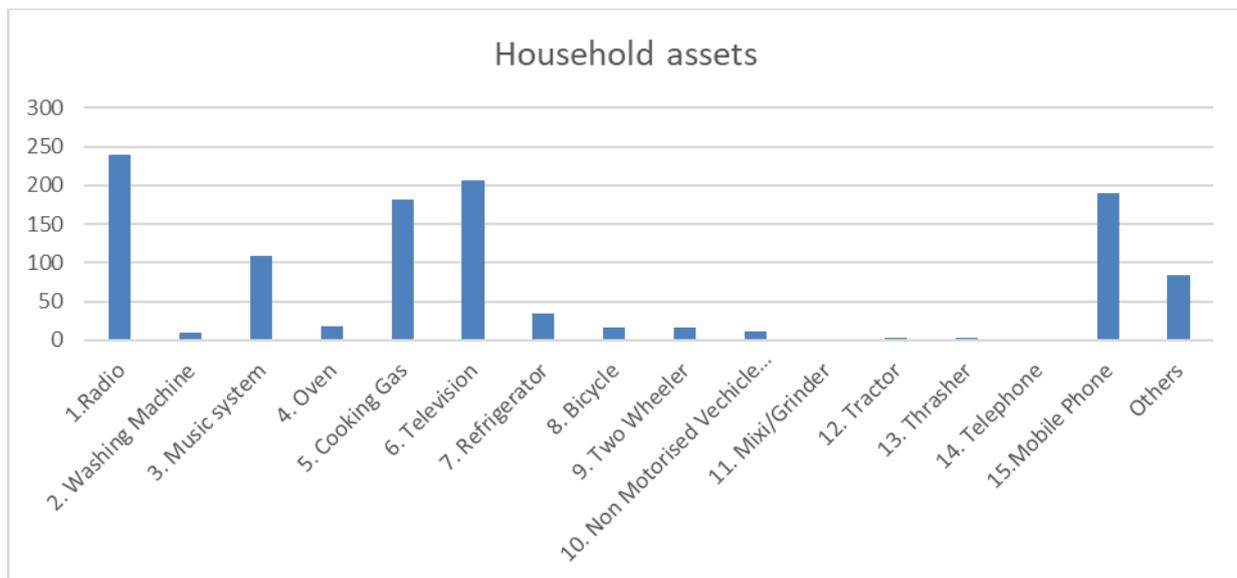


Figure 18: Ownership of movable assets (Source- Respondents)

6.1.6 Land ownership categories/ classification

Land in Kenya is categorized into public, private and community land. In the County land is held both publicly and privately. Public land is under ownership of public institutions while private land is owned by individuals or registered private groups, organization or companies. Majority of land in the County is under private ownership as either leasehold or freehold. In addition, some land in urban areas is also held on temporary basis under Temporary Occupation Licenses (ToLs). The average land holding in the county is 0.607 hectares for small farm holders and 12.15 Hectares for large scale farm holders. The mean holding land size is however continuously reducing due to subdivision of land occasioned by population pressure. At the beginning of plan period 2013-2017, about 30 per cent of land holders had their land registered while 70 per cent did not have title deeds for their land (CIDP, 2013-2017)

6.1.7 Agriculture

The County is endowed with natural conditions that favour growing of a variety of crops including food crops (maize, beans, potatoes, millet, bananas and wheat), industrial crops (coffee, tea) and a variety of horticultural crops such as tomatoes, cabbages, kales, avocados, oranges, mangoes including export crops such as French beans, sugar snaps, snow peas chillies and cut flowers. Dairy breeds include Friesian, Ayrshire, Guernsey, Jersey, Crosses and other indigenous breeds. Poultry breeds include Layers, broilers and indigenous. Sheep is reared for meat and wool while Goats are reared for milk and meat. The County also has hides and skins and leather improvement activities. The respondents reported that they rear a variety of domestic animals as shown in figure 19 below.

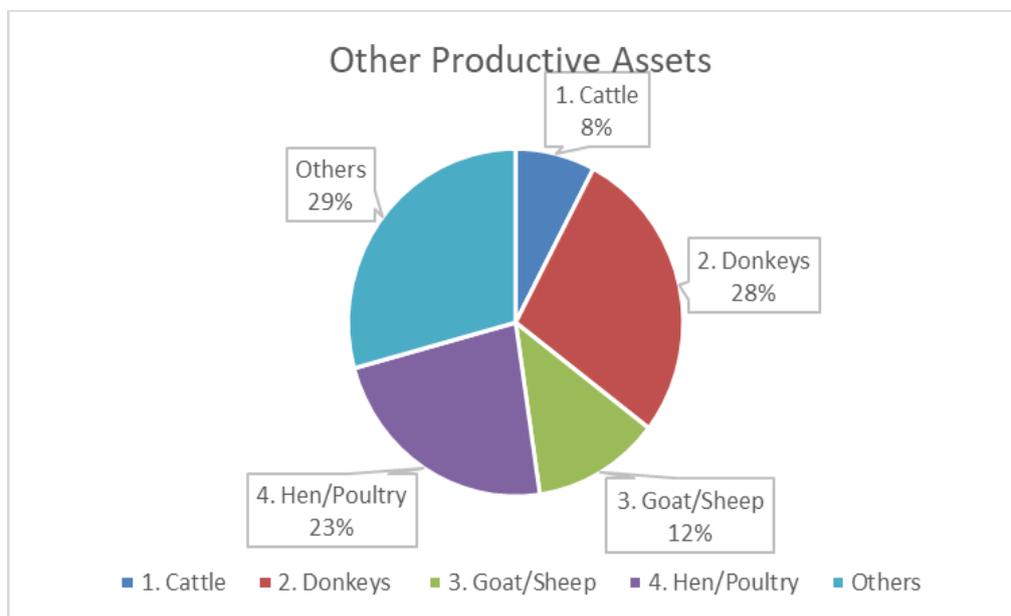


Figure 19: Domestic animals kept by the respondents (Source- Respondents)

6.1.8 Access to different types of transport

Trans Nzoia County has a total of 4421.7 kilometres of road network out of which bitumen surface is 163.3 KM, gravel surface is 2165.4 KM and earth surface roads is 2093 KM. (Source: Kenya National Bureau of Statistics 2014). The major classes and some of the roads under the classes in the county include;

- Class A1: Webuye-Kitale-Kapenguria –Lodwar-South Sudan Border;
- Class B2: Eldoret-Kitale-Endebess-Suam;
- class C: Kitale-Kachibora- Chepkoilel;
- Class D: Maili Saba-Sibanga-Kaplamai-Nzoia roads; Maili Saba (along kitale-Eldoret road)-Kachibora-Kapcherop.
- Urban roads: Hospital Road, Show ground- Bikeke;
- Kenya Wildlife service roads which serve the National Parks and Game Reserves like Saiwa and Mt. Elgon National parks

The various classes of roads are managed by different entities. The County Government manages class D, E and unclassified rural roads. On the other hand, the Kenya National Roads Highway Authority (KENHA), Kenya Urban Roads Authority (KURA) and Kenya Rural Roads Authority (KURRA) manage the National trunk roads, urban roads and class C roads respectively.

The County has the old colonial railway line of 23 KM that terminates at Kitale town but is not functional. Additionally, the County has one functional airstrip at Kambimiwa which requires expansion and modernization. Majority (89%) of the respondents use public transport while 11 % use personal transport as shown in figure 20 below. There are various reasons for using transport within the project area as reported by the respondents in figure 21 below. Most of the respondents use transport to access markets.

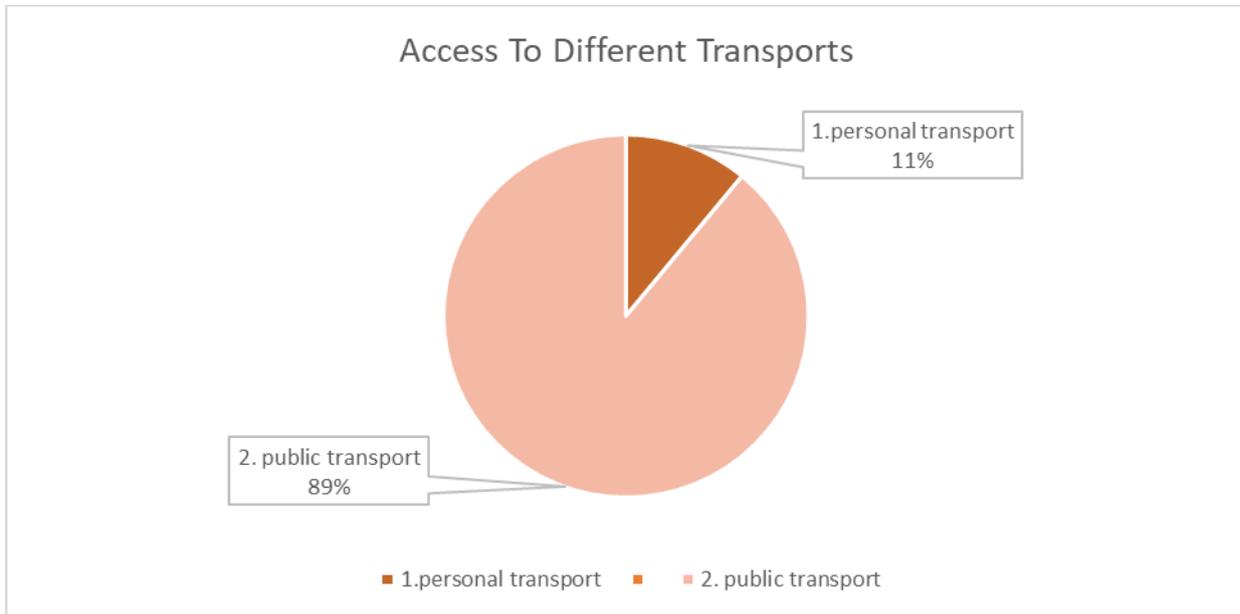


Figure 20: Access to different types of transport (Source- Respondents)

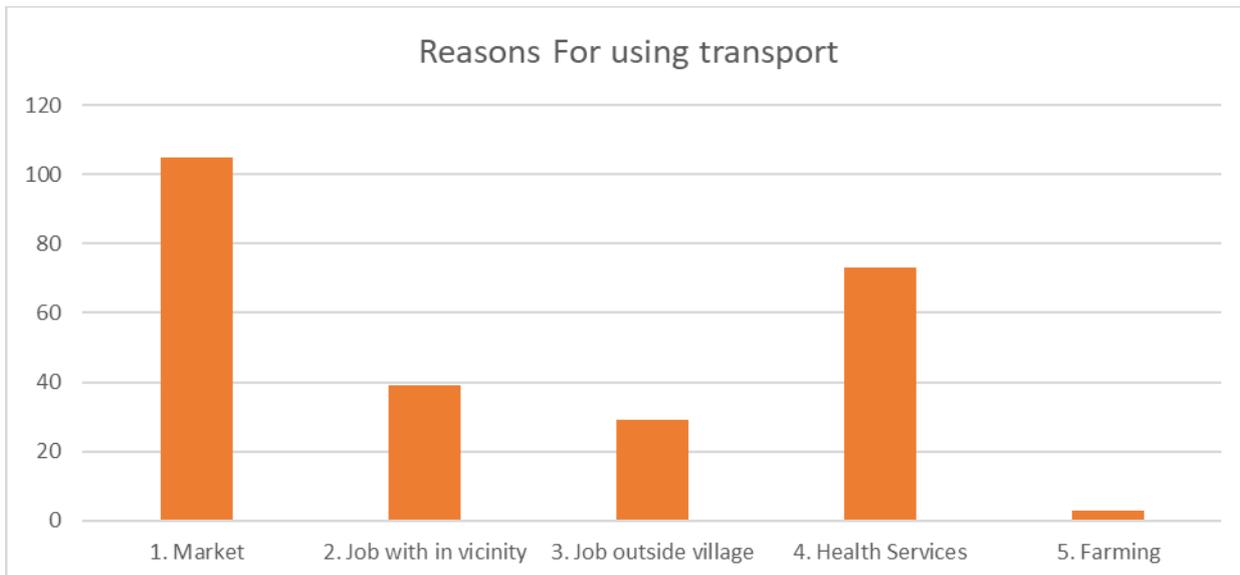


Figure 21: Reasons for using transport (Source- Respondents)

6.1.9 Satisfaction with public transport system

Most of the respondents (97%) indicated that they are satisfied with public transport systems while 3% said that they were dissatisfied with existing public transport system. The level of satisfaction of the respondents is shown in figure 22 below. At the same time, 94 % of the respondents feel safe while using public transport while 6 % said that they do not feel safe using public transport.

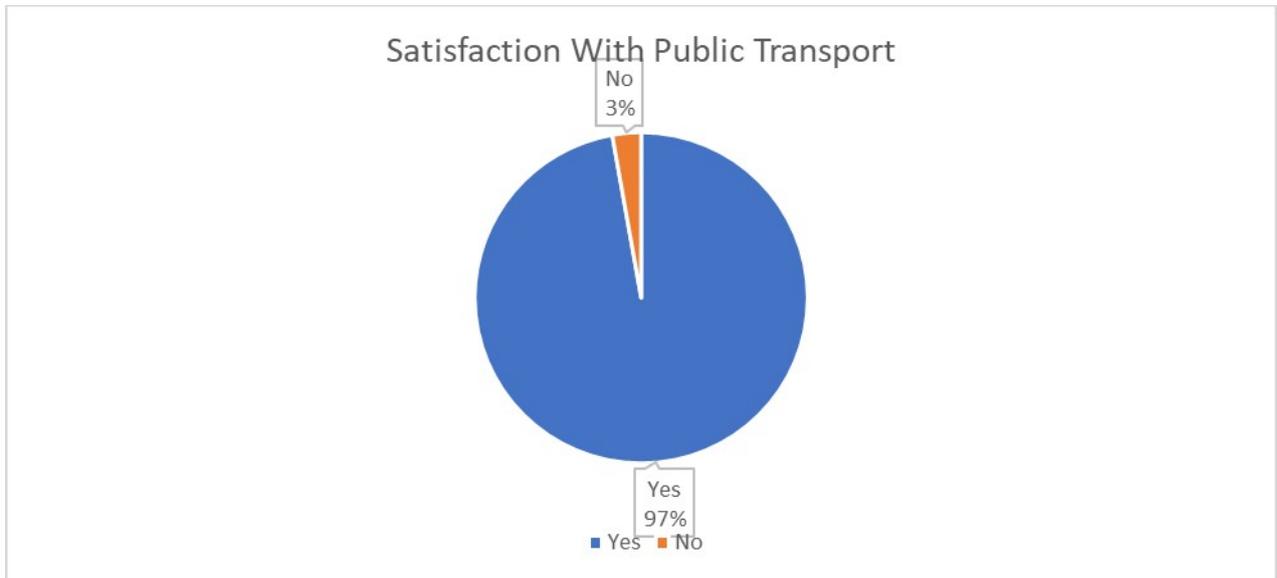


Figure 22: Level of satisfaction with public transport (Source- Respondents)

6.1.10 Assessment of transport usage

The information from the respondents reveals that most people travel to the markets followed by hospitals. Most movements by the respondents happens daily and travel time for most respondents is 2 hours. Most of the respondents travels for shorter distance (0.5-1 km). assessment of transport usage is presented the figures below.

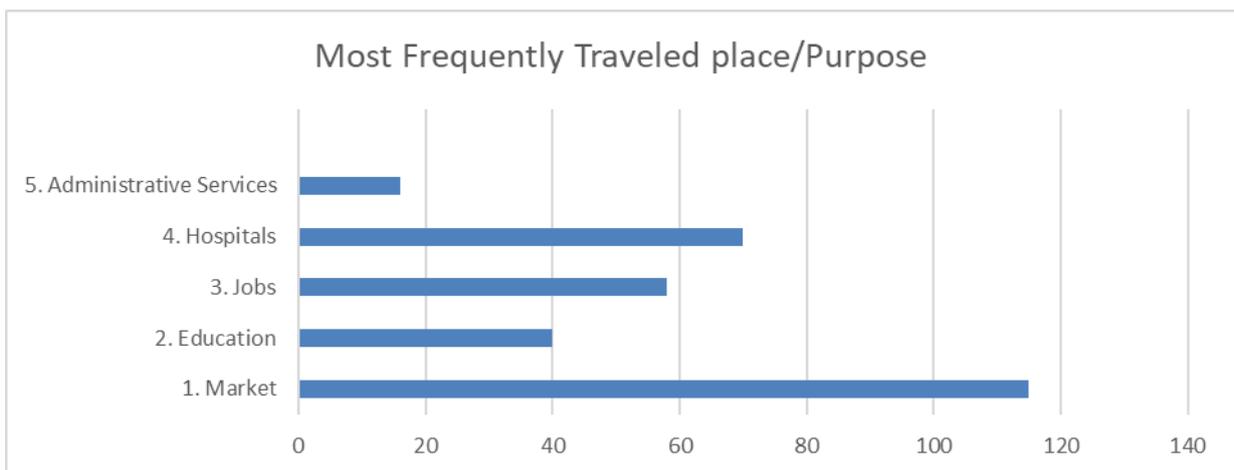


Fig. 23: Most frequently travelled places (Source- Respondents)

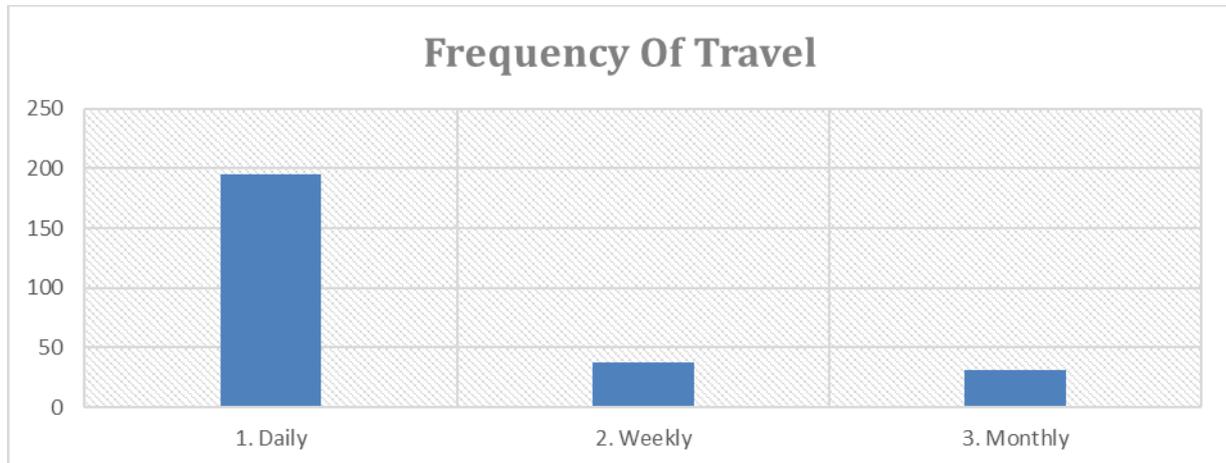


Fig. 24: Frequency of travel (Source- Respondents)

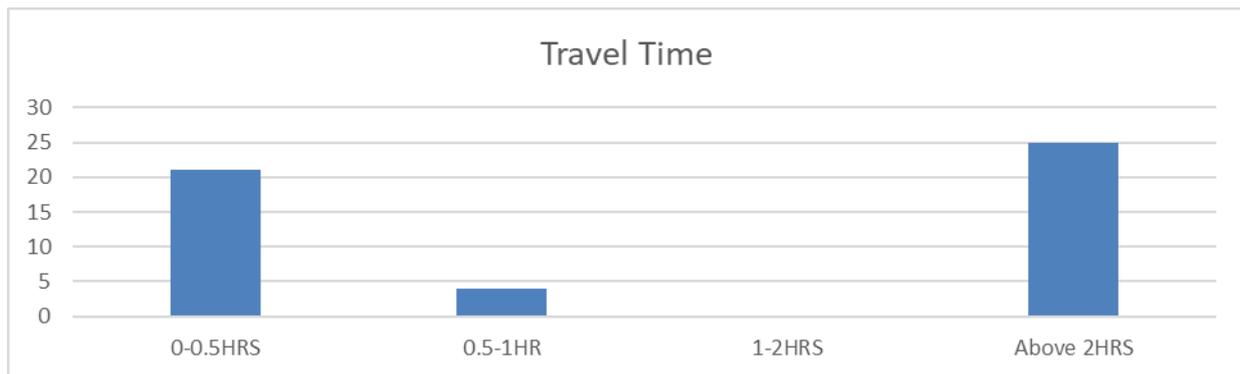


Fig. 25: Travel time (Source- Respondents)

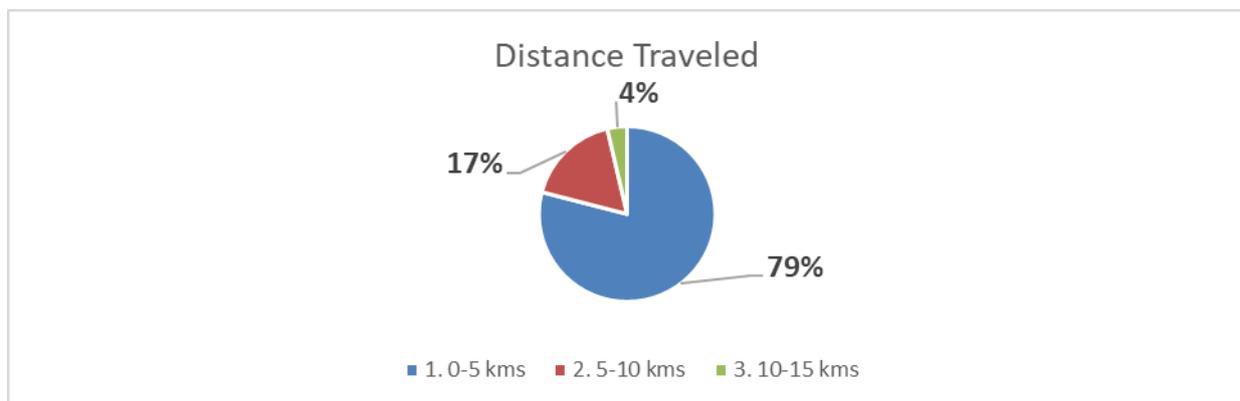


Fig. 26: Distance travelled (Source- Respondents)



6.1.11 Communication

The County is served with one Huduma Centre located in Kitale town Post office. The County has 3 post offices and 6 sub post offices. According to the Kenya Integrated Household Budget Survey (KIHBS) report of 2015/2016, the main type of telephone communication is the mobile telephone and its coverage for households is 80 percent. The County is fairly covered by the three main mobile service providers namely Safaricom, Airtel and Telkom. On the other hand, the report classifies radio and television as the mostly used mass media in the County with a coverage of 83.1 percent and 41.5 percent respectively. The coverage of radio and television is wider within Kitale town and the upcoming urban centres as compared to the rural areas. Further, 14.9 percent of the county residents have access to the internet and the use of computer is 9 percent. The County is connected to the fibre optic mainly within Kitale town. However, the access to the fibre optic is very limited. More than a half (58%) of the respondents within the project area reported that they have access to post office while 42 % said that they don't have access to post office services as shown in figure 27 below.

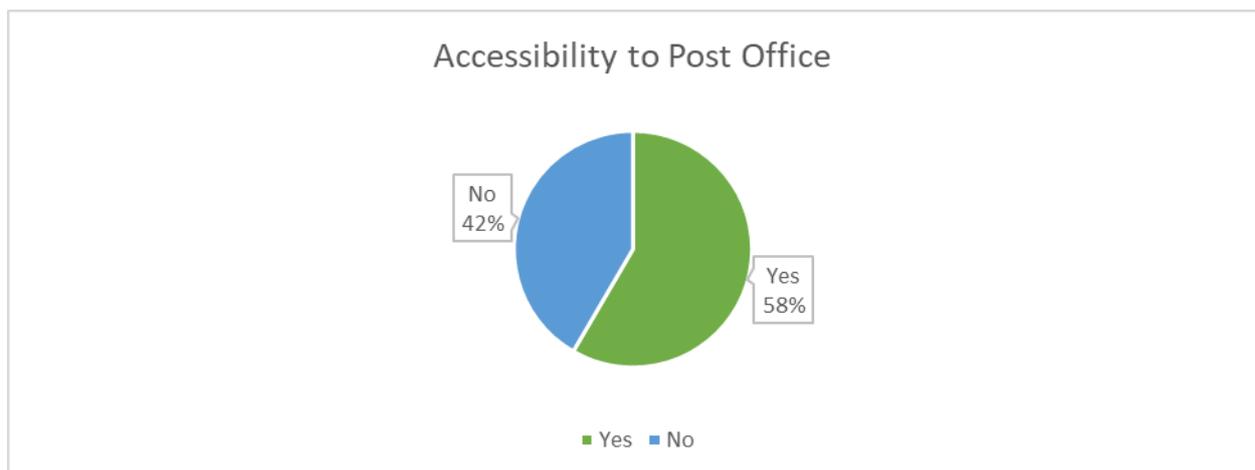


Fig. 27: Accessibility to post office (Source- Respondents)

6.1.12 Security Agencies

There are three police divisions in the county and three police stations and six police posts. The police stations are Kitale, Endebess and Cherangany. The police posts are in Kiminini, Saboti, Endebess and three in Cherangany Sub-County. Kwanza and Kiminini Sub-counties have no police stations. Additionally, there are 26 police patrol bases and 78 Administration police posts spread across the County. Majority of the respondents reported that they have access to police stations as shown in figure 28 below. The availability of police posts within the project area will ensure that security is available during the project implementation.

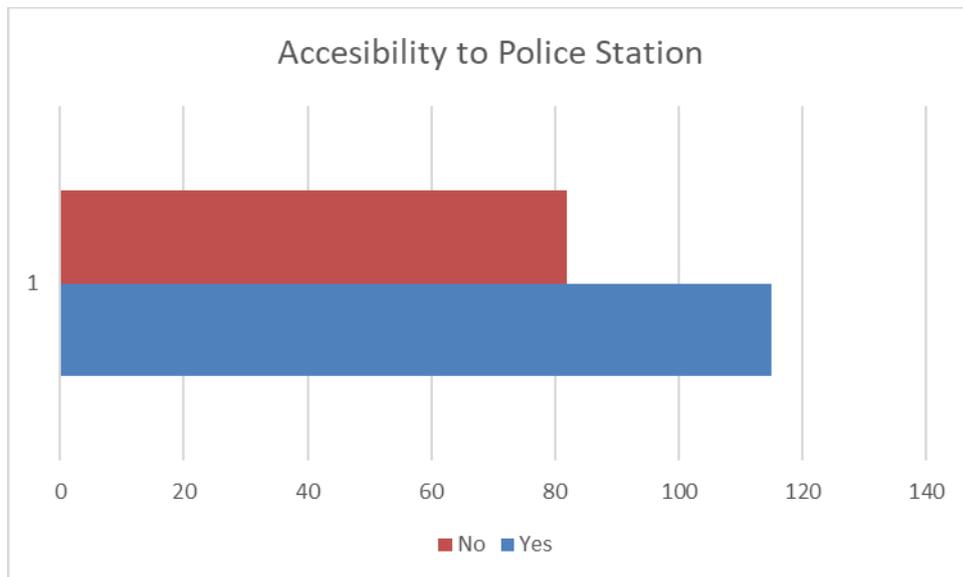


Fig. 28: Accessibility to police stations (Source- Respondents)

6.1.13 Markets

Markets play an important role in the development of Trans Nzoia County. Records from the department of Finance and weights and measures indicate that there are approximately One hundred and Sixty-Nine (169) markets within the county. Majority of the respondents reported that they have access to markets. However, there are some respondents who do not have access to markets as shown in figure 29 below. The proposed road project will improve market accessibility for the locals within the project area.

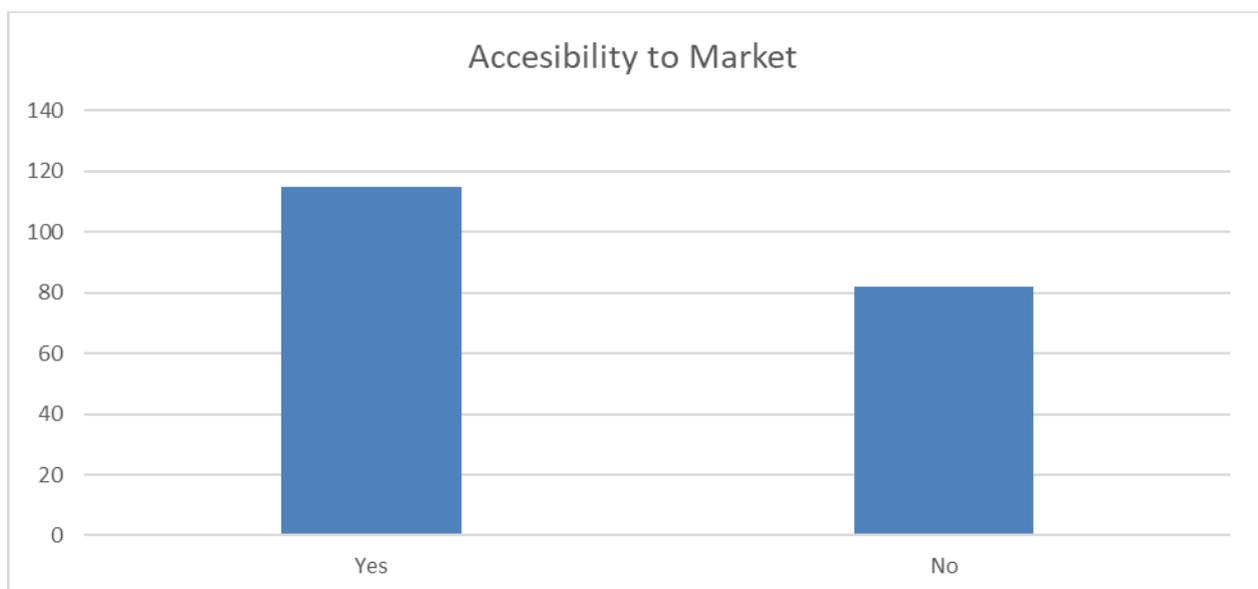


Fig. 29: Accessibility to Market (Source- Respondents)



6.1.14 Financial services (Source- Respondents)

Financial services play an important role in the development of the economy. Its importance is seen in enhancing access to finance for start-ups and growth, deepening financial inclusion, among others. Trans Nzoia County enjoys significant access to financial services. There are twenty-six (26) SACCOs in the County out of which twenty-two (22) are active while four (4) are inactive. Besides there are two SACCOs with Front Office Services Activities (FOSA). The SACCOS with FOSAS in the County are Trans County SACCO which has two (2) branches and the Trans National Times SACCO which has four (4) branches at Endebess, Sibanga, Kiminini and Kitale. More than a half (58%) of the respondents have access to Banks and ATM services while 42 % do not have access as shown in figure 30 below.

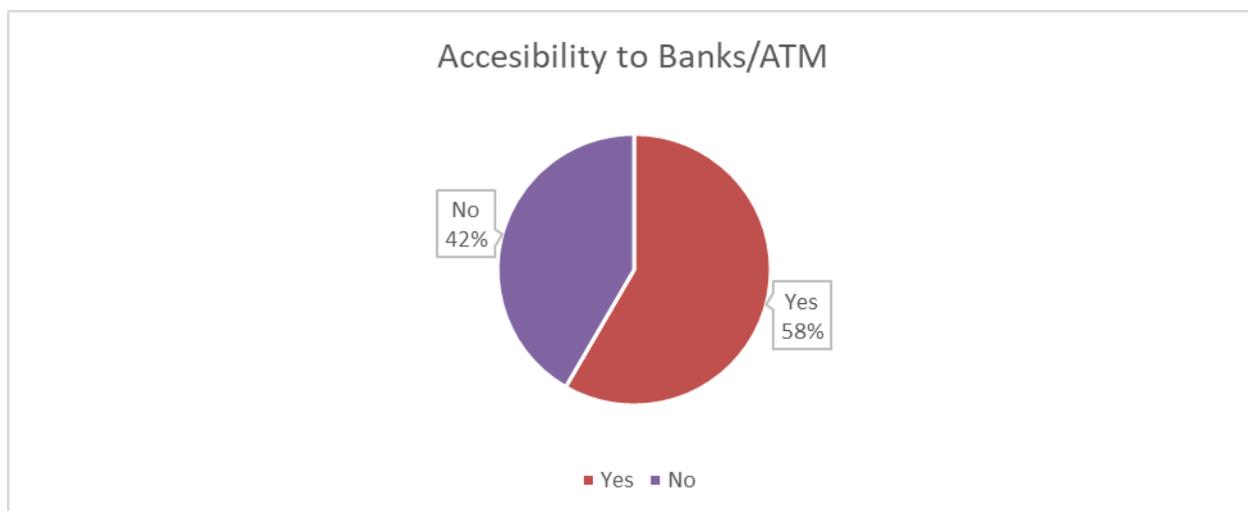


Fig. 30: Accessibility to Banks/ ATM (Source- Respondents)

6.1.15 Energy Access

According to the 2019 Kenya Population and Housing census, the main sources of energy in the County are electricity, paraffin, liquid petroleum gas, firewood/charcoal, solar, and biogas. Access to energy however varies between rural and urban areas. Wood fuel and paraffin are the most preferred source by a majority of the rural households for cooking and lighting while electricity and gas are most preferred in the urban centres. Almost all respondents (93%) have access to electricity connectivity while most of the respondents use gas fuel for cooking which is a major characteristic of urban dwellers as shown in figures 31 and 32 respectively.

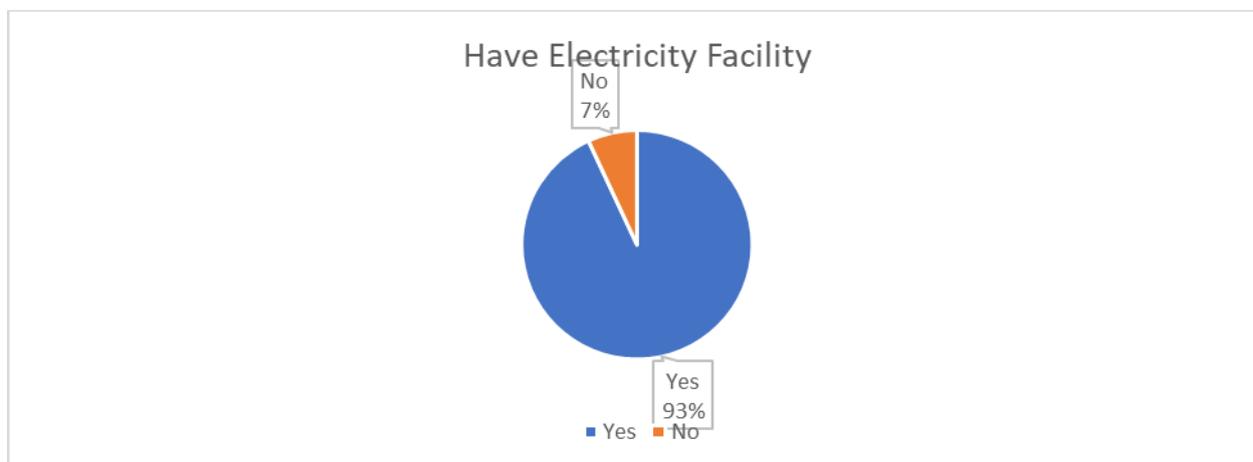


Fig. 31: Access to electricity connectivity (Source- Respondents)

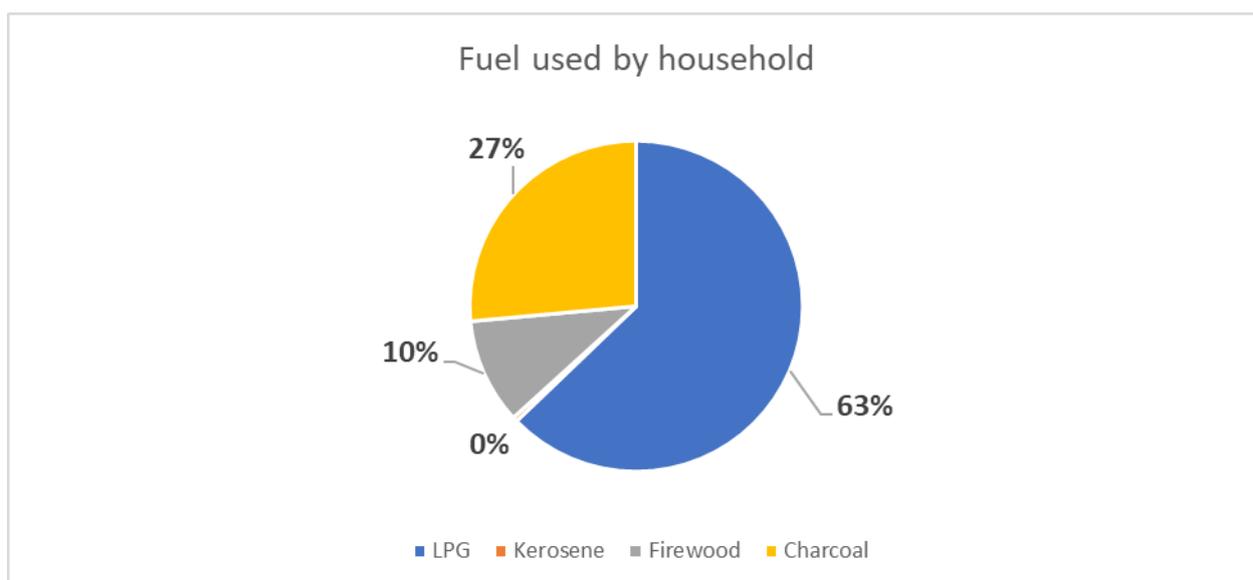


Fig. 32: Energy (Source- Respondents)

6.1.16 Housing Types

Housing is one of the basic requirements for growth and development of the economy. In Kenya housing is classified in terms of roofing, walling and flooring materials. It can also be classified based on the location either in an urban or a rural setting. In the County the main materials used for roofing are corrugated iron sheets and grass. Corrugated iron sheet is the leading roofing material at 83 per cent of the houses while the grass thatched or makuti roof houses constitute 14 per cent and tile roofed houses being less than 1 per cent. Roofing materials used by most of the respondents is iron sheet while the predominant material used for walling is bricks as shown in figures 33 and 34 respectively. At the same time 79% of the respondents live in rented houses as shown in figure 35.

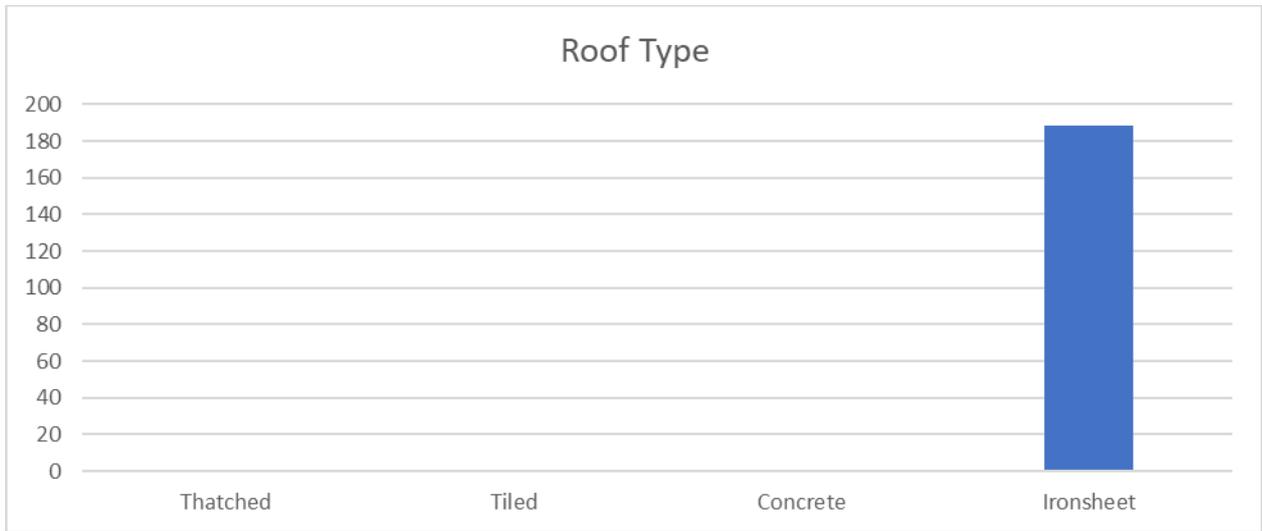


Fig. 33: Roof type (Source- Respondents)

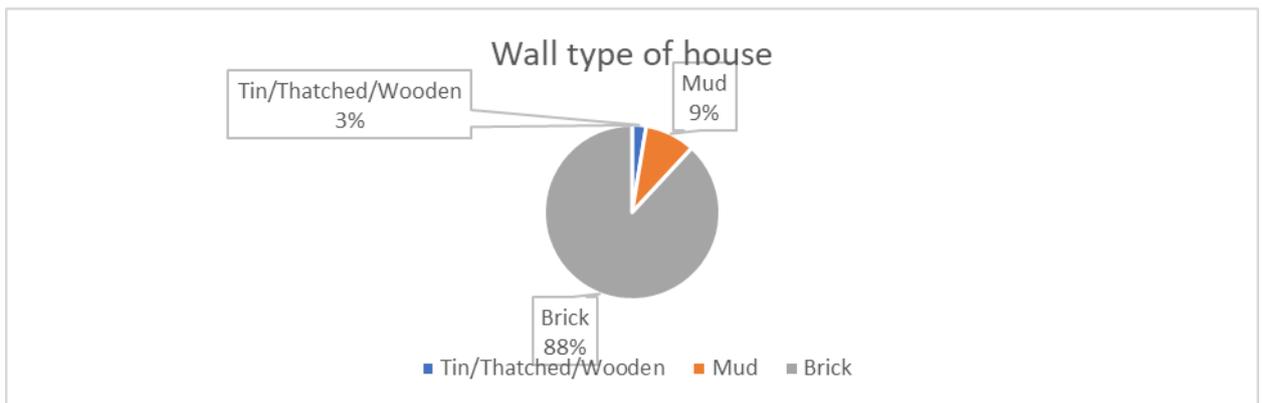


Fig. 34: Wall type (Source- Respondents)

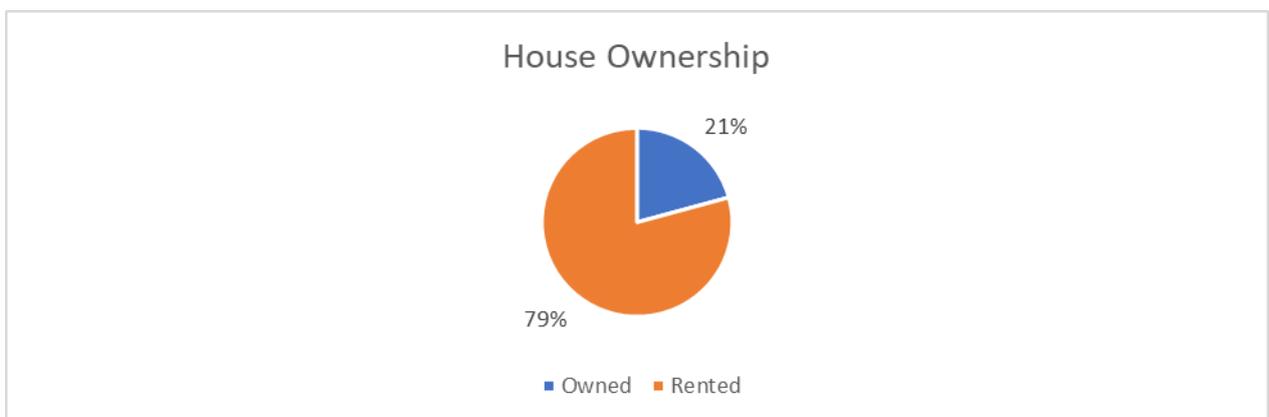


Fig. 35: House Ownership (Source- Respondents)



6.1.17 Water resources

The County being the home of two water towers namely Mt. Elgon and Cherangany hills makes environmental protection a key issue. These two topographical features are the water catchments for the most of the rivers in the County and the neighbouring counties. There are three main rivers namely;

- Ewaso-Rongai with its tributaries being Kabeyan, Kissawai, Kipkukul, Tongaren, Kabuyefwe and Machinjoni;
- Noigamaget River with its tributaries being Kapolet and Sinyereri; and
- Sabwani River has Kiptogot, Mubere, Kaibei, Kimothon and Chepchoina as its tributaries.

The County has good ground water potentials for boreholes, shallow wells and springs and other surface water sources consisting of water pans and dams. There are 65 dams, several water springs, shallow wells and wetlands for example Lokichar, Kipsaina, and Namanjalala. However, there is an observed trend of reducing water levels. This is due to encroachment, over abstraction, water catchment degradation and climate change effects. There is inadequate development with regard to surface and ground water infrastructure. Most of the respondents have access to drinking water. At the same time, majority of the respondents get drinking water from the taps as shown in figure 36.

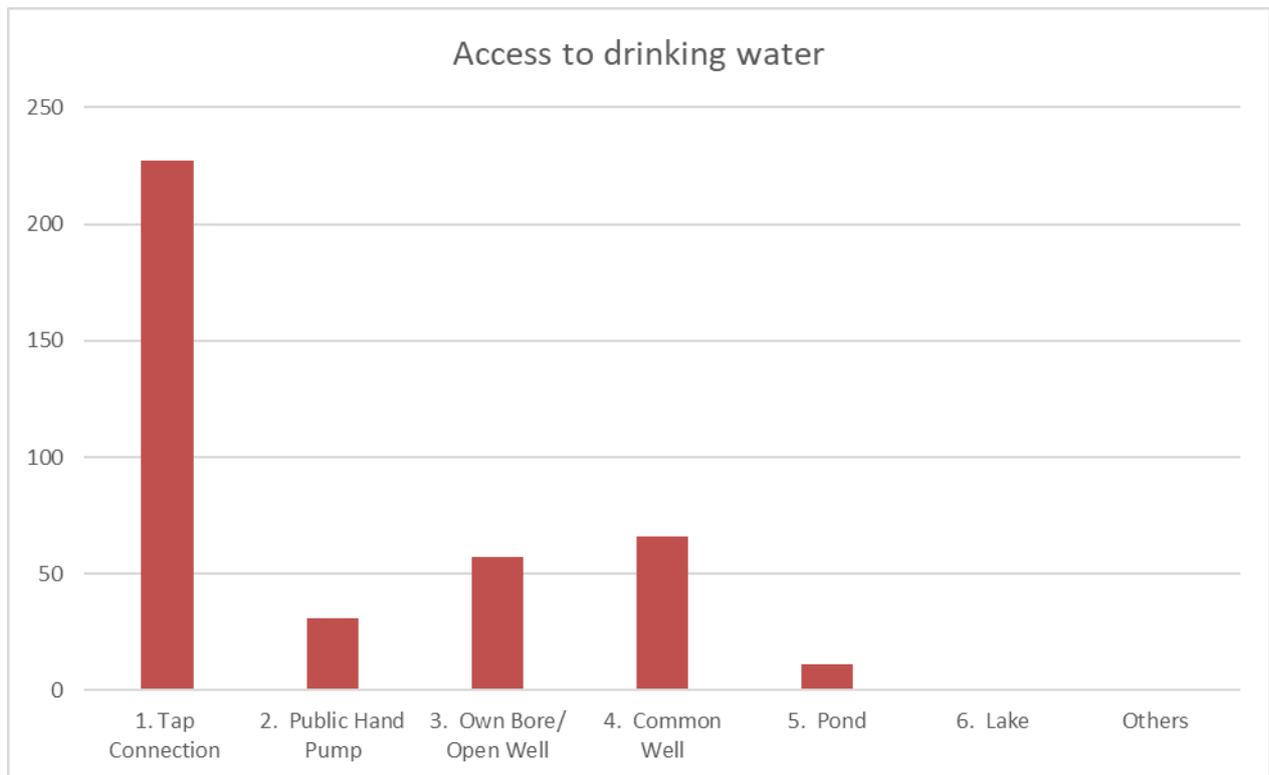


Fig. 36: Access to drinking water (Source- Respondents)

6.1.18 Sanitation

Most of the homesteads as reported by the respondents have access to private and public toilet facilities as shown in figure 37 and 38 respectively.



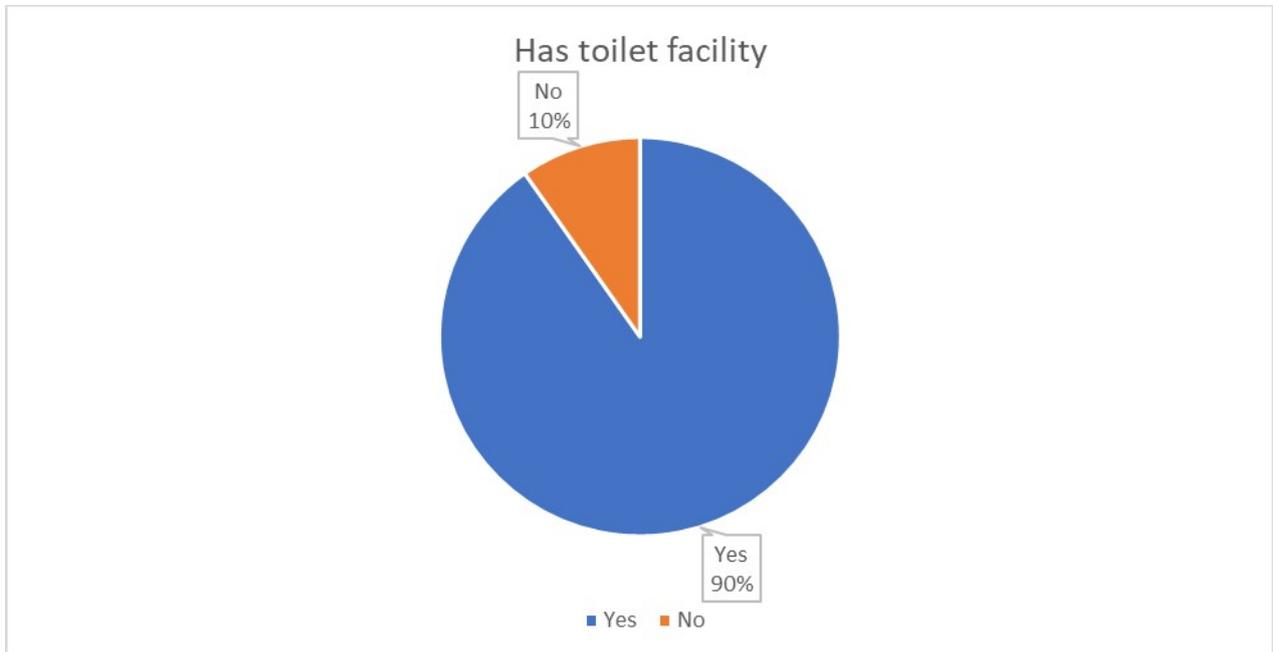


Fig. 37: Access to private toilet facility (Source- Respondents)

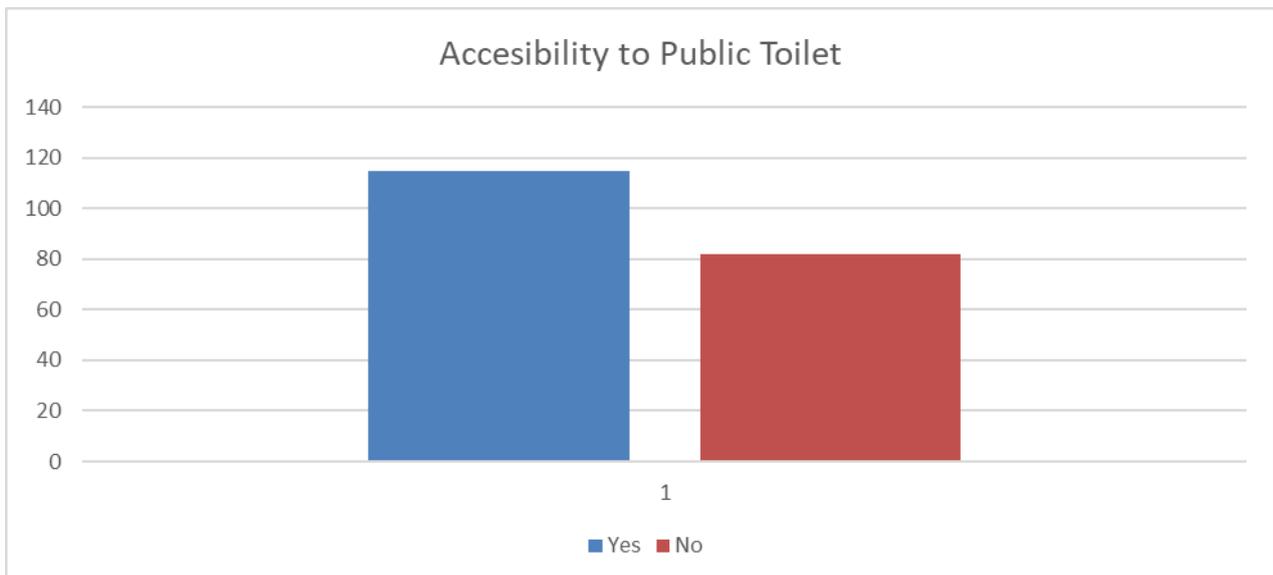


Fig 38: Access to public toilet facility (Source- Respondents)

6.1.19 Health facilities and staff

Trans Nzoia County has eight (8) functional tier-3 public hospitals. The number of tier-2 and tier-1 public health facilities is 73 and 87 respectively. The average distance to the nearest health facility within urban centres is 1 kilometre; while for rural areas it is 5 kilometres. There is a general need for additional wards, beds and hospital equipment across all the county facilities. The county has a total of 43 registered private facilities distributed across the Sub-counties as follows: Kiminini (20), Cherang’any (6), Endeless (1), Kwanza (4) and Saboti (12). Based on tiers, there are 38 and 5 tier-2 and tier-3 private facilities respectively. The health referral system in the county is supported by 15 ambulances, 9 of which are owned by

the county government. The Kenya Red Cross Society owns 1 state-of-the-art ambulance while the rest (5) are owned by faith-based organisations and private hospitals. Two trucks donated by Beyond Zero, a campaign initiative steered by the First Lady, Mrs. Margaret Kenyatta, support maternal health outreach services. Pertaining staffing, the county has 91 doctors and 488 nurses working in the public sector. This means the provider to population ratio is 1:11,000 and 1: 2,051 respectively. The national provider (retained) to population ratio for doctors is 1:6,150 for doctors and 1: 1,210 for the nurses. Other county medical staff cadres are 398 in number. The sector has additional non-medical staff totaling to 44. Temporary employees in the sector are 464. Despite the improved staff establishment since the advent of devolution, there is still a significant shortage across all cadres. Almost all (98%) of the respondents have access to the hospitals as shown in figure 39 below.

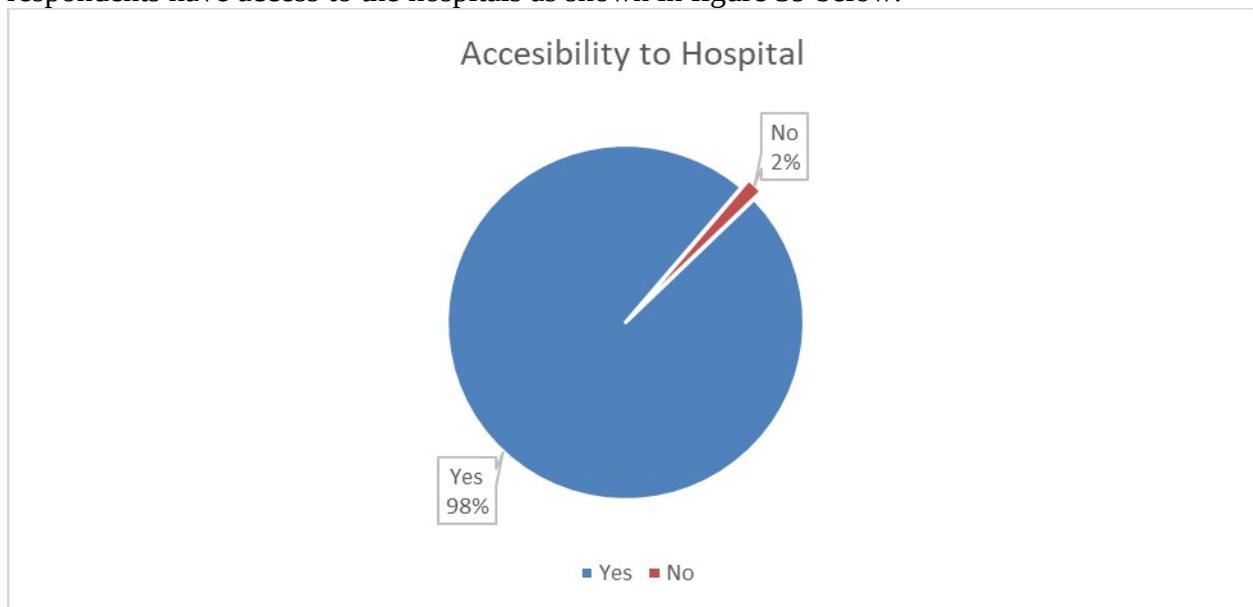


Fig 39: Access to hospitals (Source- Respondents)

6.1.20 Morbidity

Malaria remains the leading cause of morbidity in the adult population (20%); followed by upper respiratory tract infections (13%), diseases of the skin (6%), urinary tract infections (3%) and diarrhoea (3%). The disease prevalence burden in paediatric patients is in the following order: upper respiratory tract infections (23%), malaria (16%), diarrhoea (13%), diseases of the skin (6%) and pneumonia (3%). Notably, the most prevalent diseases in the county are malaria, upper respiratory tract infections, diseases of the skin and diarrhoea. The high prevalence of malaria could be due to non-use of mosquito nets. Despite 71% of households having at least one insecticide treated mosquito net, only 46% of household populations sleep under the nets provided. The county needs to invest in targeted interventions to arrest the prevalence of these priority diseases. The burden of Non-Communicable Diseases (NCDs) has also been on the rise. The morbidity scores for the leading NCDs are 27% and 2%; for elevated blood pressure and diabetes respectively. The inpatient morbidity burden for cancer is 2% (CIDP, 2017).



6.1.21 HIV awareness

Most of the respondents reported that they get information about HIV from TV and print media. Several sources of information about HIV is shown in figure 40 below.

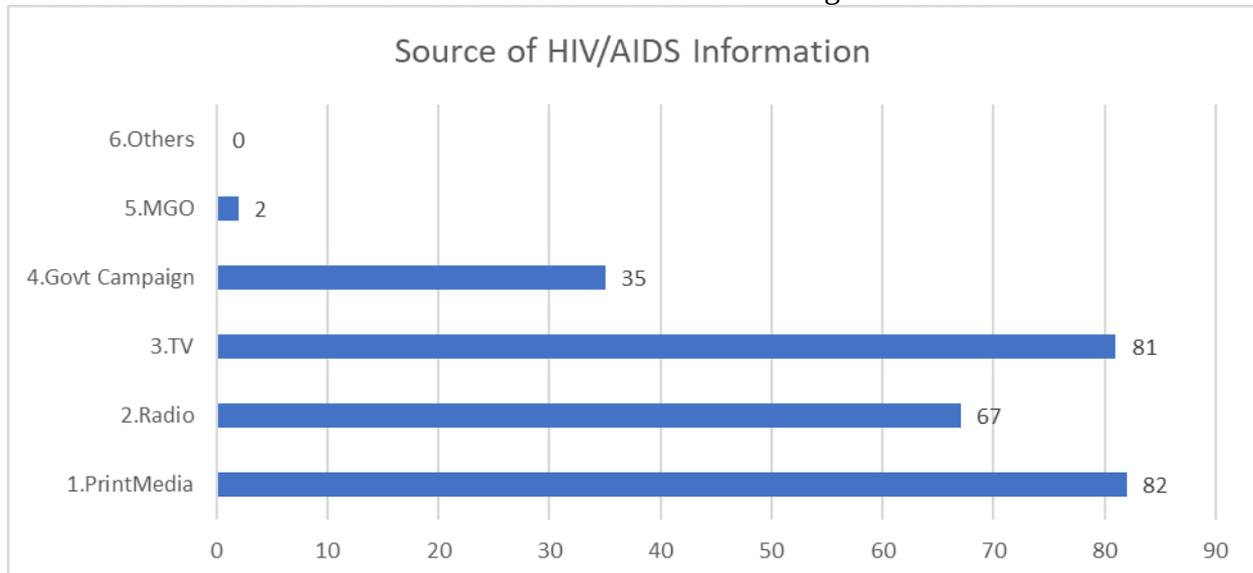


Figure 40: Source of HIV/AIDS Information (Source- Respondents)

6.1.22 Community Organizations/Non-State Actors

Community organizations cover a series of activities at the community level aimed at improving the social well-being of individuals, groups, and communities' general development. They are democratic instrument to create sustained social change and a process of which communities identify their needs and take action. Through this process, the communities develop cooperatives or community organizations that have varied objectives and interests. The community organization structures include youth, women, PWDs, and special interest groups, CBOS and FBOs. The County has a total of 4,848 registered community organizations.

6.1.23 Religious Facilities

Majority of those living in project Counties are Christians. The notable churches in the areas include Anglican, Roman Catholic and Presbyterians. There are numerous evangelical churches among them the Deliverance, Full Gospel and Assemblies of God. Other faiths such as Islam and Hinduism are also professed especially in major towns.

6.1.24 Gender Issues

The main gender issues are contained under the customary practices where the male vests ownership and control of productive assets. Women in the counties are faced with a number of challenges including inadequate access to credit, lack of technical skills, multiplicity of roles for women and inadequate access to education and training. The tradition delineation of labour persists with women assuming the entire responsibility for childcare, provision of food, water and firewood collection and the general maintenance of the homestead among others.



6.1.25 Vulnerable Groups

People with disabilities were identified to face challenges if the road design does not provide specific facilities for this category of persons. Thus facilities to serve them should be provided adequately including ramps on footbridges as well as signboards. The information from the respondents indicates that widow constitutes majority of the vulnerable group in the project area as shown in figure 41 below.

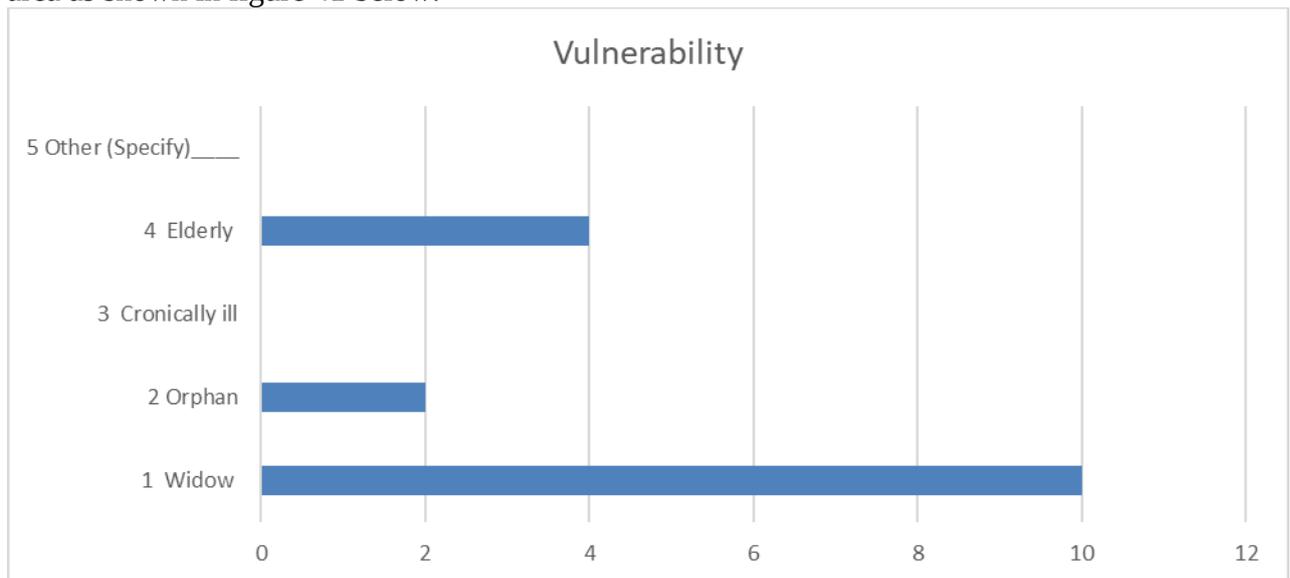


Fig. 41: Vulnerability (Source- Respondents)

CORPORATE SOCIAL RESPONSIBILITY

Corporate social responsibility (CSR) was discussed during the various public consultative meetings between KeNHA and members of the local communities. The project may not be able to support all the needs of the community but the majority of the respondents would prefer a market, followed by hospitals and the upgrading of feeder roads as shown in figure 42 below:

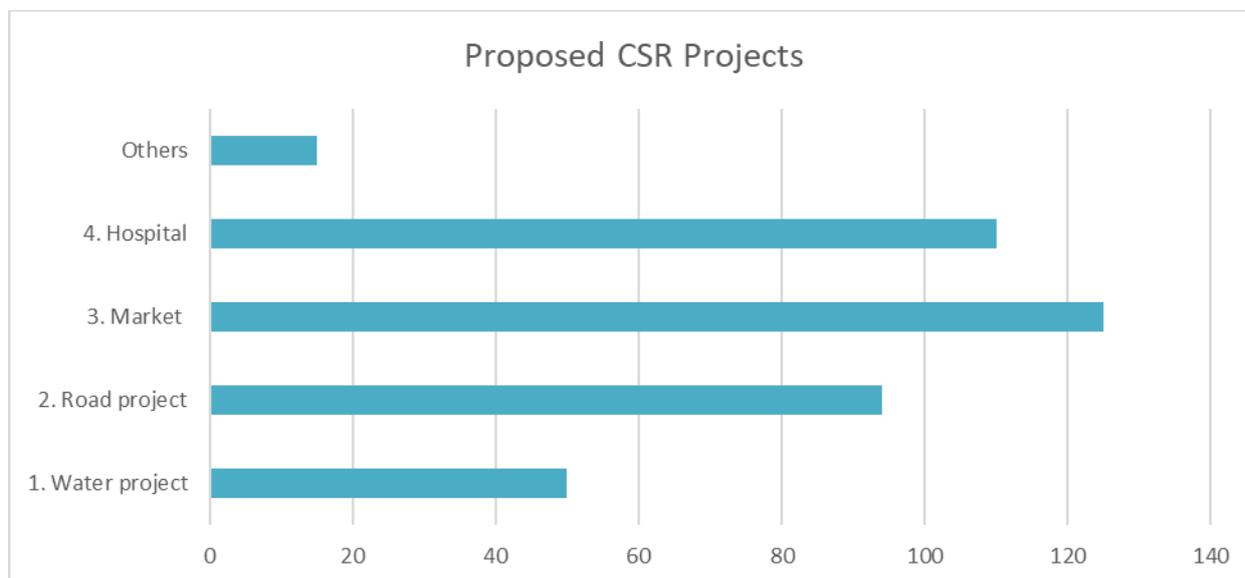


Figure 42: Corporate social responsibility (Source- Respondents)

WEST POKOT COUNTY

6.1.26 Position and Size

West Pokot County is one of the 14 Counties in the Rift Valley region. It is situated in the North Rift along Kenya’s Western boundary with Uganda border. It borders Turkana County to the North and North East, Trans Nzoia County to the South, Elgeyo Marakwet County and Baringo County to the South East and East respectively. The County lies within Longitudes 34° 47’ and 35° 49’ East and Latitude 1° and 2° North and covers an area of approximately 9,169.4 km².

6.1.27 Administrative Units

West Pokot County has four constituencies, 20 wards, 16 divisions, 65 locations and 224 sub-locations.

6.1.28 Political Units

The county has four constituencies namely: Kapenguria, Kacheliba, Sigor and Pokot South and a total of twenty county wards. Kapenguria and Kacheliba constituencies have six wards, while Sigor and Pokot South have four wards each.

6.1.29 Population Size

Population distribution in the County is influenced by climatic conditions and socio-economic development. Urban areas and high potential agricultural areas have high population distribution and density. The population density for the County is expected to increase from 85 in 2018 to 108 and 147 persons per square km in 2022 and 2030 due to the high population growth. The population of the County in the 2019 census was 621,241.



6.1.30 Population distribution by gender

The female and male population in West Pokot County is almost the same. The county population is comprised of 307,013 males, 314,213 females and 15 intersex. A total of 589,400 people live in the rural area while 31,842 live in urban centers. The data from the respondents indicates that 205 household heads were males while 87 were female as shown in figure 43. Additionally, the results of the data obtained from the respondents indicates that majority reside within the rural areas as shown in figure 44. Nuclear family is the most preferred family type by most of the respondents interviewed within the project area as shown in the figure 45.

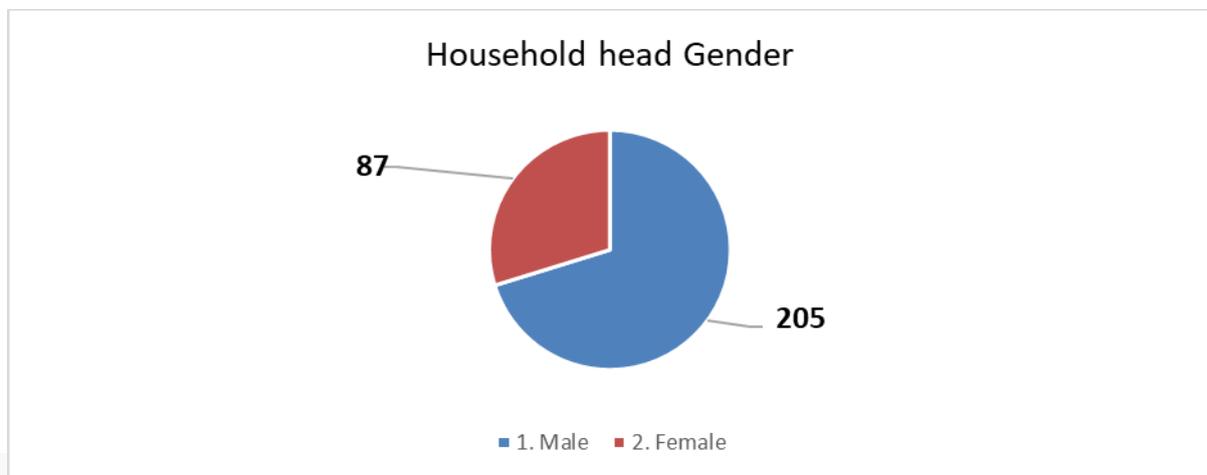


Figure 43: Gender of the Household head (Source- Respondents)

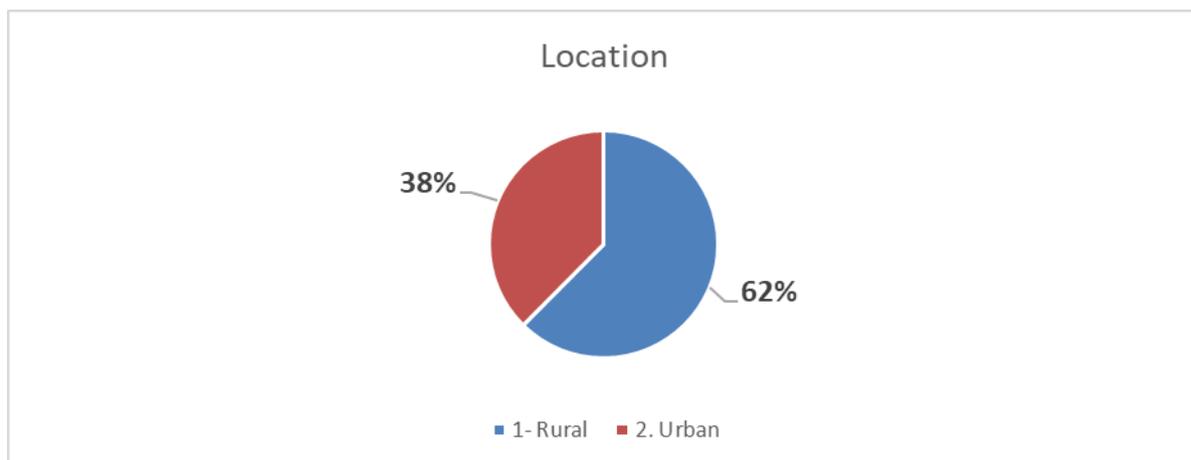


Figure 44: Population distribution (Urban /rural) (Source- Respondents)

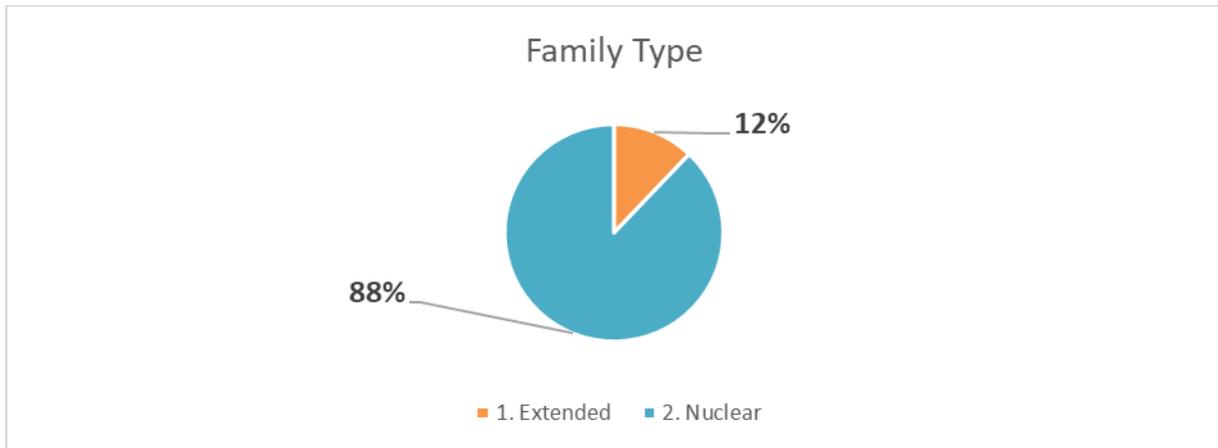


Figure 45: Family type (Source- Respondents)

6.1.31 Population distribution by age

The majority of the respondents are youthful with those aged 19-35 and 36-49 years accounting for 43 % and 36 % respectively as shown in figure 5.38. The survey data points to availability of young population which could easily be tapped to provide labor during the construction of the proposed road project. The population distribution within the project area by age is shown in the figure 46.

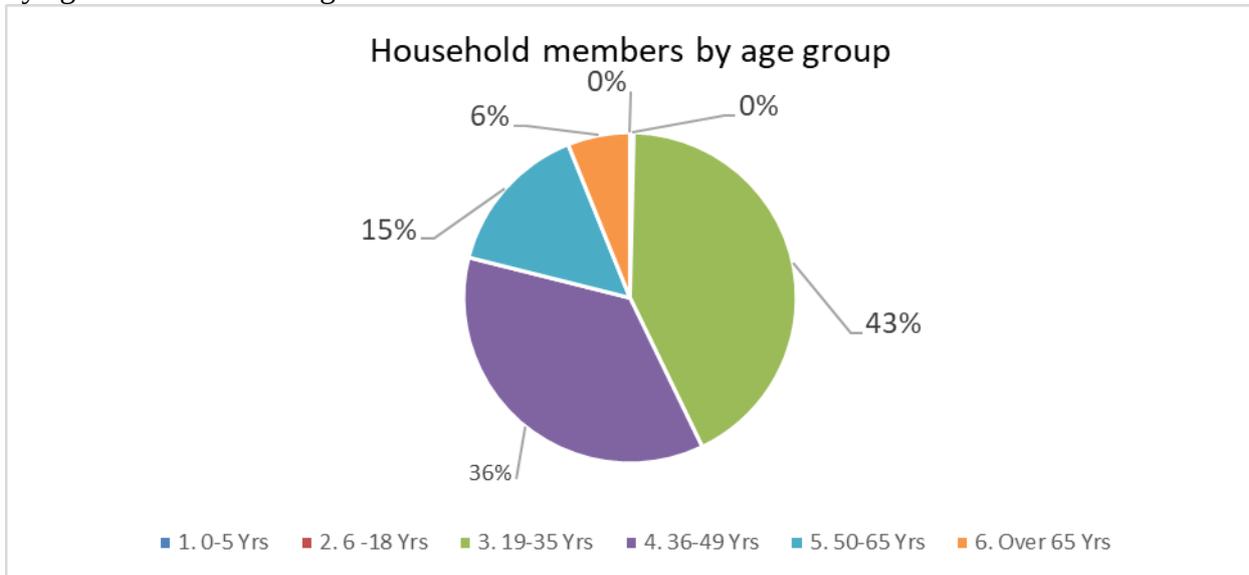


Figure 46: Population distribution by age (Source- Respondents)

6.1.32 Education status

There are 554 primary schools with total enrolment of 186,708 pupils in the county. There are 3005 teachers giving teacher pupil ratio of 1:52. The county has a gross primary school enrolment of 89 percent and a transition rate of 66 percent to secondary schools. Issues affecting primary school going school children in the county include lack of sanitary pads, inadequate teaching staff, early marriages, female genital mutilation, child labour, sexual abuse, inadequate learning and reading materials, inadequate access to water and healthcare, insecurity, high household poverty levels, inadequate parental care and lack of electricity connections in some schools. There are 120 secondary schools with total enrolment of 156,272



students in the county. There are a total of 987 teachers giving Teacher pupil ratio of 1:52. The county has a gross secondary school enrolment of 75 percent. Majority of the respondents have attained middle level and secondary education as shown in the figure below. However, there are a few illiterate respondents who may require assistance during the implementation of the road project as shown in the figure 47 below.

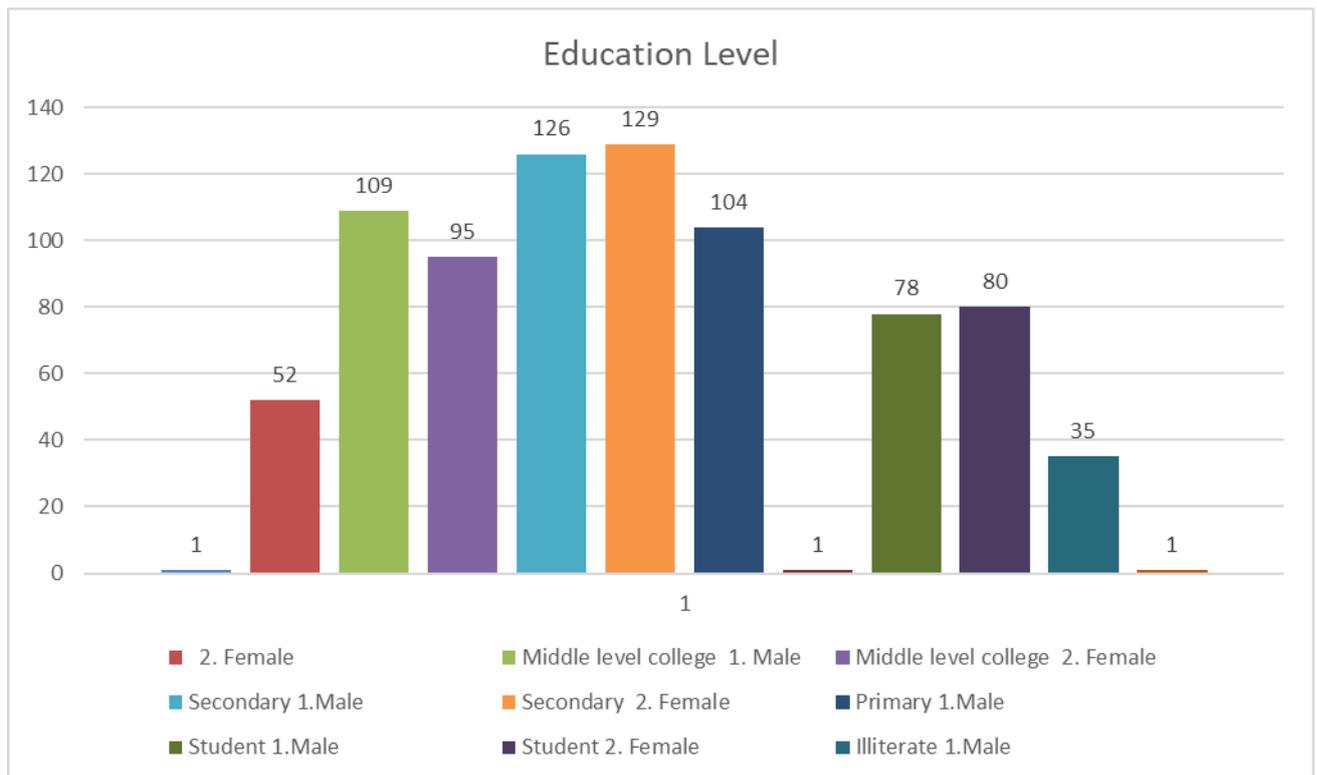


Figure 47: Level of education (Source- Respondents)

6.1.33 Employment

Wage earners constitute only five percent of the county population. This is due to low education levels among the county residents, lack of technical skills and limited job opportunities. Informal sector employs a good proportion of the County population through farming and pastoralism. An agriculture and livestock sector contributes 84 per cent of household income in the county and is the biggest source of employment. Other sources of self-employment in the county include trading, transport sector and Jua kali business activities. Most of the respondents indicated that they are self-employed as shown in figure 48 below.

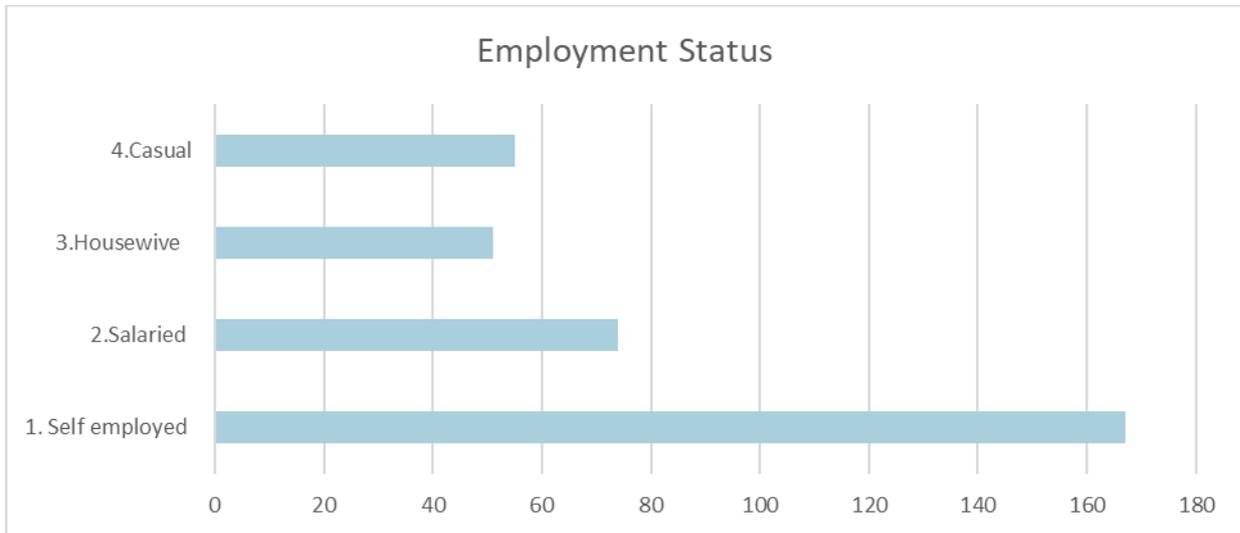


Figure 48: Employment status (Source- Respondents)

6.1.34 Labour migration

Not almost all the respondents migrate to work outside the project area as shown in figure 5.41 below. This means that the available workforce is from the local population. The Contractor for the road project is expected to tap from this local labor force as shown in figure 49.

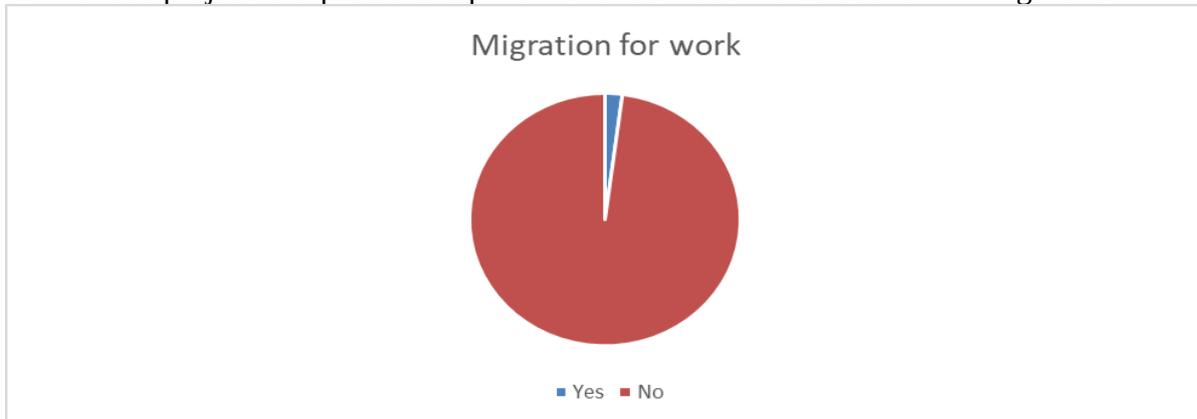


Figure 49: Labor migration (Source- Respondents)

6.1.35 Income and expenditure

Most of the respondents earn a monthly income of KES. 20,000 and below as shown in figure 5.42. This shows that income levels of the population within the project area is low. Majority of the respondents earn below KES. 10,000 from agricultural production as shown in figure 5.43. Much of the income is spent on food, education and agriculture figures 50 and 51 below:

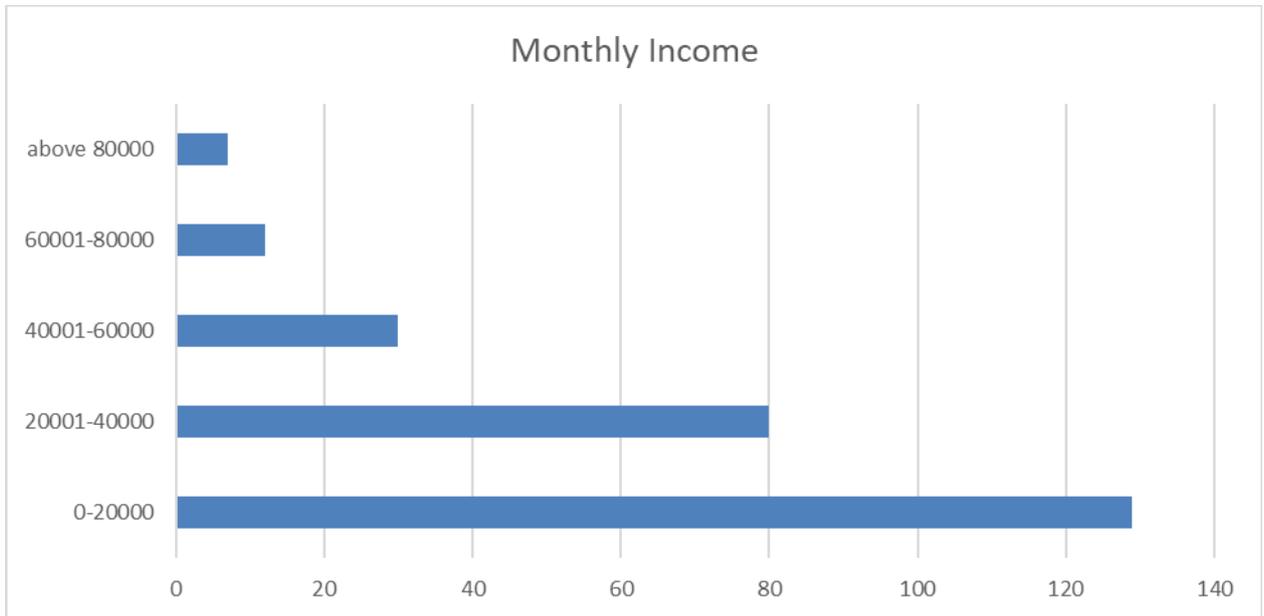


Figure 50: Monthly income (Source- Respondents)

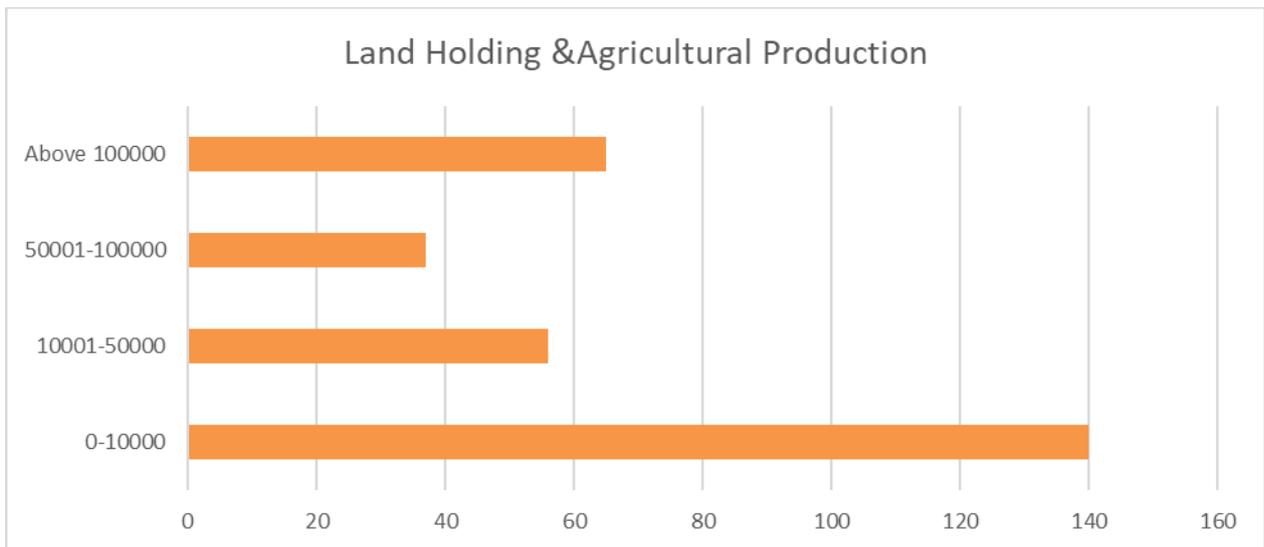


Figure 51: Household income from agricultural production

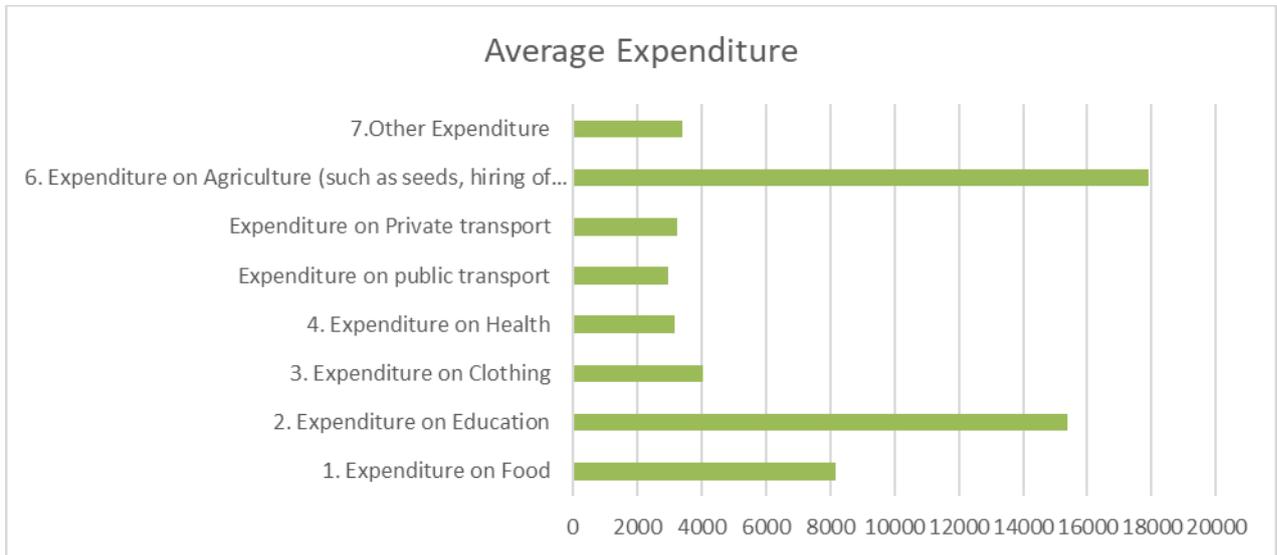


Figure 52: Monthly expenditure (Source- Respondents)

6.1.36 Ownership of movable assets

Majority of the respondents own mobile phones and Radios as shown in figure 53 below:



Figure 53: Ownership of movable assets (Source- Respondents)

6.1.37 Land ownership Categories/Classification

Land ownership in the county is under public, private and community. Public land consists of schools, hospitals, forests, cattle dips, holding grounds for livestock among others. Private land category is classified into registered land to individuals (absolute ownership), land leased to individuals and companies by county and national governments while community land category consists of all the unregistered land which is held in trust by the county government. They are in form of group ranches and community shrines. The average farm sizes in the county stands at 20 acres.



6.1.38 Agriculture

The main food crops produced include maize, beans, sorghum, finger millet, green grams, Irish potatoes, sweet potatoes and bananas. The farmers also grow horticultural crops which include fruits (mangoes, pawpaw, oranges, tree tomato and passion fruit) and vegetables both exotic and local (onions, cabbages, kales, pumpkins, sucha, cowpeas, saga, peas and carrots among others). The fruits and vegetables contribute immensely to food security as farmers use it for food as well as generate income to the households. The main livestock breeds in the county are the indigenous cattle (Zebu), sheep, goats, poultry and donkeys. Also introduced to the county are the dairy cattle, camels, Sahiwal cattle, Galla goats, dairy goats, dorper sheep, exotic poultry and rabbits. In terms of estimated population, there are 789,300 indigenous cattle, 74,500 dairy cattle, 200 sahiwal cattle, 634,355 indigenous goats, 6,000 galla goats, 400 dairy goats, 529,376 indigenous sheep 95,550 wool sheep, 4,000 dorper sheep, 533,000 indigenous poultry, 55,980 exotic poultry, 35,271 camels and 41,943 donkeys. These livestock types and breeds are distributed in all the four sub-counties in varied numbers depending on the climatic conditions and rate of adoption of introduced breeds. The number of domestic animals owned by the respondents are shown in the figure 54 below.

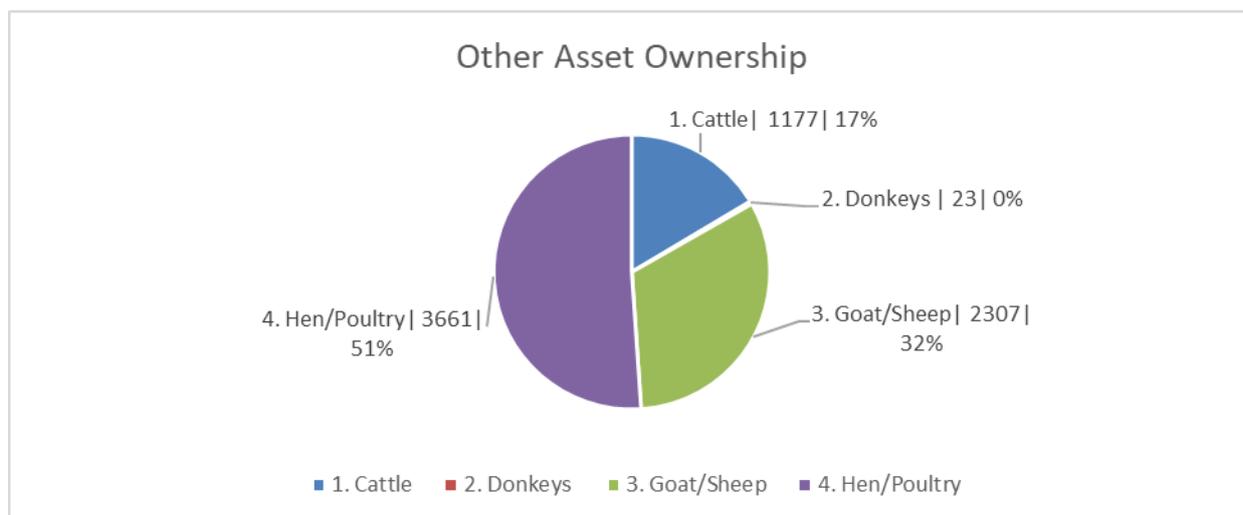


Figure 54: Domestic animals kept by the respondents (Source- Respondents)

6.1.39 Transport

The road network in the County is predominantly earth and gravel surface which makes up 87 percent of the road network. The gravel surface roads cover a distance of 349 km while the earth surface roads cover 697 km. The total length of bitumen surface (tarmac) road is only 151 km. This means that for every 60.7 km², there is 1 Km of a tarmac road and for every 1 Km of the same tarmac road, we have 4,180 persons. The general status of the road network in the County is poor. The tarmacked road is poorly maintained while the earth and graveled roads becomes impassable during the rainy seasons. A rugged and hilly terrain within the county poses another challenge in road connectivity. The county has no rail network, ports and airports. The airstrips are completely inactive. Most of the respondents reported that they travel to the market as shown in figure 55 below.



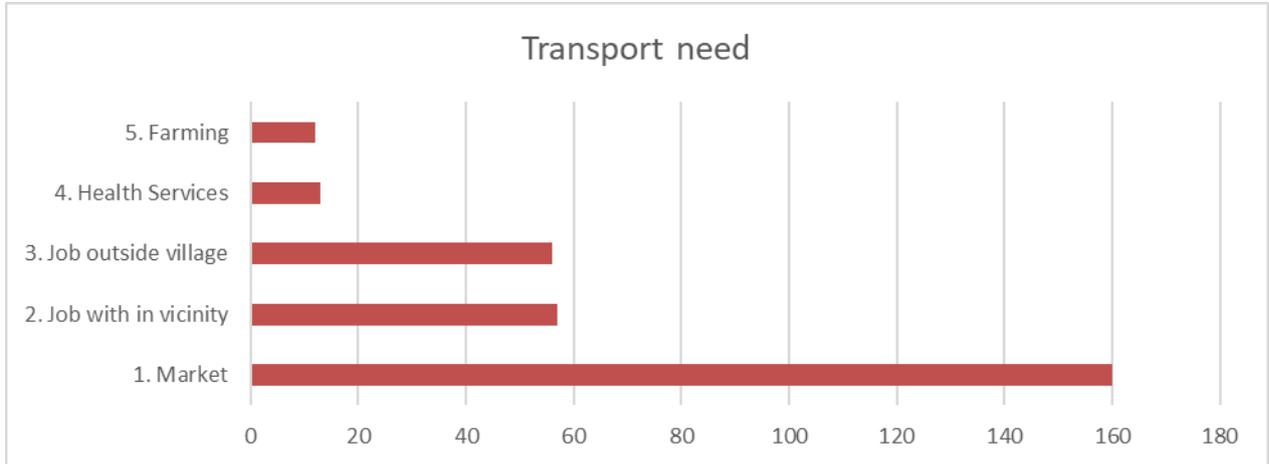


Figure 55: Transport needs (Source- Respondents)

6.1.40 Assessment of transport usage

Most travels by the respondents happen daily and the distant covered is between 0.5 -1Km. Most of the respondents take between 1-1.5 hours in travelling to various destinations. An analysis of the data from the respondents showing transport usage is shown in figures 56, 57 and 58 below.

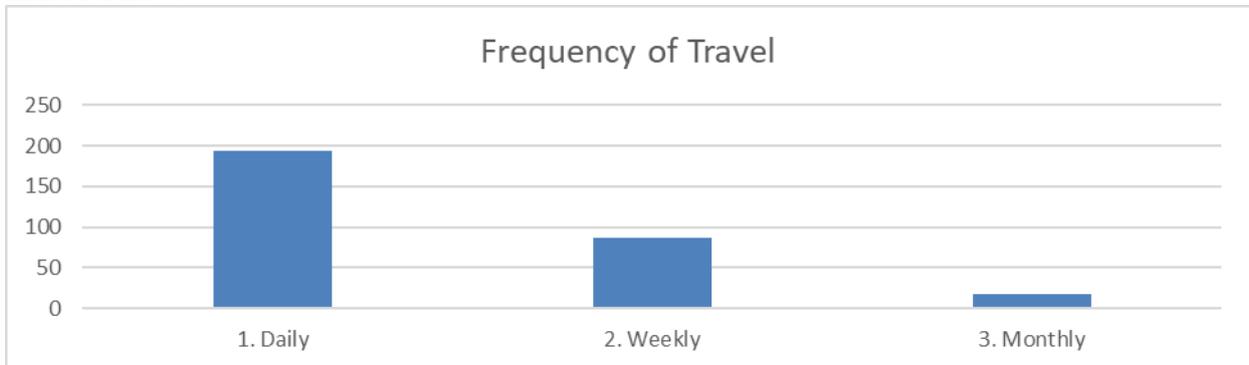


Figure 56: Frequency of travel (Source- Respondents)

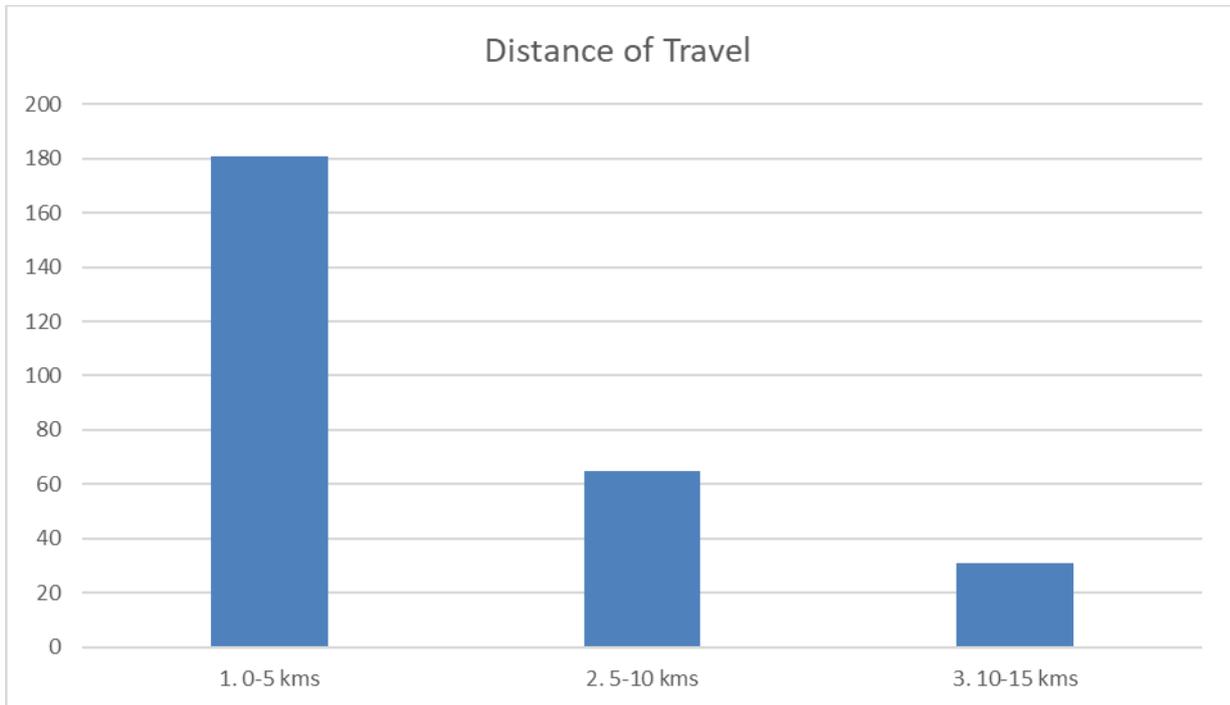


Fig. 57: Distance travelled (Source- Respondents)

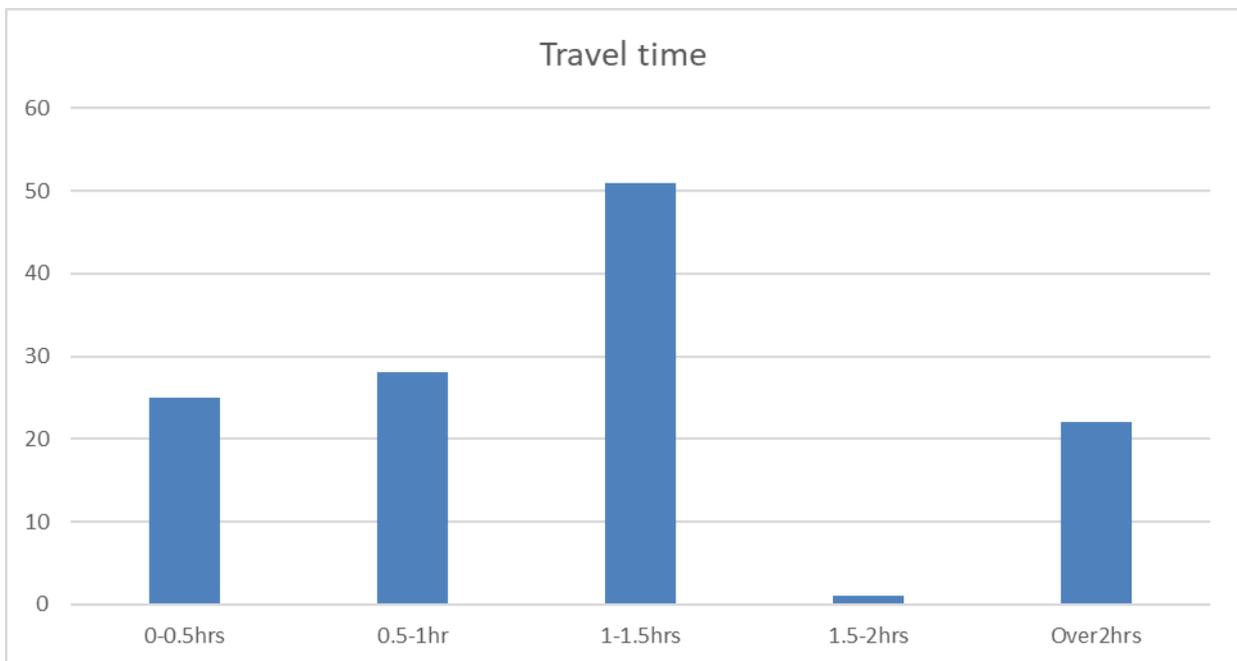


Fig. 58: Travel time (Source- Respondents)

6.1.41 Satisfaction with public transport system

Majority (98%) of the respondents reported that they are not satisfied with public transport as shown in figure 59. The reasons for feeling unsafe ranges from theft, harassment and accidents as shown in figure 60 below.

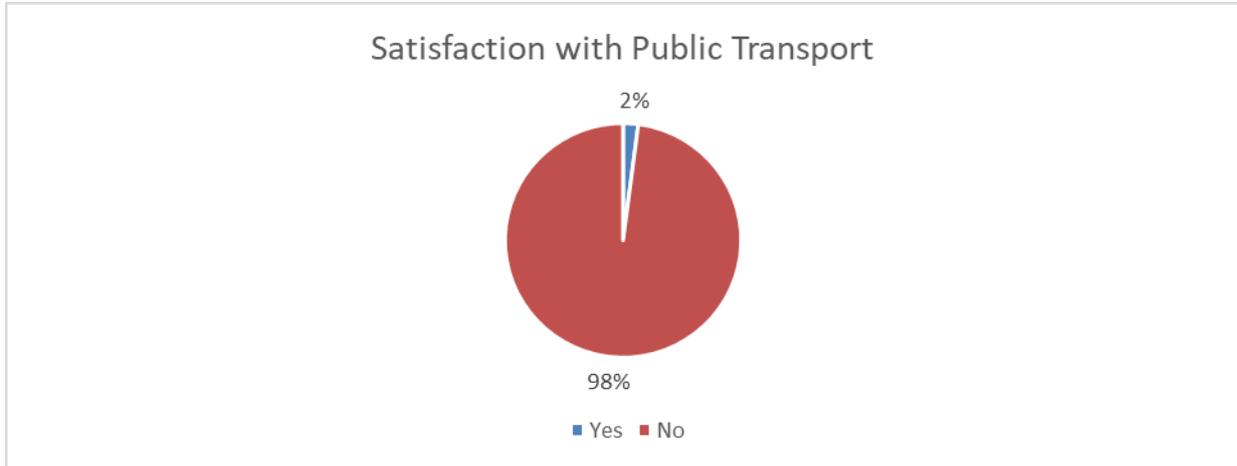


Fig. 59: Satisfaction with public transport system (Source- Respondents)

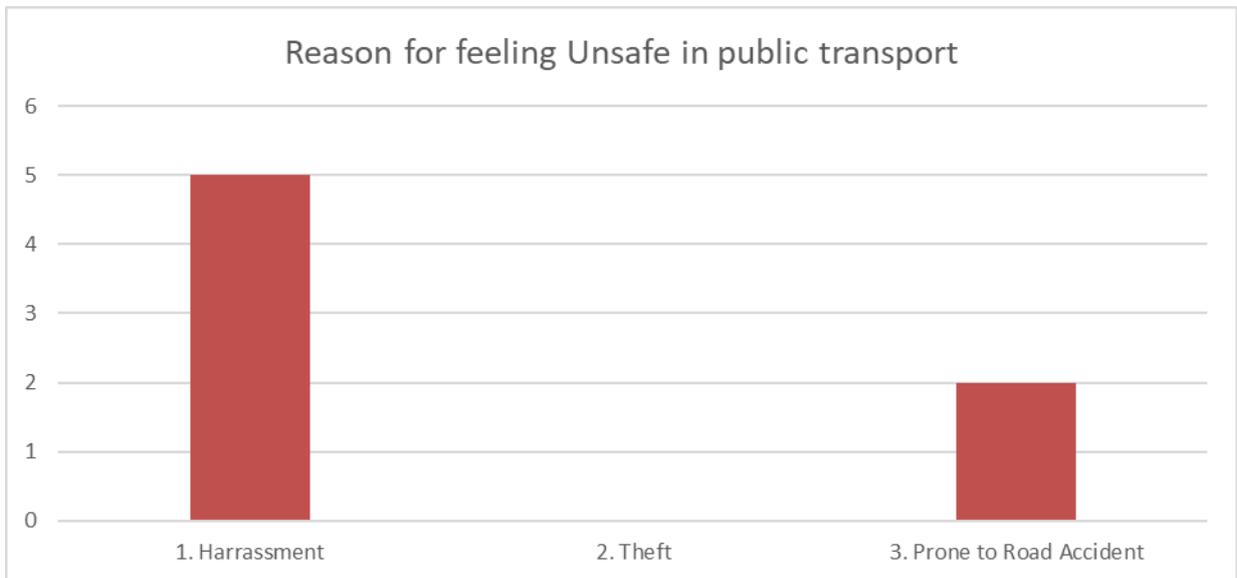


Fig. 60: Reasons for feeling unsafe with public transport

6.1.42 Source of household cooking energy

The main source of energy in the county is fuel wood which accounts 90 per cent of the energy needs of the county population. Petroleum energy is another source accounting for 5 per cent energy needs. Despite the presence of Turkwel Dam, which generates electricity, connection is still low with only 2 per cent of the population accessing electricity and only 10 trading centres connected with power. Electricity power outages are also prevalent in the County. Paraffin, which is another source of energy, is used by 8 per cent of population. Other sources of energy

in the county include charcoal and solar. Almost half (49%) of the respondent use firewood for cooking as shown in figure 61 below.

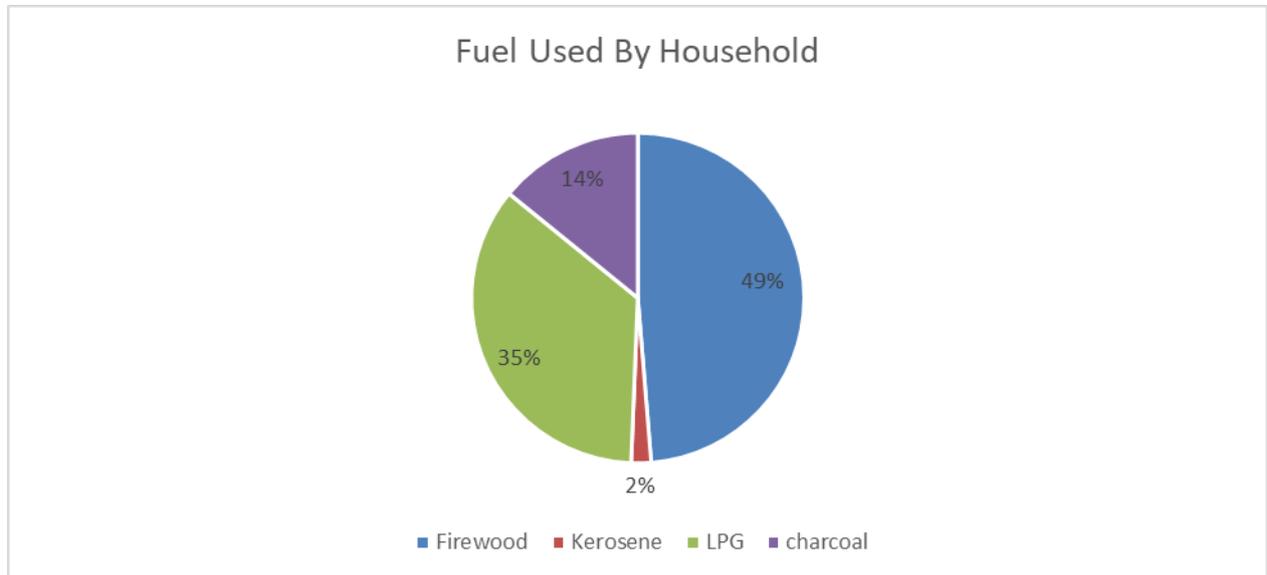


Figure 61: Fuel use by households (Source- Respondents)

6.1.43 Housing Types

The main housing types in the county are grass thatched houses, semi-permanent and permanent houses. In overall, there are 88,026 grass thatched houses, 5,129 permanent and semi-permanent houses mainly found in the urban/town centres. Traditional manyattas are found in some parts of Pokot North and Pokot Central Sub-Counties. The County housing sector is characterized by inadequacy of affordable and decent housing, low investment, extensive and inappropriate dwelling units. Almost half (46%) of the respondents stay in mud walled houses and majority of the houses (88%) have iron sheet roofs. The type of housing materials is provided in figures 62 and 63 respectively. Majority (71%) of the respondents own their houses with only 29 % occupying rental houses as shown in figure 64.

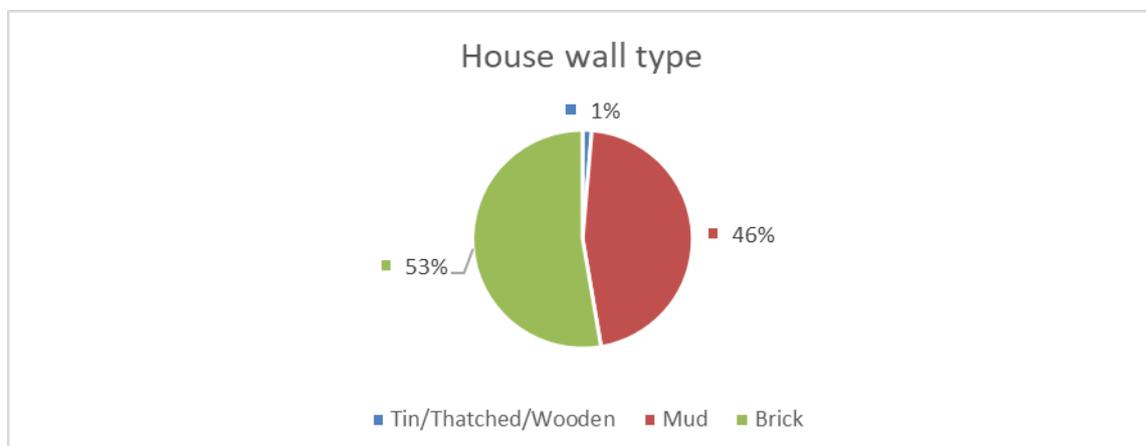


Fig. 62: Wall type (Source- Respondents)

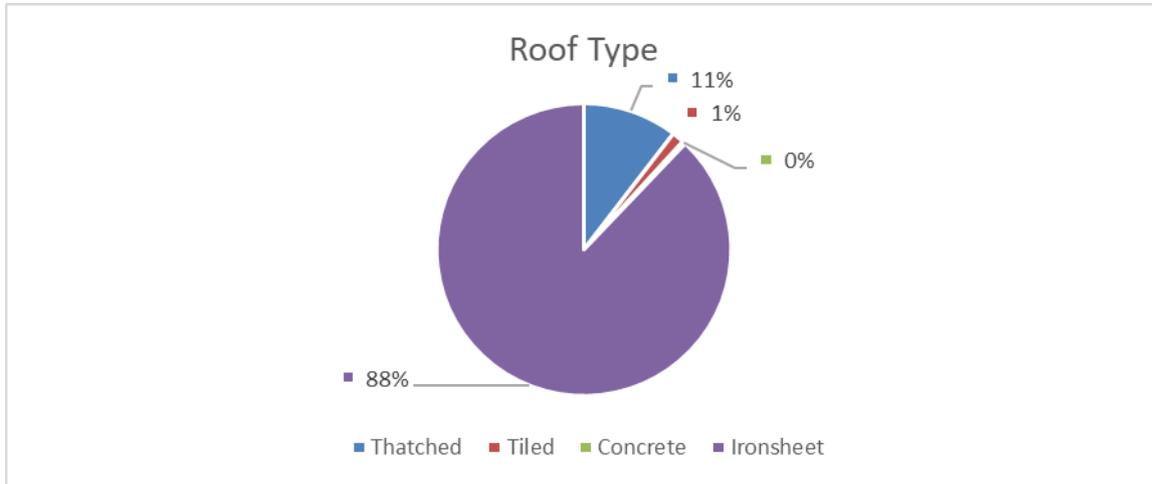


Fig. 63: Roof type (Source- Respondents)

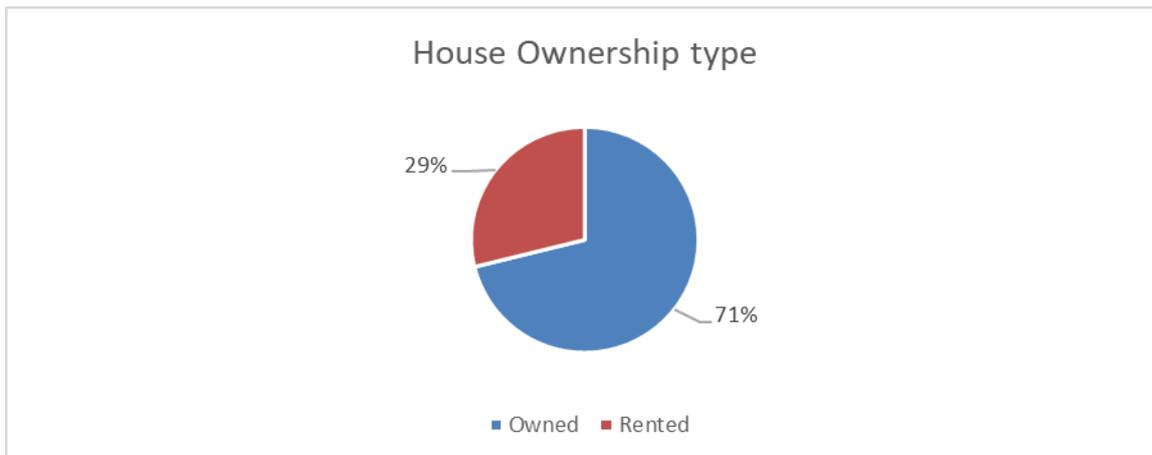


Fig. 64: House ownership (Source- Respondents)

6.1.44 Sanitation

The number of households with latrines in the County stands at 30,449 representing 33 percent of the population. There are 156 households connected with septic tanks, 1,922 households with VIP latrines, and 62,901 households (67%) of the population using bushes especially in the rural areas. Almost all (99%) of the respondents reported that they use toilets as shown in figure 65 below.

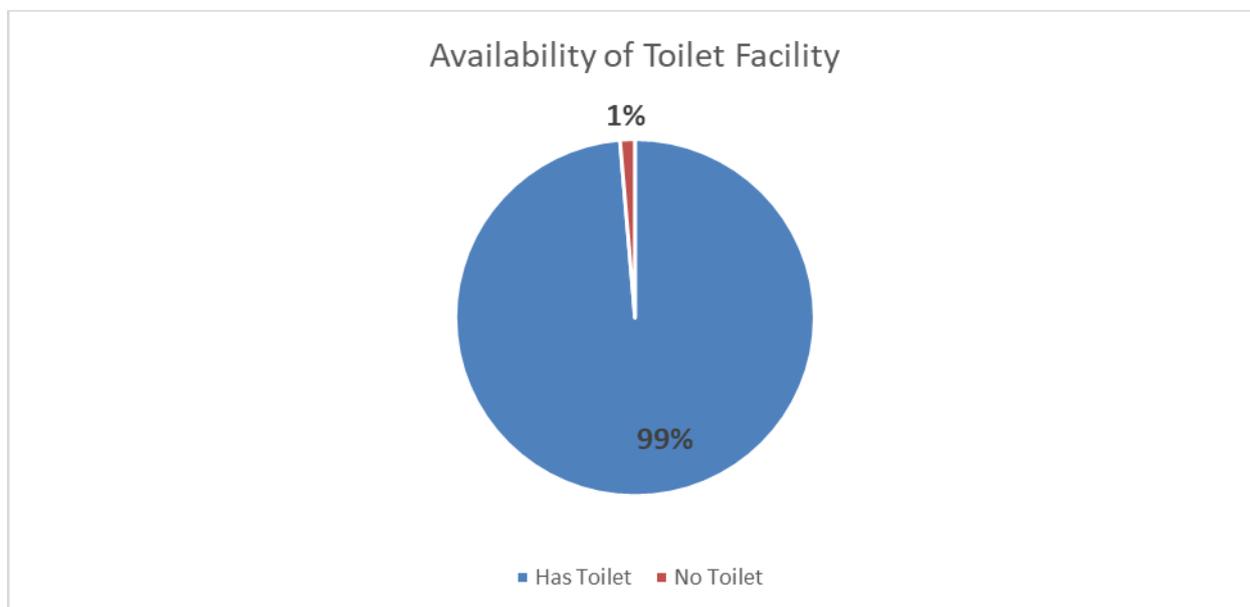


Fig. 65: Availability of toilet facilities (Source- Respondents)

6.1.45 Market

There are several markets in the County. The main ones are Kapenguria in West Pokot Sub-County and Chepareria in Pokot South Sub-County. Other Market Centres include: Ortum, Kabichbich, Sigor, Lomut, Chesegeon, Kacheliba, Orolwo, Sarmach, Cheptuya, Kanyarkwat, Serewo, Kiwawa, Kamelei. The main economic activities in the county urban areas include: retail and wholesale trading, fresh produce and cereals businesses, entertainment and hospitality businesses, service industries including motor garages, cyber cafes, livestock auctions, private education businesses, honey processing, banking and financial services, real estate enterprises and road transport services. Most of these investments fall under the Micro, Small and Medium enterprises category.

6.1.46 Financial Services

The county has 3 commercial banks (KCB, Equity and Barclays), 4 Micro Finance Institutions and 6 SACCOs. Most of these financial institutions have their services concentrated in Makutano Town. Pokot Central and Pokot North Sub-Counties do not have banks or micro finance institutions thus limiting access to financial services. The percentage of citizens owning bank accounts remains low in the county.

6.1.47 Water

Water sources in the county include streams, wells, boreholes, dams, roof catchments and piped water. An estimated 59% of households in the county use rivers/streams as their source of water. The number of households with access to borehole/spring/well water stands at 26,259 representing 28 percent of the population. There are also 8,563 households with access to piped water, 1,210 households have access to piped water into their dwellings. The average distance to nearest water point is 5 km. The main water supplies in the county are Makutano-Kapenguria, Tartar-Keringet, Karas, Kabichbich- Chepareria Water supply systems and are



largely gravity propelled. These schemes are inadequate to serve the general population of the county. It is worth noting that the County does not have a water treatment to ensure that the county’s population access clean drinking water. More than half (54%) of the respondents said that they have access to drinking water while 46% reported that they don’t have access as shown in figure 66. Majority of the respondents get drinking water from the borehole as shown in figure 67 below. The community have requested that the water sources built by road contractor should be handed over to the community upon completion of the contract works to solve the problem of water shortage in the local community.

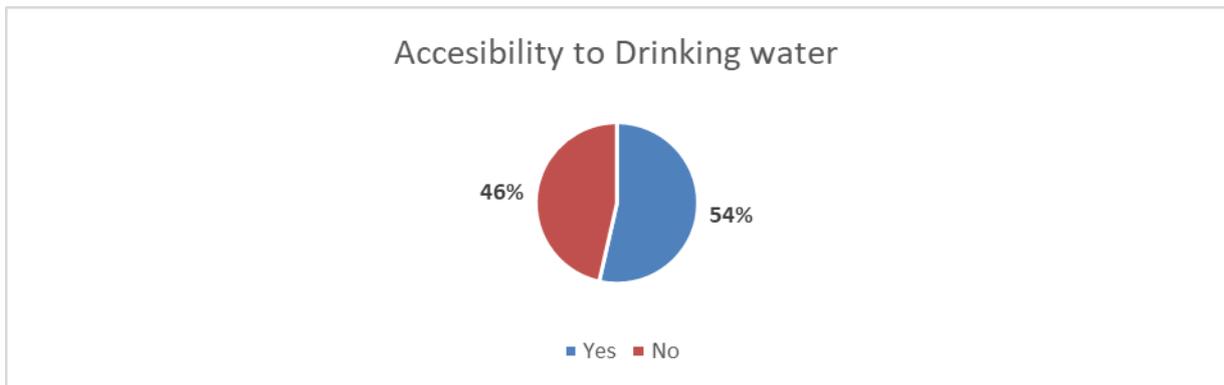


Fig. 66: Access to drinking water (Source- Respondents)

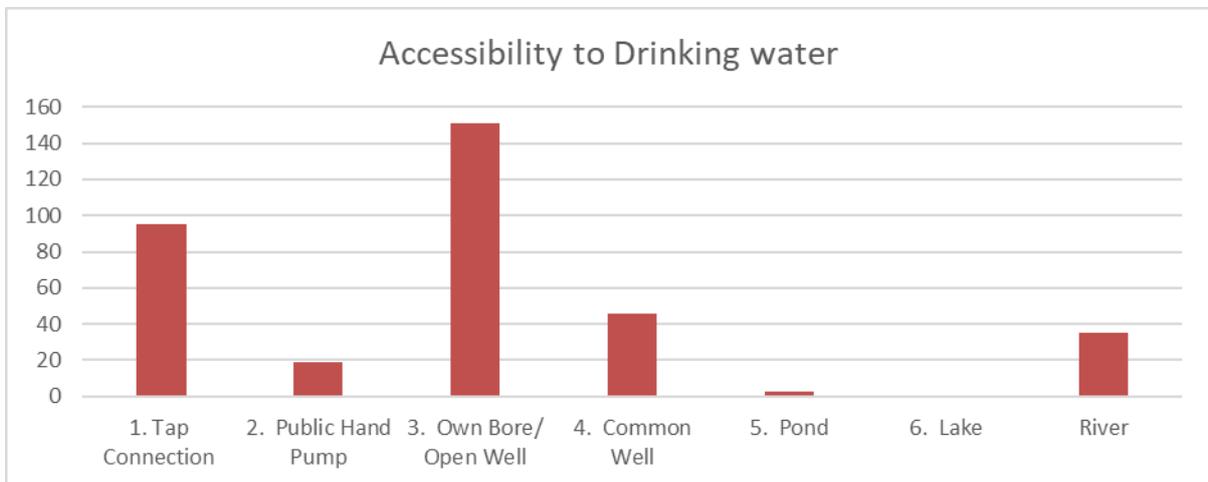


Fig. 67: Source of drinking water (Source- Respondents)

6.1.48 Health

A total of 60 community units (Tier One) are spread across the Sub-Counties. Under Tier Two (dispensaries and health centres) there are 105 health facilities 10 being Health Centres. There are also five county hospitals under Tier Four. The health worker (doctor, nurses and midwives) population ratio stands at 1:1563 as compared to the 1:400 ratio recommended by the World Health Organization. This coupled with the average distance of 25Km to the nearest Health facility makes access to quality health services a challenge in the county. The community have also requested the project to consider financing the construction of one health facility under CSR to reduce the distance that individual cover to get to the hospital.





6.1.49 Morbidity

The leading causes of outpatient morbidity in the county include diseases of respiratory system (30.9%), Malaria (15.2%), Diarrheal diseases (7.9%), diseases of the skin (including wounds) (5.0%), Pneumonia (4.1%), Typhoid fever (3.0%), Accidents-Fractures and injuries (2.7%), Urinary Tract Infections (2.4%), Eye infections(1.4%) and Ear infections (0.9%). The drivers of these conditions include low latrine coverage, poor utilization of long lasting insecticide treated nets, poor hygiene, low levels of education and negative socio-cultural beliefs.

6.1.50 HIV awareness

Most of the respondents reported that they get information about HIV from Radio, TV and print media. Several sources of information about HIV is shown in figure 68 below.

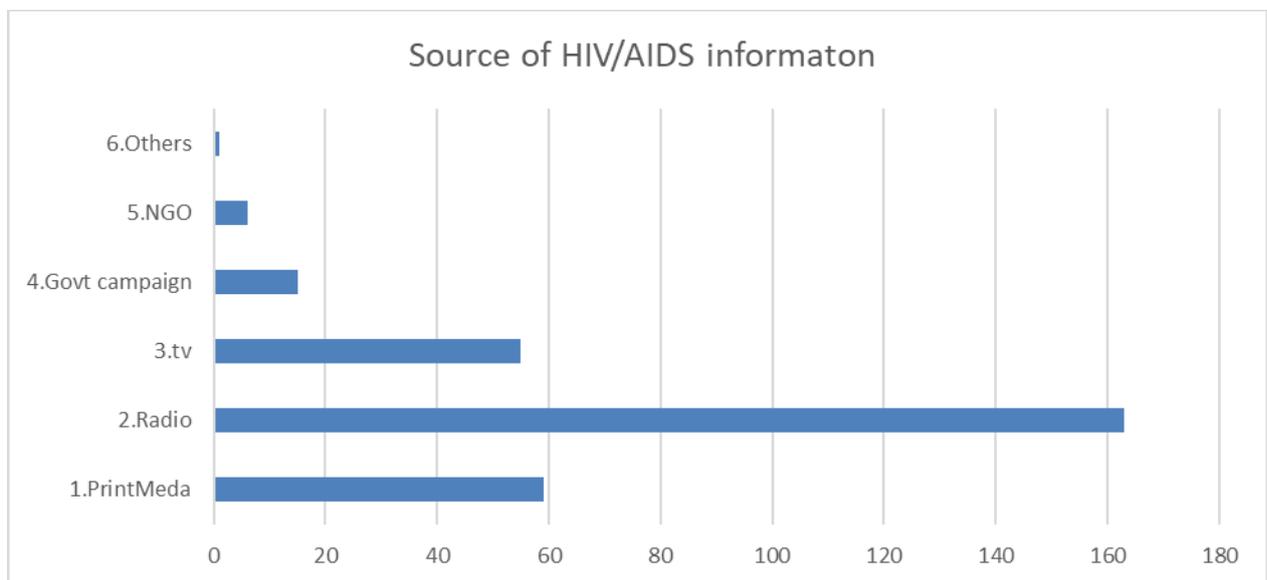


Fig. 68: HIV awareness (Source- Respondents)

6.1.51 Cultural Heritage

Cultural heritage represents history and identity of people; bond to the past, present, and the future. It implies a shared bond and belonging to a community.

The graves

There are five (5) graves which have been identified in this RAP at the ALCs site one location. The graves have been valued taking into consideration the cost of cultural practices and rituals to be undertaken by the affected families in line with the cultural practices and beliefs of the West Pokot community. The treatment of graves will be undertaken by a specific working groups and committees established in this RAP and will include affected households, government authorities, and national specialists.



The compensation for graves will be done to the affected families before commencement of construction works to enable them relocate the graves. This will be part of signing off. The relocation shall take place after obtaining the necessary approval from the relevant government authority and shall be undertaken by qualified experts under the supervision of public health officers and the project implementation team.

Protection, maintenance or any other measures related to sacred sites

In West Pokot County, Cultural heritage includes artefacts, traditional attire, historical monuments and traditional cultural practices. Natural environment is part of cultural heritage since communities identify themselves with the natural landscape. Moreover, the people also consider non-tangible elements such as traditions, oral history, performing arts, social practices, traditional craftsmanship, representations, rituals, indigenous knowledge, herbal treatment, preservation of herbal treatment knowledge and traditional weather forecasting. These are passed on from generation to generation as part of the culture. Pokot Community value beads very much. Various cultural sites have been identified by the project are going to be reserved even during road construction.

Procedure in relation to ‘chance finds

A chance finds procedure is a project-specific procedure which is followed if previously unknown cultural heritage is encountered during project activities. It set out how chance finds associated with the project will be managed.

Types of projects which require chance find procedure

- Construction projects
- Excavations,
- Demolition,
- Movement of earth,
- Flooding or other changes in the physical environment.

Procedure

A requirement to:

- i. Notify relevant authorities of found objects or sites by cultural heritage experts;
- ii. Fence-off the area of finds or sites to avoid further disturbance;
- iii. Conduct an assessment of found objects or sites by cultural heritage experts;
- iv. Identify and implement actions consistent with the requirements of ESS 8 and national law; Train project personnel and project workers on chance find procedures.

6.1.52 Co-operatives Societies

Cooperative societies will play a critical role in the development of the county by providing a better interaction between savings and investment. The County has 83 registered cooperative societies. However, only 36 are active. The rest are either dormant or have collapsed/bee liquidated. The societies are distributed as follows: North Pokot has 7, West Pokot 36, Central Pokot 6 and South Pokot 29. The active cooperatives deal with a variety of activities which





include marketing, savings, consumers and housing, mining, multipurpose and unions. SACCOs have enormous potential to mobilize additional savings and to provide credit, especially to sections of the population that do not use banking services and the low income groups

6.1.53 Public Benefits Organizations (PBOs)

The county has a number of Non-Governmental Organizations working in various sectors to complement the development initiatives of the national and county governments. The notable public benefit organizations in the county include: FAO, AMREF, World Vision. Others are UNICEF, USAID, Kenya Red Cross, Fred Hollows Foundation and Impact Research & Development Organization.

6.1.54 Security

West Pokot County has 4 police stations and 7 police posts. The county also has only one high court based at the county headquarters. County policing authority has not been established. Nyumba Kumi initiative is the only community policing activity currently under implementation in the county.

6.1.55 Religious Facilities

Majority of those living in project Counties are Christians. The notable churches in the areas include Anglican, Roman Catholic and Presbyterians. There are numerous evangelical churches among them the Deliverance, Full Gospel and Assemblies of God. Other faiths such as Islam and Hinduism are also professed especially in major towns.

6.1.56 Gender Issues

The main gender issues are contained under the customary practices where the male vests ownership and control of productive assets. Women in the counties are faced with a number of challenges including inadequate access to credit, lack of technical skills, multiplicity of roles for women and inadequate access to education and training. The tradition delineation of labour persists with women assuming the entire responsibility for childcare, provision of food, water and firewood collection and the general maintenance of the homestead among others. The project is putting measures in place to ensure that women also get benefit from the project. Gender action plan shall be prepared to facilitate this process.

6.1.57 Vulnerable Groups

People with disabilities were identified to face challenges if the road design does not provide specific facilities for this category of persons. Thus, facilities to serve them should be provided adequately including rumps on footbridges as well as signboards. The information from the respondents indicates that widow constitutes majority of the vulnerable group in the project area as shown in figure 69 below.

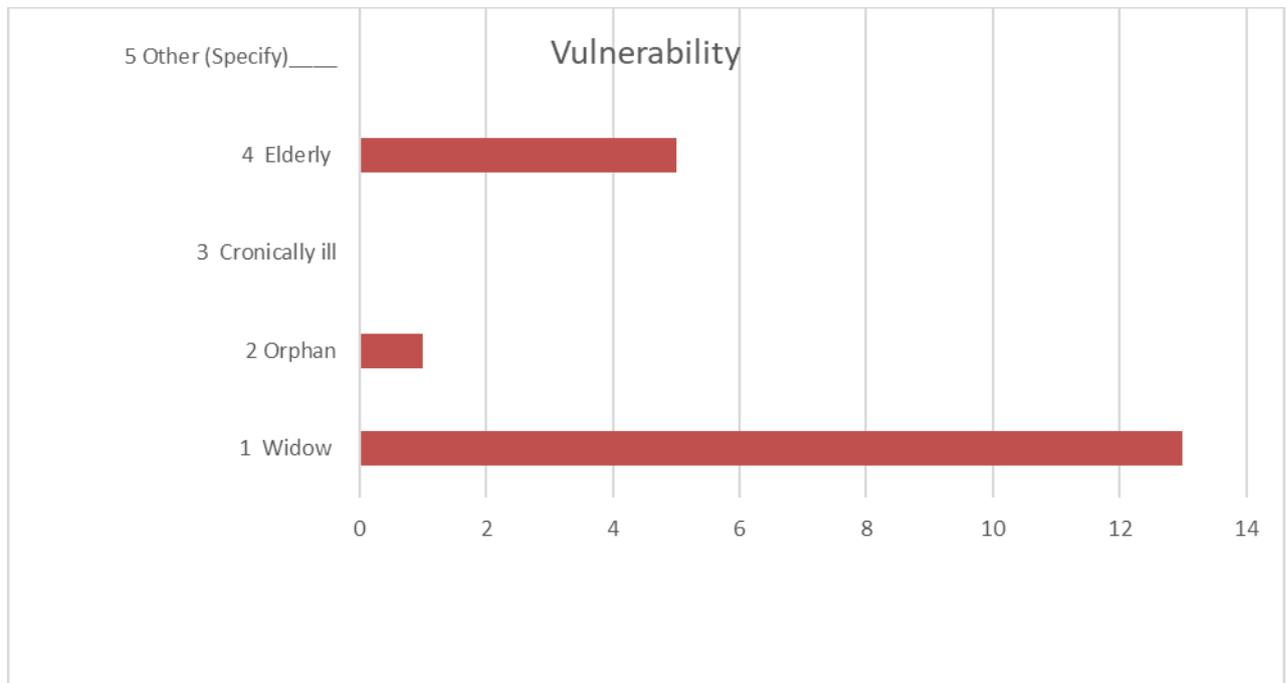


Figure 69: Vulnerable group (Source- Respondents)

6.1.58 Corporate social responsibility

Corporate social responsibility (CSR) was discussed during the various public consultative meetings between KeNHA and members of the local communities. The project may not be able to support all the needs of the community but the majority of the respondents would prefer a market, followed by hospitals and the upgrading of feeder roads as shown in figure 70.

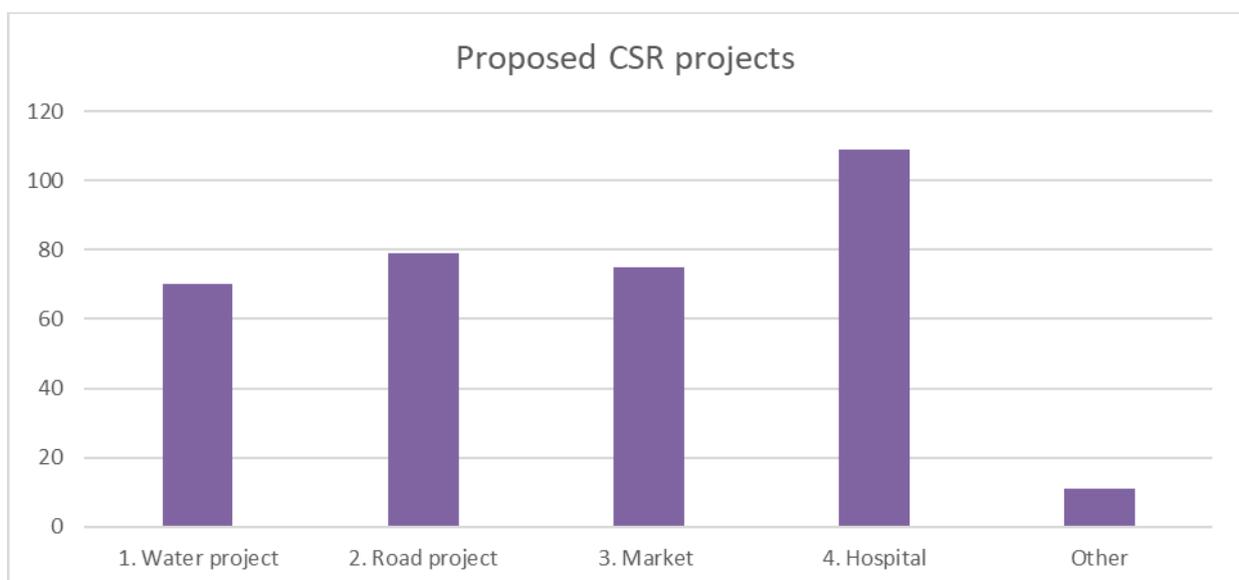


Fig. 70: Proposed CSR projects (Source- Respondents)





1. PROJECT IMPACTS AND MITIGATION MEASURES

Road impacts

The construction of the road will physically and economically affect 405 Households and 8 public and community institutions including churches and schools. The total number of project-affected persons (PAPs) is 1057. The project will have minimal land take where 75 PAHs will lose small portions of their affected parcels. The total land to be acquired for the road improvement project is 6.49 Ha. The greatest impacts are on the PAHs who owns business structures within major trading centers along the proposed road corridor. A total of 97 PAHs would lose business structures and income. A total of 63 PAHs will lose residential and Non-Residential structures. At the same time, 240 roadside traders will lose their business income because of the road improvement project and shall have to be given alternative trading area and appropriate livelihoods recovery options. A total of 4486 trees belonging to 69 PAHs shall also be affected by the project. Five churches and two primary schools are also affected by the road project.

ALCS impacts

The construction of the ALCS will physically and economically affect 5 Households. The total number of project-affected persons (PAPs) is 44. Each of the 5 PAHs would lose part of their land. The total amount of land to be acquired for the ALCS is 8.3 Ha. A total of 20 of business structures belonging to one household would be affected by the project. The PAH will also lose business income. At the same time, 3 PAHs would lose 3 residential structures. A total of 885 trees belonging to 5PAHs shall be affected by the project. Five graves belonging to one household shall be affected by the project. The summary of project impacts is provided in tables below.

Table 28: The summary of project impacts is provided in table 1 below.

PAHs and PAPs	Number of PAHs and PAPs		
	Road	ALCS	Total
Total Project Affected Households (PAHs)	405	5	410
Total Number of project Affected Persons (PAPs)	1057	44	1,101



Table 29: Summary of Impacts

Type of loss	Number of affected households		
	Road	ALCS	Total
PAHs losing Land	75	5	80
PAHs losing Trees	69	5	74
PAHs losing open market trading space at Kesogon market	240	-	240
PAHs Losing residential and Non-Residential structures	63	3	66
PAHs Losing Business Structure & loss of Business	97	1	98
PAHs losing graves	-	1	1
Community Institutions affected			
ACK Church Kamatira	1	-	1
SLA Church Sakat	1		1
Gospel Mission Victory Church	1	-	1
Sisters of Mercy	1	-	1
Chepareria Adventist Church	1	-	1
Kamatira Primary School	1	-	1
St. Michael Primary School	1	-	1
Kenya Forest Service land	1	-	1
Total Institutions affected	8	-	8

Table 30: Land impacts

Type of loss	Road	ALCS	Total
Total acreage in Hectares	6.49	8.3	14.79

Table 31: Non-land impacts/ economic displacements

Type of loss	Road	ALCS	Total
Number of Trees	4486	885	5371
Number of Open market trading spaces	240	-	240
Number of Non-Residential and residential structures	63	3	66
Number of Business Structures	97	20	98
Number of graves	-	5	5

Table 32: Distribution of loss of business income impacts per trading centers

S/N	Trading center	Number of PAHs
1	Maili Saba	16
2	Kamatira Safari hotel center	1
3	Kamatira Sagat center	29
4	Morpus Market center	20



5	Orolwo Market center	17
6	Kesogon Market center	240
Total =		323

Table 33: Vulnerable PAPs Categories

No.	Vulnerable PAPs Categories	No. PAPs
1.	Physically Challenged Persons	2
2.	Elderly / aged	10
3.	Chronically ill	12
4.	Orphans	8
5.	Widows	3
	Total	35

AVOIDANCE PRINCIPLE

Avoidance Principle is the design strategy that offers several improvements in that is socially acceptable in efficient way by multi criteria assessment to enhance safety, and mobility of people and goods, keeping the construction easy. The curves and gradients should be easy. Safety for the road-users should be the primary consideration. The avoidance principle is provided in annex: iv.

ENTITLEMENT POLICY, ELIGIBILITY AND VALUATION

The Kitale-Morpus road project will lead to displacement (economic and physical) by affecting households who use lands or have structures in locations where the project components have been identified. Based on the obligations and entitlements outlined in the Resettlement Policy Framework (RPF) and Financial Agreement between Government of Kenya (GoK) and World Bank, the Project has developed detailed entitlement matrices for the project. This chapter outlines the general principles and processes the Project will follow with respect to entitlement for each category of PAP.

Entitlement Policy

The overall policy of the Kitale-Morpus road project RAP is to provide, whenever possible, in-kind compensation for impacts created by the Project instead of cash compensation. Based on the earlier consultations with the PAHs, 99% of them wanted cash compensation for the affected land instead of land for land (in kind). The project further consulted with the PAPs to find out their resettlement plans. The standards and entitlements referred to directly result from KENHA/RPF, relevant Kenyan Land Laws and regulations, and World Bank’s OP.4.12 and OP. 4.10.

The impacts that will arise from the development of the above infrastructures include: 1) Loss of land; 2) Loss of crops; 3) Loss of trees; 4) Loss of residential and commercial structures; and 5) Impact on religious institutions and communal/educational infrastructure. This report therefore proposes compensation for loss of all these assets at full replacement cost. Additional assistance has also been proposed for the tenants as outlined in the following sections.

Defining Project Affected People (Who is eligible)

In this resettlement action Plan, PAHs are defined as any individual or group of persons (constitutes e.g. a family or clan with shared interest in an asset) whom have legal or customary rights to assets that may be lost because of the project activities, as determined by





the Cadastral Land and Asset Valuation Survey. A PAH may have a right to one or more groups of assets including (1) rights to land, (2) ownership of annual and perennial crops, (3) ownership of trees, (4) homestead property, (5) homestead structures, (6) graves, (7) shrines, and (8) other privately held physical assets located within the development footprint of the Project. As indicated, a group could refer to an extended family or clan who have shared ownership of land or assets.

For this RAP, all assets and land have been recorded against PAHs and each PAH has been given an ID number. Therefore, Entitlement and Eligibility is considered for each PAH with an ID. There may be multiple PAPs within a single household (as used in the socio-economic survey) which claim ownership to different households.

Table 34: Eligibility Framework

Description	Who	How	When
Physically displaced PAP:	Individuals, households or groups who will lose their place of residence due to Land Acquisition required for the Project Area.	As determined by the Cadastral and Asset Survey.	At the time of signing the cut-off date form during the rolling Cut- Off date.
Economically displaced PAP:	Individuals, households or groups who will lose land, assets or access to assets or natural resource that leads to loss of income sources or livelihoods, but does NOT necessarily result in the direct loss of a place of residence.		
Physically and Economically displaced PAP:	Individuals, households or groups who fit into both categories above.		
Land owners losing more than 20% of their total land holding	Eligible land owners who accept to this entitlement	To be determined after the final surveys, determination of official acreages and inspection by NLC	Pre-inquiry and award

Eligibility

Affected PAPs eligible for compensation/replacement include:

- (a) Those who have formal legal rights (Certificate of Title) to land.
- (b) Those who do not have formal legally certified rights to occupy or use the land or other assets but have a claim to the land under the Land Act, 2012.



(c) Those who have a claim to assets (e.g., structures or crops) on the land to be acquired. This includes land owners/claimants with assets on their own land and also those who claim assets on land they do not own/claim. The Asset Survey records all displaced assets, their owner details, the dimensions of the assets, the number of assets and the use and condition of the assets.

(d) Those who have no recognizable legal right or claim to the land they are occupying (i.e. encroachers). These were recorded as part of the Cadastral & Asset survey.

PAHs covered under (a), (b) and (c) are provided compensation and resettlement assistance for lost land, and other assets. PAPs covered under (d) are provided compensation for any assets they lose, and other assistance, as necessary, to achieve the objectives set out in in this RAP and the RPF.

7.1.1 Cut-Off Date

Persons who encroach on the area after the cut-off date are not entitled to compensation nor any other form of resettlement assistance. Improvements made to homes or additional structures added by existing residents after the cut-off date are also not eligible for compensation and resettlement assistance.

According to OP 4.12, Cut-off date is the date the census begins. The cut-off date could also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated to prevent further population influx and opportunistic investments/claims.

The first cut-off date of **30/5/2022** was declared for all the project areas affected by the RAP. This was at the beginning of the entire RAP process for Kitale-Morpus road project when the initial census and asset inventory started. The areas covered by this cut-off date include all the affected areas along the 75 kilometre stretch of the road.

The cut-off dates were publicly disclosed in the project areas and to all the PAHs. The disclosure was undertaken by the RAP Consultant teams, local administration jointly with the field teams. The principle of the cut-off date was disclosed to the community prior to the field surveys. It was communicated to the affected communities during public meetings (barazas) and to individual PAHs during the RAP census fieldwork. They were clearly informed that persons moving to the project areas and those who may do further developments on their affected land after the cut-off dates would not be entitled for compensation and that persons settling in the project area after the cut-off dates may be subject to removal. The Asset register will be updated during RAP implementation as needed to reflect any additional information and justifiable changes and to correct any residual errors or omissions.

7.1.2 Category of PAH

The project identifies the following categories of Project Affected People differentiated by the types of impacts:

- Land Owners
- Land and Crop/Tree Owners
- Land and Structure Owners
- Land, Crop/Tree and Structure Owners
- Structure Owners
- Structure and Crop/Tree Owners





- Crop Owners

7.1.3 Entitlement Matrix

The Entitlement Framework establishes the specific rights and entitlements to replacement assets or compensation and assistance. These rights are granted to any PAHs who will lose proven assets, as determined during the Asset and Valuation study. The framework established the specific rights per the type of loss, as well as differentiating the potential compensation entitlement granted to physically and/or economically displaced PAPs.

Table 35: Entitlement matrix

	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
1.	Dwelling structure used as primary residence	Rightful owners of the affected house and structures who choose to receive cash compensation for the affected houses	<p>Cash compensation for all structures at replacement cost, based on professional valuation.</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Materials from the affected structure may be salvaged at the owner's expense within the notice period given to vacate as defined by the project schedule and prior to demolition.</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically</p>	<p>Cash compensation to owners of affected structures that are either complete or incomplete. All structures must have been present within the project area at the cut-off date and identified and verified through final asset inventory and valuation by NLC.</p> <p>Household level livelihood restoration plan as a condition of</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Monitoring mechanism at main stages of construction of dwelling units.</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
			<p>displaced</p> <p>Taxes and fees, and registration costs for Registration of property to be added to valuation and paid for directly.</p>	<p>compensation payment.</p>	<p>through counselling and liaison to the existing welfare support programs under the CSDO's office;</p>
2.	Structures used for secondary purposes e.g. commercial/business structures	Rightful owners of the affected structures	<p>Cash compensation for all structures at replacement cost, based on professional valuation.</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Housing designs and related three-dimensional models will be presented to PAHs before a final decision on self-construction is made and construction supervision will also be offered as an alternative</p> <p>Materials from the affected structure may be salvaged at the owner's expense within the notice period to vacate</p>	<p>Ownership established through final asset surveys.</p> <p>Household level livelihood restoration plan as a condition of compensation payment.</p> <p>Cash compensation to owners of affected structures that are either complete or incomplete</p> <p>All structures must have been present within the project area</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Business skills training and enlightenment on alternative income generating activities.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Psycho-social support will be provided in conjunction</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
			<p>defined by the project schedule and prior to demolition.</p> <p>Compensation for loss of income for three months or the period of the time actually required to re-establish the business elsewhere if greater 3 months' written notice to vacate the project area.</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced.</p> <p>Taxes and fees, and registration costs for Registration of property to be added to valuation and paid for directly.</p> <p>Any other transitional costs such as extended storage, lost wages by other HH members, etc.</p>	<p>by the cut-off date and identified and verified through final asset inventory and valuation by NLC.</p> <p>PAP must provide proof of business income generation at the affected structure and by the related business carried out at the structure through business records.</p> <p>In the absence of business records to proof business income, the value of the affected business will be determined through</p>	<p>with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
				<p>observations and interviews among other methodologies done by NLC/ Registered Valuers</p>	
		<p>Renter/ Tenants</p>	<p>Reimbursement for unexpired tenancy / lease period or the amount of deposit or advance paid by the tenant to the landlord or the remaining amount at the time of expropriation, or three months' rent, whichever is greater.</p> <p>Compensation for loss of income for the period of the time required to re-establish the business elsewhere: 3 - 6 months' income (or longer if justified)</p> <p>3 months' written notice to vacate the project area.</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced</p>	<p>Proof of a formal tenancy agreement for the occupancy of the affected houses has to be provided.</p> <p>In the absence of a formal agreement, a month rent receipt has to be provided.</p> <p>PAP must provide proof of business income generation at the affected structure and by the related business</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Business skills training and enlightenment on alternative income generating activities.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Assistance in locating and negotiating replacement rental premises</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
			Any other transitional costs such as extended storage, lost wages, deposits and transaction fees, etc.	carried out at the structure through business records In the absence of business records to proof business income, the value of the affected business will be determined through observations and interviews among other methodologies done by NLC/ Registered Valuers	
		Workers	Compensation for loss of income for three months or the period of the time actually required to find new employment opportunity elsewhere if greater.	Proof of income or minimum wage	Assistance to facilitate relocation with business owner or obtaining alternate employment
3.	Loss of business income/wages	Persons earning livelihoods (income or wages) from	Compensation for loss of income for three months or the period of the time actually required to	PAP must provide proof of business income or	Financial training for the sustainable and prudent



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
		<p>affected assets such as stone quarrying and sand harvesting and running businesses in structures that will be affected</p>	<p>re-establish the business elsewhere if greater</p> <p>3 months' written notice to vacate the project area.</p> <p>Taxes and fees, and registration costs for Registration of property to be paid for directly in the valuation</p> <p>Any other transitional costs such as extended storage, lost wages, etc.</p>	<p>wages generated from the affected resource and affected business</p> <p>In the absence of business records to proof business income, the value of the affected business will be determined through observations and interviews among other methodologies done by NLC/ Registered Valuers. Workers will receive minimum wage.</p>	<p>use of cash compensation</p> <p>Business skills training and enlightenment on alternative income generating activities.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Workers will receive assistance to facilitate moving with the business or obtaining similar employment</p>
4.	Sanitation facilities (Pit latrines & bath shelters).	Rightful owners of the affected structures (residential, commercial and other)	<p>Cash compensation for all structures at replacement cost, based on professional valuation.</p> <p>Statutory Disturbance Allowance of 15% of</p>	Cash option is available to owners of affected structures that are either complete or incomplete	Financial training for the sustainable and prudent use of cash compensation



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
			<p>compensation amount.</p> <p>Materials from the affected structure may be salvaged at the owner's expense within the notice period to vacate defined by the project schedule and prior to demolition.</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced</p> <p>Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly</p>	<p>All structures must have been present within the project area by the cut-off date and identified and verified through final asset inventory and valuation by NLC.</p> <p>NB: Owners already given a replacement house that already includes these facilities will not receive additional cash compensation.</p>	<p>Monitoring mechanism at main stages of resettlement .</p>
5.	Moveable and other structures such as fences, livestock enclosures, and livestock water points, etc.	Rightful owners of the affected structures	<p>Cash compensation for all structures at replacement cost, based on professional valuation.</p> <p>Statutory Disturbance</p>	<p>Cash compensation to owners of affected structures that are either complete or incomplete. All</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Monitoring</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
			<p>Allowance of 15% of compensation amount.</p> <p>Materials may be salvaged at the owner's expense within the notice period to vacate defined by the project schedule and prior to demolition.</p> <p>Assistance with transport for their property (including livestock) and salvaged properties during resettlement for all PAHs who will be physically displaced</p> <p>Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly.</p> <p>Any other transitional costs such as extended storage, temporary shelter or higher costs of feed for livestock, etc.</p>	<p>structures must have been present within the project area by the cut-off date, identified, and verified through final asset inventory and valuation by NLC.</p>	<p>mechanism at main stages of resettlement .</p>
6.	Land for Primary Residential land/ plot – permanent loss	Registered owner or claimants of customary held land on	Self-managed relocation (Cash compensation with relocation plans overseen by the RAP	All PAHs in this category must prove that the affected	Financial training for the sustainable and prudent



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
		<p>which complete immovable housing structure is established for primary residence.</p>	<p>implementation Consultant and the Consultant team).</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced</p> <p>Taxes and fees, and registration costs for Registration of property to be added to valuation and paid for directly.</p> <ul style="list-style-type: none"> - Legally established interests, including user rights, on community land will be compensated in accordance with Kenyan Law. Replacement housing designs; - Methodology for selecting 	<p>land is their primary residence and either are PAHs who own other suitable resettlement land or have identified suitable resettlement land and have intention of buying it upon receipt of cash compensation (either through formal or traditional verification processes).</p> <p>Household level livelihood restoration plan as a condition of compensation payment.</p> <p>PAHs must give proof of ownership of other suitable parcel of</p>	<p>use of cash compensation</p> <p>Provision of support registration cost and required formalities to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
					<p>on</p> <p>Transport and personnel to help PAHs in moving around the host communities' areas and to identify suitable land and negotiate with the potential land sellers.</p> <p>Provision of support registration cost and required formalities to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Psychosocial support will be provided in conjunction with the County Social</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
					Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;
7.	Permanent loss of agricultural farming land	Registered owners or claimants of customary held lands	<p>Self-managed relocation (Cash compensation with relocation plans overseen)</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Assistance in conveyancing and transferring title</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced</p>	<p>PAPs must prove ownership (either through formal or traditional verification processes) at the time of NLC verification</p> <p>Acceptable Household level livelihood restoration plan as a condition of compensation payment. Payment of compensation</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Agriculture and livestock development projects and support programs targeting the PAHs and host communities</p> <p>Provision of support</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
			<p>Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly.</p> <p>Legally established interests, including user rights, on community land will be compensated in accordance with Kenyan Law; Land Act (See chapter 6)</p>	<p>n for lost assets and land made before displacement.</p> <p>PAHs must give proof of ownership of other suitable parcel of land or a verifiable intention to enter into a binding/ written sale agreement with a potential seller of the suitable parcel of land before release of cash compensation.</p> <p>To ensure security of tenure to the resettled PAHs, the Legal Consultant will facilitate the execution of Sala Agreements</p>	<p>registration cost and required formalities to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
				<p>between the sellers of land and the PAHs.</p> <p>In the absence of business records to proof business income, the value of the affected business will be determined through observations and interviews among other methodologies done by NLC/ Registered Valuers</p> <p>On community land customary uses of the land are recognised in the Ranch charter. These rights will be compensated under Kenyan Law where they</p>	



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
				are impacted by the project.	
8	Vulnerable Support Program (Tailored)	All PAPs in the project area are considered vulnerable due to poverty and are hence entitled to livelihood restoration support. This category refers to PAHs with other forms of vulnerabilities which may require special consideration. Vulnerable individuals and families who may find it difficult to cope with the Transition e.g., the elderly (over 70 years old), physically challenged, those suffering	<p>Transitional hardship assistance program appropriate to specific cases and based on Project assessment, including: -</p> <p>Priority in physical mobilization and transfer to resettlement plot;</p> <p>A preference for in-kind compensation</p> <p>Assistance in the compensation payment procedure</p> <p>Resettlement near to kin and former neighbours to maintain informal support networks where feasible</p>	Identified through final census survey based on agreed vulnerability criteria relevant to Project.	<p>Special assisted transit to new land;</p> <p>Additional moving, loading and unloading assistance, if necessary;</p> <p>Other specific support related to moving process (e.g. medical assistance) identified by support case workers.</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
		<p>from chronic illness; widows and children who are under 18 years</p>			<p>through counselling and liaison to the existing welfare support programs under the CSDO's office;</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced</p> <p>Follow up on orphans to make sure they identify and register in school upon relocation. The Persons with Disability (PWD) and those HIV affected access</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
					<p>support services in areas of new settlement.</p> <p>Widows, orphans and affected vulnerable persons to be assisted through local administration and family for issuance of land registration documents;</p> <p>Relocation of the widows, orphans and vulnerable persons to be facilitated and receive adequate notice to relocate</p> <p>Assist and monitor orphans to make sure that these children get back to school in</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
					<p>case of relocation and ensure they are compensated</p> <p>The vulnerable such as mentally sick, people with disabilities, aged, chronically ill to access information and opportunities</p> <p>Monitor the resettlement of the vulnerable e.g. orphans to make sure they gain school transfers; the HIV affected and chronically ill have access to medication and the persons with disability are locally registered</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
					with APDK office.
14	Graves/ cemeteries	Family and community members	<p>Complete relocation of graves (exhumation, transportation and reburial) to designated cemetery around the project area or at the PAPs resettlement land as per individual preference</p> <p>Cash compensation at a rate/ grave that is determined by NLC in consultation with the PAHs and project staff. This cash is meant to assist the affected PAHs and communities to conduct customary ceremonies during the relocation of graves. This was specifically requested by the PAPS at various consultation forums. Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly.</p>	<p>Familiar graves identified during asset inventory and/or confirmed through the Cultural Heritage survey.</p> <p>Unmarked graves identified through chance-find do not qualify for ceremonial assistance and will be dealt with in accordance with the Chance Finds Procedure in the Cultural Heritage Management Plan.</p>	Contractors equipment/ excavator to relocate the graves when requested by the PAPs or community members
15	All Actual transitional losses	All	In-kind assistance, subsistence allowances, lost income or wage extension payments,	Ensure that PAPs whose asset substitution or LRP	



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
			<p>demonstrable additional expenses and any verifiable loss incurred during the transition period and prior to completion of the restoration process and not explicitly covered by allowances included above. These transitional support allowances should be phased out gradually as living conditions and livelihoods/incomes are restored. All compensation for lost assets are required prior to project implementation.</p>	<p>takes longer than three months, or who experience additional transitional costs are properly supported during transition and compensated for any losses</p>	
16	Non-land owners	PAHs who are informal occupants that will lose their main residential structures constructed on land that they have no legal claim on	Legal land owners of the land they occupy to share the replacement land with them so that they can build new residential structures on the land and resettle	These are relatives of the legal land owners on whose land they have been allowed to build the structures and cultivate crops/trees but they have not been given	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Provision of support registration cost and required formalities</p>



	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
				legal entitlement to the land	<p>to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p>

Valuation Methods

The valuation methodology is summarized in this section.



Valuation Process for Land and other Assets

The impacts that will arise from the construction of the roads includes:

- Loss of land;
- Loss of trees;
- Loss of residential structures and business structures
- Loss of crops

This RAP report therefore requires compensation for loss of all assets at full replacement cost in accordance with ESS 5.

7.1.4 Land - Market Research and Valuation

To help establish the replacement cost, the valuation team carried out market research for land, structures, crops and trees in Trans Nzoia and West Pokot Counties before commencement of valuation exercise. This exercise was primarily aimed at attaining relevant and reliable information about market transactions within and near the project area. The valuation team carried out research to elicit comparable value for land within and near the project area. The exercise was carried out together with the market research for crops and trees.

1.6.1.1 Land Market Research - Objectives

The exercise was mainly aimed at attaining relevant reliable information about market transactions for the land within and near the project area. The collected information informed the valuation of the affected land at the comparison method.

1.6.1.2 Land Market Research - Target PAPs

The market research exercise targeted the different land owners in the affected villages. It also targeted key informants such as the village elders, Land Office in Trans Nzoia and West Pokot Counties, legal land conveyance firms in Kitale who have knowledge of land transactions by virtue of their work.

1.6.1.3 Valuation of land using market rates and full replacement cost Method

Comparable sales method has been adopted for valuing the affected land. This is based on the open market comparison of the land to be valued with what other similar parcels of land are currently selling for in the area but considering the differences between them. The comparability of the land is based on the use, location, site conditions and income related factors.

The valuation for land is based on full replacement cost. The compensation amount shall be sufficient to enable the PAPs to purchase a replacement land of a similar value within the project area. The cost of surveying, conveyancing and title production as well as 15% relocation or disturbance allowance is included in the calculated costs. National Land commission has been consulted on the use and application of these parameters and they shall also apply the same while conducting their valuation for compensation as per laws of Kenya.

7.1.5 Valuation of structures using current replacement approach

The structures have been valued at full replacement cost. Most of the structure owners especially those within the trading centres do not have the legal ownership to the lands



where they have built the structures as the market centres are public land owned by the county governments. However, the full census has been conducted on the PAPs and they shall be compensated for structures and loss of business. The cost is calculated based on the prevailing market rates considering the current cost of construction materials, transportation, labor costs, expert fees, taxes and disturbance allowances. National Land commission has been consulted on the use and application of these parameters and they shall also apply the same while conducting their valuation for compensation as per laws of Kenya.

7.1.6 Valuation for loss of business income

Valuation for loss of business income is based on the income records presented by the individual PAP. The valuation for loss of business income has been calculated for three months and included in the valuation matrix. National Land commission has been consulted on the use and application of these parameters and they shall also apply the same while conducting their valuation for compensation as per laws of Kenya.

7.1.7 Replacement Cost Valuation of Trees and permanent fruit crops

The emphasis was to ensure full replacement cost. For trees affected, the valuation adopted the local KFS (Kenya Forestry Services) rates, considering the age factor for trees. The valuation cost for permanent fruit trees has factored the time it will require for the PAPs to re-establish the tree crops before they resume harvesting of fruits. The loss of harvesting period has been factored. National Land commission has been consulted on the use and application of these parameters and they shall also apply the same while conducting their valuation for compensation as per laws of Kenya.

9. COMPENSATION PACKAGES AND TIMING





All compensation payments are to be paid to PAHs sufficiently in advance of project implementation to enable assets and livelihoods to be re-established in a timely manner. Transitional allowances shall also be paid together with other entitlements prior to the commencement of construction. Records of transactions, (including dates) for PAHs prior to project implementation shall be maintained and all transactions to take place prior to the construction phase of the project. The implications of only providing compensation payments during or after project implementation shall expose the PAPs to the risk of homelessness and other negative impacts associated with construction works and hence PAPs will receive full compensation before commencement of works.

All the PAPs shall be compensated in cash for the affected assets, which include land, structures and trees. NLC shall value the affected assets and pay for them at full replacement cost. Only small portions of land shall be acquired from the affected households for the construction of the road and ALCS. The government has no intention of buying replacement land for any PAP as there are no widespread land acquisition impacts under this RAP. During the public consultations, it was clear that all the PAPs prefer cash compensation.

Loss of Residential Land

Households which will be losing residential land (that is land with a structure recorded as residence on the land) are eligible to cash compensation at replacement value as per the Entitlement Matrix. However, this RAP notes that not all PAHs can lay legal claim over the land they occupy and use

Loss of Farmland

Households which will be losing farmland (i.e. without structures on it) are eligible for cash compensation at replacement value as per the entitlement matrix. Transitional support will be provided as necessary to all economically displaced persons, based on a reasonable estimate of the time required to restore their income-earning capacity, production levels, and standards of living.

Loss of Residential Structures

All primary residential structures are located on land that is split into 2 parts i.e. residential and agricultural. Land use in the project affected area is also split into 2 uses where a portion of the parcel of land is used for residential purposes (homestead with primary residential structures) and the remaining portion (often the largest) serving as agricultural land. The project will give PAPs with an affected primary residence cash compensation at replacement cost as required by ESS 5.

Loss of Business Structures

A total of 158 structures belonging to 113 PAHs are affected by the project, out of which 83 are commercial structures meaning that the affected PAHs will lose business income. Loss of income and business opportunities shall also be computed and included in the compensation package.

Loss of trees

Trees shall be compensated as per the rates provided by the KFS. Trees shall be compensated in cash.





Special Measures for Vulnerable Households

The vulnerable groups of persons affected by the project are 35. Those identified included elderly, physically challenged; those suffering from chronic illnesses, orphans and widows. They shall be supported by the RAP implementation committee and Rap implementation consultant to secure their compensation packages. In addition, the widows will need extra support in terms of land succession making sure they are not disinherited.

Table 36: Vulnerable PAPs Categories

No.	Vulnerable PAPs Categories	No. PAPs
2	Physically Challenged Persons	2
3	Elderly / aged	10
4	Chronically ill	12
5	Orphans	8
6	Widows	3
	Total	35

9.1.1 Household Sign-off

The National land commission shall provide the PAPs with award document which shall include:

- Details of agreements concerning impacted assets and the delivery of payments, entitlements and contracts.
- The process of ensuring that each PAH understands and agrees to their entitlements

Detailed record keeping of all of the above and schedule for follow-up visits with PAHs. The PAPs are expected to sign-off the awards if they shall be in agreement with its content. The PAPs have the option to appeal through the project GRM in case of any dispute with regards to entitlement matrix presented by NLC.

9.1.2 Compensation Options

Physically displaced Project Affected People (PAPs)- structure owners) will be given options to choose between cash compensation or replacement structures)- Where cash compensation is chosen, the PAPs should be informed about the risks of cash compensation. The PAPs choices on compensation options should be made based on accurate information provided to them by the project team. The detailed documentation on the process regarding the physically displaced PAPs who opt for cash compensation is required for monitoring of the RAP implementation process.



10. LIVELIHOOD RESTORATION STRATEGY

10.1 The structure of LRS

Livelihood Restoration Systems (LRS) includes the following:

- i. -Livelihood programme approach;
- ii. -Overview of livelihood assets and capabilities;
- iii. -Livelihoods needs assessment, derived from the Census survey;
- iv. Proposed livelihood restoration strategies
- v. -Transitional hardship assistance for vulnerable households;
- vi. -Management requirements for the duration of the livelihoods programme;
- vii. -Monitoring requirements, specifying verifiable indicators and outputs to measure implementation progress;
- viii. -Opportunities for partnerships (e.g. NGOs, CSOs and government agencies) that can assist in the delivery of activities;
- ix. -Schedule and Budget that is fully integrated with the RAP schedule;
- x. Local Employment and Procurement Policy to facilitate labour for the project being sourced from PAHs (particularly those identified as vulnerable) wherever possible;
- xi. Community Development Plan (CDP) to facilitate additional benefits to the wider communities adjoining the project.

10.2 Livelihood programme approach;

Due to the high level of vulnerability of the project affected persons and/or households; a livelihood restoration plan tailored to the needs of each individual household shall be developed. Different Livelihood Restoration Programmes (LRP) are proposed in this RAP to be implemented by KeNHA with the assistance of relevant government agencies and the local community leadership. LRP will include in-kind support given to PAPs in addition to the compensation they will receive from NLC for loss of their physical assets and loss of income and livelihood streams.

Livelihood programmes shall be negotiated with PAHs and relevant government representatives to develop the most feasible and desirable activities. In rural areas, the LRP will focus on supporting and strengthening existing agricultural livelihoods. In urban areas, in addition, livelihood programmes will focus on supporting micro and small enterprises,





ensuring rapid re-establishment of businesses in conjunction to capacity building measures. Livelihoods programs shall be relevant to existing practices undertaken by PAHs and will not significantly alter their way of life. Women and men in displaced households will be considered to have equal entitlement to livelihood restoration activities.

10.3 Objectives of LRP

ESS 5 defines the main objective of livelihood restoration as: To improve, or restore, the livelihoods and standards of living of displaced persons. The document further states that: For persons whose livelihoods are land-based, replacement land that has a combination of productive potential, locational advantages, and other factors at least equivalent to that being lost should be offered as a matter of priority.

For persons whose livelihoods are natural resource-based, implementation of measures will be made to either allow continued access to affected resources or provide access to alternative resources with equivalent livelihood-earning potential and accessibility. If circumstances prevent the project implementing agencies from providing land or similar resources as described above, alternative income earning opportunities may be provided, such as credit facilities, training, cash, or employment opportunities.

ESS 10 specifically states that when it is not feasible to avoid relocation the borrower in the development of a RAP must obtain broad support for relocation of the affected Indigenous Peoples' communities as part of the free, prior, and informed consultation process including ensuring that the RAP is prepared in accordance with the requirements of ESS 5 that is compatible with the Indigenous Peoples' cultural preferences, and includes a land-based resettlement strategy. Where possible, the resettlement plan should allow the affected Indigenous Peoples to return to the lands and territories they traditionally owned, or customarily used or occupied, if the reasons for their relocation cease to exist.

A Vulnerable and Marginalized Groups Plan (VMGP) for Kitale – Morpus Road Project was prepared. The applicable elements of the VMGP including Free, Prior Informed Consultation (FPIC) have been used in the development of this RAP including use of culturally appropriate consultation methods, ensuring the Indigenous People derive benefits from the project while giving special attention to the concerns of the women as required in the ESS 10.

In addition to the guidance from ESS 5, Livelihood Restoration Strategies is based on the following factors:

- Strive for household food sufficiency and food security;
- Involve beneficiaries and other local stakeholders in choosing and implementing LR initiatives;
- Respect gender differences (roles, rights, responsibilities) and provide equally for women, men, girls and boys;
- Differentiate the needs of different types of PAPs, and provide for these appropriately;
- Strive for sustainable livelihoods (institutional, financial, environmental and social sustainability) by the end of the interventions;
- Build on present strategic plans for the County;
- Encourage household income diversification to spread risk;
- Base income-earning opportunities on tried and tested approaches in the Project area;





- Consider both incremental and radical changes;
- Consider options across the 5 livelihood capitals (human, social, financial, physical and natural);
- Remember the vulnerable, and provide specific measures to help them, and;
- Ensure options are relevant, practical and achievable.

Entitlements for livelihood and income restoration are presented in the Detailed Entitlement Matrix contained in this RAP, and programs will be implemented together with PAHs according to their needs and requests. The public consultation process has already identified some preferences and concerns based on PAHs current livelihoods strategies and identified opportunities and limitations. The public consultation process has led to initiatives taken by communities themselves including; PAHs actively looking for suitable replacement land available on a willing-buyer willing-seller basis.

PAHs are entitled to participation in livelihood restoration programs based on priorities identified by affected households during consultations between individual PAHs.

10.4 Aims of Activities

The Project aims to develop sustainable Livelihood Restoration (LR) programmes with the following key requirements:

- To position the project as a partner in multi-stakeholder processes rather than as the principal actor in promoting local development;
- To avoid dependency, encourage self-reliance, and create long-term benefits that can outlast project support;
- To focus investments on capacity building, participatory processes, and organizational development to enable local communities, institutions, and partners to take progressively greater roles and responsibilities;
- To reinforce, rather than replace, local institutions and processes;
- To measure returns for both the project's social license to operate and the community (resettlement impact mitigation), and;
- To use output and outcome indicators to measure the quantity and quality of change.

10.5 Key principles of Livelihood Restoration

The functions of Livelihood Restorations are as follows:

- LR will focus on the enhancement of livelihoods through the improvement of income, increased production, and a better quality of life.
- LR will ensure that land-based programmes are discussed and agreed to with affected communities only if replacement land is available and secured. When there is insufficient replacement land, other measures such as improving of productivity of remaining land or training/capacity building will be explored.
- LR will equally endeavor to re-establish existing business enterprises and provide additional support to business owners in order to improve business operations (marketing, administration, operational efficiency) through training and other support measures.
- LR will be the focus of all monitoring and evaluation programmes until after completion of the resettlement to assure that the Project has successfully restored and improved livelihoods and standards of living.





10.6 Overview of livelihood assets and capabilities;

LRP will be aligned with existing resources, knowledge, skills and household experiences. All PAPs are eligible for LRP support because their livelihood is mainly business and agriculture-based with 70% of the PAPs operating business enterprises. The main types of livelihoods encountered in the project affected area of influence are land-based livelihoods and non-land micro-businesses (e.g. tailoring, internet CD, hairdressing, boda-boda), and livelihood options have been selected according to the current documented livelihood activities.

i. Livelihoods needs assessment, derived from the Census survey;

The greatest impacts of the project are on the PAHs who owns business structures within major trading centers along the proposed road corridor. A total of 83 PAHs would lose business structures and income. At the same time, 240 roadside traders will lose their business income because of the road improvement project and shall have to be given alternative trading area and appropriate livelihoods recovery options. Eleven (11) households shall lose their agricultural land including crops and trees. The summary of project impacts on the livelihoods of PAPs is provided in the table 38 below.

Table 37: Impacts of project on livelihoods

Type of loss	Road	ALCS	Total
Number of Trees	4486	885	5371
Number of Open market trading spaces	240	-	240
Number of Non-Residential and residential structures	63	3	66
Number of Business Structures	97	20	98
Number of graves	-	5	5

ii. Illiteracy and unemployment

Literacy and numeracy levels are low, especially for women. This is a consequence of low secondary school attendance. These limit access to employment outside farming and unskilled labour, and limit the acquisition of knowledge through written media.

iii. Business development



Several types of one-person micro-businesses were identified during the socio-economic survey, including fish trading, livestock trading, boda-boda, hair dressing, tailoring and phone charging where both women and men are involved. None of these groups had received any business training, and all said getting finance of any sort was difficult in order to expand the business. In several centres, PAs were found selling goods on the road reserve especially within the trading centres. These groups may need to be supported in a number of ways – injection of capital for expansion, training and provision of market stalls at affordable rates. The RAP implementation team will need to undertake feasibility study and further consultations with stakeholders and PAs to develop a consensus on the way forward.

iv. Crop farming and animal husbandry

One of the most important livelihood strategy of the PAs is cattle raising. Affected people consider livestock especially in Pokot as their bank savings. When these villagers want to make a large investment e.g. build a house, purchase a motorbike or support marriage of their children, they raise money through selling of livestock. They also consider the cattle as security for “good health”, in time of illness they could sell individual animals to get medical treatment.

Livestock plays an important role in the lives of people especially among the Pokot and the project will need to see what can be done to help the community modernise cattle rearing and discourage negative practices associated with livestock keeping among the community. PAs have cattle and the Project may need to support PAs on a livestock improvement as a component of the project. Thus the RAP implementation team will need to assess current cattle raising procedures and assess potential for improvement as part of the support measures.

Every family usually has at least one or two chickens, and poultry is an important option in livestock raising. Poultry is mainly raised for the market and sometimes sold to middlemen who come to the village to buy. Occasionally poultry will be used for consumption by the household themselves; Food is the main cost for the villager who determines either making a loss or making a very good profit. While large poultry enterprises provide cheap poultry from mass production to the markets throughout the country, people in the country still prefer free range chicken from the villages, which has less meat, but more taste; and can demand a much higher market price. Poultry raising is also an important livelihoods strategy that the Project will focus on for poorer and more vulnerable households, as investment requirements are low, birds can be kept near the home, and the demands of raising them are limited.

The Project will support interested households with skilled members in the development of small-scale local farming-businesses engaging in production of farming inputs: seeds, fingerlings, natural insemination, etc. This not only helps to develop profitable livelihoods, but also strengthens communities in providing locally tested inputs and advice, decreasing the dependence from external inputs. Lessons-learned from other projects have shown that these kinds of businesses are sustainable in the long term and allow continued transfer of knowledge once project inputs scale down

v. Access to markets

Most of the livelihood options above are strongly linked to possibilities of market access. However, market access cannot just be measured in distances but as well in the availability of





appropriate products and an understanding of market functioning. Therefore, livelihood trainings will not only focus on technical skills, but also on integrating into a market economy. This starts basic with literacy and financial management, up to the understanding of market development.

vi. Existing social network groups within the project area

The socio-economic survey indicates that that some community members are currently organized in farmer groups in both Pokot and Trans- nzoia counties. The project may need to use these interest groups for the purpose of helping the PAPs learning advanced or new farming skills. The project will need to organize them in interest groups for other on farm activities. Apart from the advantage of specific target groups to enable information dissemination or skills and knowledge training and transfer, these groups have an added value when dealing with marketing for agricultural products, securing market contracts, arranging transport, guaranteeing minimum production targets, accessing (micro-) credit, and improving quality standards of products and pricing.

Table 38: Proposed livelihood programme components

Proposed livelihood programme components	Objectives	Justification	Activities	Responsibility	Timeframe in Months	Cost in Millions KSHs



<p>Training on Financial management skills for all PAPs</p>	<ul style="list-style-type: none"> • To assist PAPs (men and women) to handle and use their cash compensation sensibly to restore their livelihoods and build a sustainable future; and • To increase the capacity of entrepreneurs to function more effectively and expand their businesses. To provide time-bound business support to self-employed enterprises, aiming to grow them into viable and sustainable businesses 	<p>This measure will provide information so that PAHs can make informed decision on the use their cash compensation and ensure that the money is kept in a Bank account rather than as cash that can be stolen or used rapidly and unwisely leading to impoverishment and discontent. Women (as PAPs or spouses) will be encouraged to attend, and special efforts may be</p>	<p>-Sourcing for trainers, preparing training packs, training need assessment, training, training evaluative</p>	<p>KeNHA, RIC, Consultant</p>	<p>6</p>	<p>5M</p>
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		<p>needed to enable vulnerable PAPs (elderly, disabled etc.) to attend. Skills imparted are expected to last a lifetime providing the beneficiaries with more opportunities including gainful employment beyond unskilled labour. In addition, trained entrepreneurs will be able to earn a living and contribute to a diversified rural household income.</p>				
Agricultural Extension	To promote smart farming technology	The Project will work	Purchase of farm inputs,	KeNHA,	12	5m





<p>and the provision of farm input subsidies for PAPs with land and livestock-based livelihoods</p>	<p>to the PAPs and access to affordable firm inputs</p>	<p>with County Department of Agriculture, to support and enhance on-farm livelihood activities for PAHs both before and after relocation. In order to restore the land-based livelihoods of the project communities, an agricultural extension programme or package will be implemented. This program will provide agricultural extension assistance to PAHs that are affected by the proposed project.</p>	<p>Sourcing for trainers, preparing training packs, training need assessment, training, training evaluative</p>	<p>RIC, Consultant</p>		
<p>Training on Business development and Management skills for PAPs with</p>	<p>To impart prudent business management skills on PAPs to enable them maximize on profit and ensure business</p>	<p>Majority of PAPs whose livelihoods are affected by the project depend on</p>	<p>Identification of micro-financing and lending organizations within the project area.</p>	<p>KeNHA, RIC, Consultant</p>	<p>6</p>	<p>3M</p>



<p>business based livelihoods</p>	<p>sustainability. The training will also ensure linkages with financial institutions which may support the PAPs to get affordable business capital loans</p>	<p>small businesses for survival. Furthermore, illiteracy levels among the PAPs including those doing informal business is very low. Training support will promote sustainability for small business owners.</p>	<p>Sourcing for trainers, preparing training packs, training need assessment, training, training evaluative</p>			
<p>Tree planting</p>	<p>This will help to enhance and restore trees and shrubs which will be lost and destroyed as a result of land acquisition and road construction. The Contractor will also plant additional trees as part of the contract sum items.</p>	<p>The project will provide traditional shrubs and other trees seedlings to the PAPs to plant on their resettlement land. The seedlings will be bought from the existing tree nurseries owned and management by community self-help groups and from the Kenya Forest Services stations in the project</p>	<p>Buying and distribution of seedlings, Supervision of tree planting and monitoring of growth.</p>	<p>KeNHA, RIC, Consultant</p>	<p>6</p>	<p>2m</p>



		<p>areas. Buying trees from the local groups will promote local incomes. Planting trees will also address the problem of climate change within the project area.</p>				
<p>Employment opportunity during construction and maintenance</p>	<p>To provide employment opportunities to PAPs who will lose their livelihoods as a result of land acquisition</p>	<p>The project will give priority to the PAPs while sourcing for local labor within the project area.</p>	<p>Advertising of job opportunities, interviews, and recruitments</p> <p>Local Employment and Procurement Policy to facilitate Labour for the project being sourced from PAHs (particularly those identified as vulnerable) wherever possible;</p>	<p>Contractor</p>	<p>36</p>	<p>-</p>



<p>Establishment of a market at Kesogon market</p>	<p>To provide 240 roadside sellers within the market with modern stalls where they can sell their wares.</p>	<p>This was agreed upon with the PAPs during public consultations with traders in the market. The county government will provide land. The cost of constructing the market has been included in the contract sum.</p>	<p>Construction of the market</p>	<p>Contractor</p>	<p>12</p>	<p>As per the bid documents</p>
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10.8 vulnerable PAPs

This RAP has identified 35 vulnerable PAPs who will require transitional hardship assistance during relocation. The project will support these PAPs to secure their compensation packages including disturbance allowances and transition costs. The PAPs shall be enrolled on various livelihood programmes depending on their current livelihoods strategies.

Management requirements for the duration of the livelihoods programme;

The LRP shall be implemented for a period of two years. The RAP Implementation Team will spearhead the development of these tailored livelihood restoration plans at the household level in consultation with each household separately. Livelihood Restoration Strategy are planned to correspond with other mitigating measures of the Project towards PAHs to comply with ESS 5. This RAP has identified a number of Livelihood Restoration Strategies based on the consultations with the PAHs during the socio-economic survey. A detailed stand-alone Livelihood Restoration Plan (LRP) is to be developed under a separate study guided by this Livelihood Restoration Strategy developed for this RAP. The RAP implementation Consultant will outline the plan and timetable for delivering these household level livelihood restoration plans in an inception report to be completed two weeks after mobilizing. The schedule outlined in the report will require regular updating, consultations, and negotiations with households for necessary adjustments to ensure it reflects the needs of the project for the release of land. RAP Implementation Consultant (RIC) shall be procured to prepare and implement the final LRP





(ToR for RAP Implementation Consultant is provided in annex: xii)

Table 39: Monitoring of LRP

Monitoring requirements Monitoring requirements	Indicator
Loss of farmland	No of PAPs who have purchased replacement land. No. of PAPs who have resumed farming activities
Loss of business structures and business income	No of PAPs who rebuild their business structures No of PAPs who have resumed trading activities and are getting profit
	Acquired structure
Loss of Trees	No of PAPs who have been provided with tree seedlings and have re-establish their plantations.
Compensation, Resettlement and Restoration of affected persons	<ul style="list-style-type: none"> • No. of compensated PAHs, type of loss and amount paid • No. of constructed replacement buildings • Number, type and size of replacement houses constructed
Consultations	<ul style="list-style-type: none"> • Number of public consultations related to LR held and their minutes • Type of issues raised at public consultation meetings
Loss of employment	<ul style="list-style-type: none"> • Employment status of economically active members of PAHs • Earnings/income by source, separating compensation payments of PAHs • Pre- and post-disturbance changes to agriculture and off-farm income-earning activities • Amount and balance of income and expenditure • Access to income-generating natural resource base (wood, grass, sand, stones) •
Training	No. of PAPs trained Level of skills of PAHs members
Vulnerability	Number of vulnerable persons benefiting from livelihood restoration programs. <ul style="list-style-type: none"> • Status of vulnerable people as compared to their initial situation.



Monitoring requirements Monitoring requirements	Indicator
	<ul style="list-style-type: none"> Number of people or groups assisted to improve their livelihood
	Procedures in operation

Opportunities for partnerships (e.g. NGOs, CSOs and government agencies) that can assist in the delivery of activities;

The project will employ a witness NGO to support and monitor the implementation of the VMGP, RAP and ESMP. National Land Commission will play a leading role in compensation of the PAPs to ensure that they re-establish their livelihoods strategies to give room for restoration and monitoring. KeNHA, Consultant and RIC will work with grass root organizations to support the process of Livelihood restoration.

Community Development Plan (CDP) to facilitate additional benefits to the wider communities adjoining the project.

The community development plan was agreed with the PAPs during FPIC negotiation and the costs of implementing the community development plan shown in the table below has been factored in the works contract and the contractor will implement the plan. The CDP is also contained in the VMGP.

Table 40: Community Development Plan (CDP) to facilitate additional benefits to the wider communities adjoining the project

Proposed Interventions	Objective	Activities	Inputs	Output
Provision of clean water for human and livestock consumption	To increase access to water	Detailed design and feasibility studies Construction of fresh water points	Design Consultants Construction materials Labour Maintenance cost	At least 4 Water points (boreholes to be constructed at an agreed interval to improve human and livestock access to water.
Construction of a standard health Center	To increase access to emergency health services	Detailed design and feasibility studies Construction of fresh water points	Design Consultants Construction materials Labour	A fully equipped health facility with bore hole water and standby power generator



			Maintenance cost	
Construction of a market at Kesogon market	To promote trading activities within the project area	Detailed design and feasibility studies Construction of fresh water points	Design Consultants Construction materials Labour Maintenance cost	A market building with a capacity to hold 300 people
Upgrading of access roads	To facilitate movement	Detailed design and feasibility studies Construction of fresh water points	Design Consultants Construction materials Labour Maintenance cost	All the access roads to the public institutions are upgraded up to 20m to enhance the accessibility to these institutions.

Table 41: Distribution of loss of business income impacts per trading centers

S/N	Trading center	Number of PAHs
1	Mali Saba	16
2	Kamatira Safari hotel center	1
3	Kamatira Sagat center	29
4	Morpus Market center	20
5	Orolwo Market center	17
6	Kesogon Market center	240
7	ALCS	1
Total =		324

10.12 Livelihood restoration for loss of business income

Where businesses are impacted, cash compensation will include not only the replacement of business structures, but also loss of revenue and profit resulting from project impacts. Compensation shall Cover rates for income from businesses, until it can be demonstrated that the business has restored its profitability to support the reestablishment of businesses. Opportunities shall be Provided for affected business owners to attend business training and enterprise development programs. Support shall be sought for business owners in restoring their businesses within 12 months of project displacement. Monitoring will be done for a



further 2 years, providing additional support over this period, where business owners have not succeeded in restoring their businesses (despite reasonable efforts to do so).





11. GRIEVANCE REDRESS MECHANISM

Grievance redress mechanism is a core component of managing operational risks within the project. An appropriate grievance redress mechanism can be an effective tool for early identification, assessment, and resolution of complaints which may arise during project implementation. This project must inculcate deeper understanding of the steps involved in grievance redress to enable them improve project outcomes and support both project teams and beneficiaries to improve the intended results for Kitale-Morpus Road.

There is a strong belief that lack of a proper grievance redress mechanism has occasioned the stalling of many development projects around the world due to misunderstandings and disputes over various issues. This has made the business case for a functional GRM even stronger as the costs of ignoring such disputes or responding too late have proven to be too high for organizations to recover from. An effective grievance mechanism therefore has the ability to identify minor incidents affecting project beneficiaries before they escalate into unmanageable conflicts (World Bank, 2018).

The Project through the proponent shall adopt a functional grievance redress mechanism to respond to concerns/claims/grievances of project-affected parties in relation to the project operations as well as environmental and social performance of the project in a timely manner. For this purpose, KeNHA has proposed and shall implement a grievance mechanism to receive and facilitate resolution of such concerns/claims/grievances. The grievance mechanism is proportionate to the potential risks and impacts of the project and is accessible and inclusive for use during the design review phase. The project will further review the mechanism for use during civil contracting phase and the review will be guided by the outcome of the studies and experiences during the current design review phase.

The grievance mechanism will utilize existing formal or informal grievance mechanisms, supplemented as needed with project-specific arrangements. The purpose of the mechanism is as follows:

2. To address concerns promptly and effectively, in a transparent manner that is culturally appropriate and readily accessible to all project-affected parties, at no cost and without retribution.
3. To provide alternative dispute resolution mechanisms
4. To prevent access to judicial or administrative remedies.

For a functional grievance redress mechanism, accessibility and general awareness of the system is essential. This will therefore call for sensitization forums and strategies to raise awareness on the mechanism among the project-affected parties. The awareness will target how to raise concerns/claims/comments/grievances on any matter concerning the project, processes that is followed for reception and resolution of the issues raised, the grievance officer that will be in charge of the grievances and the turnaround time. The project proponent shall prepare awareness materials for example posters and brochures to raise awareness on the types of the complaints that can be raised through the system, focal point for officer and contact



address and grievance procedures as a guide on how grievances would be managed by the project.

The grievance redress mechanism also calls for community engagement activities, and will make publicly available a record documenting the responses to all grievances received (while ensuring confidentiality). Handling of grievances will be done in a culturally appropriate manner and be discreet, objective, sensitive and responsive to the needs and concerns of the project-affected parties. The mechanism will also allow for anonymous complaints to be raised and addressed.

11.1 TYPES OF COMPLAINTS

Grievances may arise from members of communities who are dissatisfied with the consultations, any realignment of the road sections, environmental concerns during construction, environmental degradation, biodiversity concerns, displacements, disturbances during relocation of utilities, livelihoods being lost, eligibility criteria and PAP categorization, valuation of assets, and rates, option packages offered, prohibitions, community planning measures, competition for resources during construction, land /property disputes, succession, opportunities to share benefits with the communities, issues of host communities, vulnerability concerns or actual civil works. The grievances will also arise from workers employed by the contractor especially those from the local community. This GRM will address all grievances including those from the workers. However, the contractor shall also be expected to provide a GRM as part of the labor management plan to handle grievances from the workers especially on disciplinary matters for the employees.

During the design review stage, stakeholders shall be made aware of the mechanism and the project implementation team also trained on their roles in coordinating grievance redress mechanism which will include how to categorize the concern/complaints, how to log them, the expected milestones indicators and turnaround time. They will also be taken through the above mentioned types of the complaints and any other and the processes that should follow upon their reception.

The principles of the proposed GRM

- i. – This GRM is easily accessible, cost free, restitution free, timely in resolution and makes provision for additional special measures for vulnerable persons to access the process;
- ii. -GRM takes account of, and not impede, access to judicial or administrative remedies;
- iii. Grievances will be tracked and accessible on a single database for immediate reference
- iv. Local human rights Organisations and institutions (including community systems) will be involved in the resolution process
- v. Requirements for capacity building for grievance committees in relation to mediation and resolution of grievances.



11.2 PROPOSED GRIEVANCE REDRESS SYSTEM

The project has proposed to adopt a four tier grievance redress system that ensures incorporation of key stakeholders in the reporting, reception and resolution of grievances. This approach will enhance transparency and accountability as well as ensure that the system is people centred and therefore functional and supporting the project in enhancing sustainability and social acceptability of the interventions and the project. The grievance officer of the project shall be the Resident Engineer.

Generally, the project has a designate grievance officer, the Resident Engineer of the Project. The grievance officer is responsible for managing complaints. Complaints shall be received in multiple formats including:

- (i) In person reports – a complainant can walk into the RE’s office and complete a complaints form. In addition, the Project team carries the complaints forms during all visits to the committee to allow people with grievances to complete the forms for further action;
- (ii) The community complainant may also directly report the incident to the grievance committee representatives including the local administration who will facilitate the report to the RE’s office for redress.
- (iii) Phone calls by use of a designated telephone line to be broadly disseminated to all key stakeholders;
- (iv) Short message system (SMS) on the designated line and managed by the responsible officer;
- (v) Emails – using the office email address: integrity@kenha.co.ke and dg@kenha.co.ke
- (vi) Hotline+254202989000 – this line is managed by the KeNHA head office in Nairobi. All received complaints are handed over to the Engineer in charge of the Project who then reports to the responsible RE. The hotline is only operational during works hours.
- (vii) The Website www.kenha.co.ke has links that allow a complainant to lodge a complaint which the officers responsible will forward to the Engineer in charge of the Project for further action.
- (viii) The project will also institute some complaints boxes at the designated places (Engineers office, contractors office and at local administration offices).
- (ix) Each complaint is recorded using a specified log form, acknowledgment issued and upon resolution, a resolution form is completed by the designated officer to close out the case.

The proposed Grievance Redress Mechanism will provide an opportunity to use alternative dispute resolution mechanisms for resolving cases at the community level before they are escalated to the courts of law. This structure facilitates easy access to the lowest level of redress, with room for progression to higher levels depending on the ability or inability to resolve the complaint. Once a formal complaint has been received, the procedure illustrated in Figure below is used to process it within a period of 15 days. The complainant is also free to report the case to the Ombudsman’s office, NLC or to the courts of law in the land if he/she feels that the Project procedures are not working in his/her favor.





The grievance officer in this mechanism oversees reception and documentation of all complaints, and coordination of resolution processes. This is intended to provide a free and accessible grievance mechanism for any one affected. This mode of reporting ensures that all grievances that are reported in the community are referred to the Grievance Officer for logging, and redress processing.

The Mechanism is as indicated in figure 6-1. The flow of complaints resolution for the project is shown as follows: -

Step 1: All complaints will be received and documented. Complaints may be received through KeNHA HQ and Regional Office, Grievance Redress Committees, Village Elders, Chief's Office, Deputy County Commissioner's Office, Community Liaison Officer, Project telephone SMS line or directly made to Resident Engineer. Complaints are documented in the grievance form (annex: xiii).

Step 2: Where applicable, a reconnaissance visit will be conducted to the affected area by a team appointed by RE within 1 day of complaint.

Step 3: Based on the results of reconnaissance visit, RE will determine to resolve the issue through negotiation with affected person(s). If the issue is resolved during this step, it is closed and stored in a file for grievances.

Step 4: If a resolution is not reached through negotiation with the Affected Person in step 3, the issue will be referred to GRM Committee or National Government Administration for resolution. If the issue is resolved during this step, it is closed and stored in a file for grievances.

Step 5: If the issue is not resolved at Step 4, it will be referred to Multi-Stakeholder Grievance Redress Committee for resolution. At this level employment of alternative dispute resolution mechanism may be applied.

Step 6: The last course of action for unresolved matters is a judicial process. The Project will endeavor to ensure cases are resolved without resort to a legal process. During all these steps, complainant is continuously updated on the progress of their case and feedback given using the grievance feedback form (annex: iv).

When a case is resolved feedback will be issued to the complainant and an exit form filled.

The GRM outlook entailed in figure below provides for the integration of committee establishments/structures for grievance handling. The committees have been embedded as stakeholders from the grass route to the multi stakeholder level for mediation and provisions of ADR within the project which will be supported by the witness NGO.

The proposed four tier approach to grievance handling will also ensure that there is a continuous avenue to follow in the event that the issue is not satisfactory addressed at a previous tier or level. The Tiers are as follows:

1. First Tier – Project Consult
2. Second Tier Locational Grievance Committees Level
3. Third Tier – Multi-stakeholder Grievance Committee Level
4. Fourth Tier – Courts of Law



11.3 The terms of reference of the grievance committee members

- To ensure that Project implementation does not slow down due to grievances,
- Reduce/resolve grievances that are referred to them,
- Mediation for issues that require this service
- Communicating with communities on Project matters.
- The Committee is an accountability forum where each member is held accountable for their role
- The Committee shall form sub – committees based on the arising needs, appoint members to these committees and determine roles and responsibilities for each sub-committee and member to the sub-committee. All sub-committees and members to these sub-committees shall provide feedback to the overall committee on the timeframe indicated by the committee

Grievances that this Committee shall handle are as follows:

- The Committee will be provided with an appraisal of all issues/complaints/claims/grievances,
- The Committee will be provided with progress status of grievance resolution,
- The Committee shall address issues referred to them through the Grievance Officer,
- The Committee shall endeavour to mediate on cases that have possibility of going to court,
- The Committee shall provide guidance on complaints resolution where required/necessary.

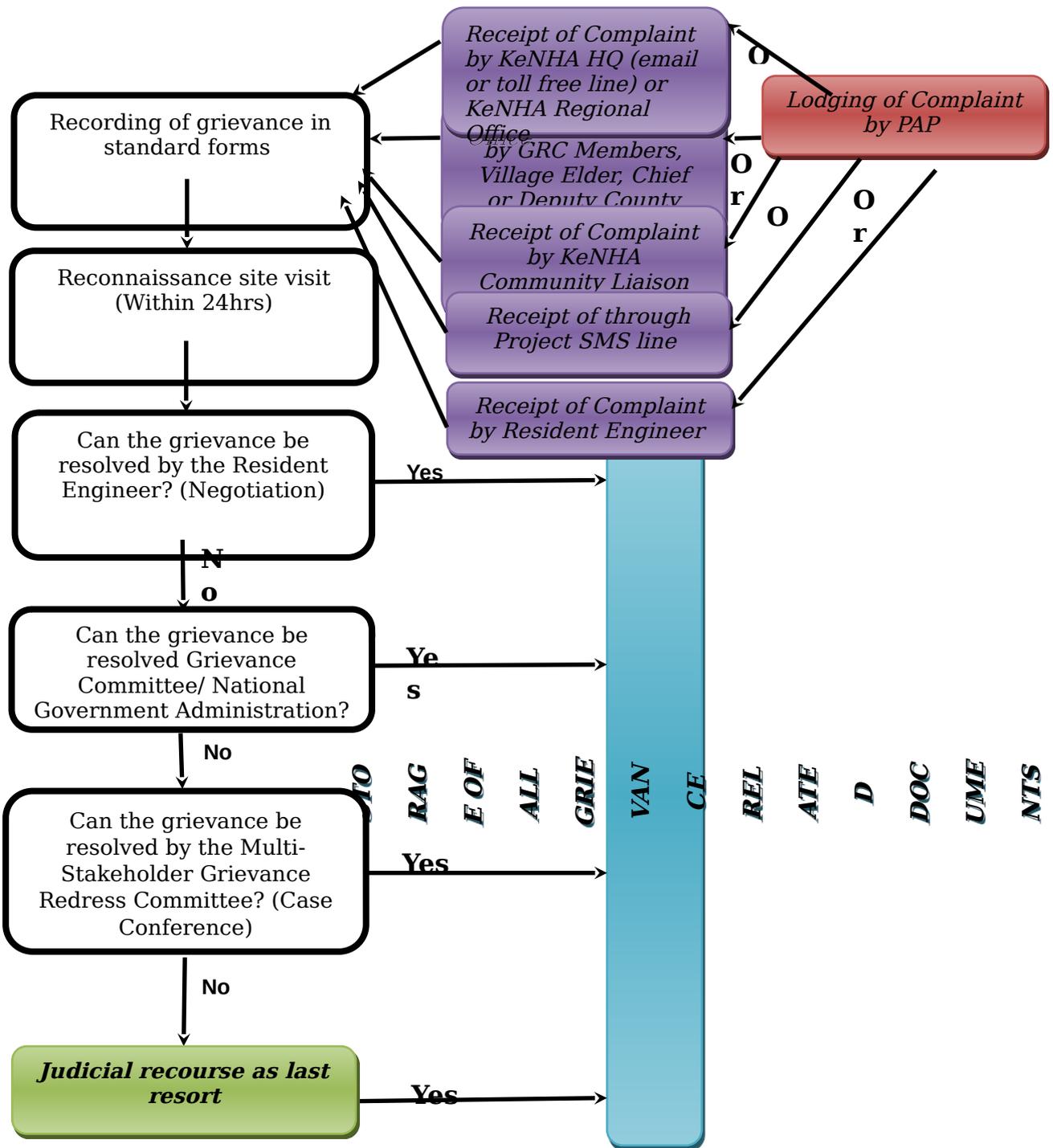


Figure 71: Grievance Redress mechanism outlook



11.2.1 First Tier –Project Consultant

Cases not received will be documented and assessed. The Resident will bring on board the relevant experts for resolution of the grievance. A project consultant Level shall consist of the grievance officer, project manager/Engineer Project Sociologist (Secretary), Environmentalist, Community Liaison Officer and any other officer deemed necessary.

This team will source for assessment of the claims and in close engagement of the involved parties determines a feasible solution and communicate with the parties involved. In the event that a solution is not reached to then the issue will be taken to the next level.

11.2.2 Second Tier – Locational Grievance Committees Level

The project implementation unit in consultation with the communities will establish this structure at the local grass route level. This local structure will ease access of the grievance redress mechanism by the community members and project affected persons in their communities. A total of 10 LGC have been established in 10 locations during the RAP stakeholder engagement and FPIC negotiation meetings. The details of the committee members are provided in the minutes annex: vi.

The committee shall be trained on reception and documentation of grievances received as well as how to process the grievances.

11.2.3 Third Tier – Multi-stakeholder Grievance Committee Level

This is higher level of stakeholders' engagement through the multi stakeholder redress committee that will seek to offer mediation on the claims/concerns/grievances that will not have been resolved in the previous tier. The committee will be comprised of the following: - Deputy County Commissioner for respective sub counties representing National Government Administration, Sub County Administrators, National Environment Management Authority, Community representative Civil Society Organization Representative and the Kenya National Commission on Human Rights

Timelines for addressing grievances

Every grievance tier has got a maximum of 14 days to address the grievance and give feedback on the 15th day from the time of lodging the complaint. However, the grievances that proceed to the fourth tier shall follow the timelines set by the court of law.

8.2.4 Fourth Tier- Court of Law

This will apply when a case cannot be addressed through the third tier and the complainant is free to take the matter to court at their own expense.

Management of Grievances in the project





The grievance log shall be monitored from time to time and case management database set and update periodically. Periodic analysis shall be undertaken for determination of trends, patterns and cases which shall be used to enhance project operations.

Next steps

- i. Effective disclosure of the GRM to PAHs and other stakeholders to verify that these stakeholders consider that the mechanism is fair.
- ii. Engaging the NLC in the proposed implementation of the GRM.
- iii. Provide training to LRCs to improve their capacity to manage and resolve grievances in accordance with the GRM.



12 INSTITUTIONAL FRAMEWORK FOR RAP IMPLEMENTATION

12.1 Ministry of Transport and Infrastructure

The Project is owned by the Government of Kenya through the Ministry of Transport and Infrastructure (MOTI) and shall be responsible for mobilization of financing from The National Treasury (NT) for this RAP. MOTI will request The National Treasury to allocate funds for this RAP and will thereafter give the funds to NLC to compensate all the identified PAPs.

13.1 Project Implementing Unit –KeNHA

KENHA will serve as Project Implementing Unit (PIU) for the RAP, with a team dedicated to carrying out the respective activities, and coordinating with the County and National Government. This team will be from the Environment and Social Interest Unit that already exists within KeNHA and has wide experience in RAP implementation. A PIU specifically for the implementation of this RAP will be established.

The Environmental and Social Unit of KeNHA will be responsible for securing and maintaining the project's social license to operate, during which the project's construction phase will entail the following areas of oversight and responsibility: Oversee and provide quality assurance on the following - resettlement action planning and execution; community relations; socio-economic impact assessment; implementation of social aspects of recruitment and procurement policies; development and execution of additional needed policies for all operational areas of responsibility

RAP Implementation Consultant will be recruited to supervise and coordinate the implementation of this resettlement action plan (RAP).

The PIU will operate on site, in interaction with the project affected people and direct cooperation with the County Governments. The key implementation processes of the RAP will involve continuous presence in the project area and continuous communication with County Governments, resettlement committees and affected people. A project office (location yet to be determined,) will be secured to enable maximize efficiency and accessibility of the PIU staff including employment of liaison officers on various segments of the corridor. To properly deliver its mandate, the PIU will be fully established and operational as soon as the decision to go ahead with the project has been made and contact details and telephone numbers of the PIU team and liaison officers will be made public to increase engagement. This is in order to initiate and manage those key RAP implementation activities, which will have to be performed prior to the start of construction (i.e. the compensation process for people affected by construction).

With regard to the implementation of the RAP, the PIU will have the following responsibilities:

13.2 National Land Commission

The National Land Commission (NLC) is an independent constitutional agency that has statutory powers to undertake compulsory acquisition of private or community land for public





purposes or public interest. It performs these functions on behalf of the national government and county governments. The specific powers and functions of the NLC are set out in the National Land Commission Act 2012, and the Land Act 2012. Key roles of NLC in the implementation of this RAP will include:

- Provide approval to request made by KeNHA to acquire land for the project;
- Notify landholders in writing of the intention to acquire land;
- Assist in resolving disputes related to compensation;
- Acquire land on behalf of KeNHA;
- Undertake public consultation on intended acquisition;
- Undertake actual payment of entitlement awards to PAPs
- Asset valuations;
- Development of the Entitlement Matrix and Eligibility Criteria;
- Preparation of the RAP budget;
- Implementation of the RAP/ Delivery of entitlements;
- Support the Development of the LRP with help of RIC and livelihood Expert;
- Support the Development and implementation of the grievance mechanism for compensation related issues;
- Any instances of forced eviction;
- Any further cut-off date that may be required if additional surveys are required.

The first meeting between NLC and the project team to brief the NLC on the role they are expected to play in the project was conducted on 19th September 2022. The minutes are provided in annex: vi.

13.3 Sub County Level Implementing Agencies

Sub County Resettlement Compensation Committee (SCRCC) will be established at the sub County level to ensure participatory and transparent implementation of the RAP. KENHA will help constitute the SCRCC with the help of the NLC and Land Offices at the level and the Sub-County Deputy Commissioner. SCRCC will help Resettlement Compensation Committee carry out their mandates efficiently; particularly, ensuring effective communication between NLC with the affected communities. Members to SCRCC will include representation from the following agencies;

The Sub-County Administration representative, who in this case will be the Sub-County Commissioner who will provide the much needed community mobilization, and support the project in the process of resettlement. The Sub-County Commissioner will chair the SCRCC that will be established.

Membership to LRCCs will be elected by each category of PAPs except the locational Chief and assistant chiefs who will automatic members of the team by virtue of their positions. Each LRCC will elect their chairperson and a secretary. The roles of LRCCs will include among others the following:

- Conducting extensive public awareness and consultations with the affected





people.

- Help ensure that local concerns raised by PAPs as regards resettlement and compensation are promptly addressed.
- Assist the effective working of RAP consultants in validation and updating of the RAP after the detailed design study is completed
- Resolve manageable disputes that may arise relating to resettlement and compensation process. If it is unable to resolve, help refer such grievances to the SCRCC.
- Ensure that the concerns of vulnerable persons such as the disabled, widowed women affected by the project are addressed.
- Ensure that all the PAPs in their locality are informed about the content of the RAP.
- Validate inventories of PAPs and affected assets;
- Facilitate conflict resolution and addressing grievances; and

This committee meets on a regular basis (as determined by the needs of the project) to ensure that resettlement activities are appropriately designed and executed. A representative elected to act as the Project Liaison Officer acts as the key contact with PAPs and therefore facilitate implementation of consultation, public participation and grievance mechanisms.



14 IMPLEMENTATION, MONITORING, EVALUATION AND BUDGET

14. 1 RAP implementation

The RAP implementation period and timelines will be approximately 2 years while some livelihood restoration programs and monitoring may last beyond the actual resettlement activities as shown in table 13 below.

RAP will be disclosed in English while the executive summary (non-technical) will be translated into Kiswahili and Luyha, Kalenjin and Pokot languages. Disclosure of RAP in the local languages and Kiswahili will be done in hard copy at the affected households' level and its contents explained verbally to all PAPs participants and stakeholders during RAP disclosure public meetings to be held at the inception phase of RAP implementation. Disclosure of the RAP in English will be in electronic form on the website of the following institutions namely: -

- i. Ministry of Roads, transport and Infrastructure
- ii. KeNHA
- iii. County Government of Trans Nzoia and Pokot
- iv. KfW

Hard copies will be made available in the same offices with additional copies availed at the following sites:

- i. KeNHA regional office
- ii. Pokot and Trans Nzoia County Headquarters
- iii. Office of contractor
- iv. Sub- County Offices
- v. All Locational offices affected by the project
- vi. All Ward offices affected by the project

Table 42: RAP implementation schedule

Timelines	Months																	
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18-24
Gazettement of parcels by NLC	█	█																
Inspection of land parcels			█	█														
Enquiry					█	█												
Issuing of awards							█											
Disbursement of funds								█										
Relocation of PAPs									█									
Livelihood restoration programmes										█	█	█	█	█	█	█	█	█



14.2 MONITORING AND EVALUATION

Monitoring arrangement for the Kitale – Morpus Road project will continuously be updated in consultation with various parties involved; the PAPs, contractor, GoK, KENHA and KfW. The monitoring process will follow culturally sensitive approaches that take into account differences in social locations, culture and livelihood systems. A key aspect of monitoring processes is to conduct meaningful consultations with affected people, during internal monitoring and independent monitoring by external monitoring groups.

Monitoring of grievance resolution from all affected peoples is reflected through the grievance committee at different levels. Records of complaints and grievances will be kept and semi-annual monitoring reports will provide information on key issues raised by affected people.

14.2.1 ADAPTIVE MANAGEMENT APPROACH

This RAP will employ adaptive management approach in undertaking monitoring, supervision and evaluation throughout the implementation phases. Adaptive management is an explicit and analytical process for adjusting management decisions to better achieve management objectives. It is a learning tool, which recognizes that knowledge about natural resource systems is uncertain, that not every scenario can be seen before and that people change their minds during project implementation. Therefore, some management decisions are best been taken in a way that allows to and/or reduces the risk arising from that uncertainty. Trials and iterative adaptations of plans based on monitoring and lessons-learned.

The concept of adaptive management is readily understood because it represents “learning by doing”. However, actually implementing adaptive management is neither simple nor intuitive. This complexity stems from the large number of interconnected potential scenarios and related uncertainties. Advanced technologies can support organize the relevant information, simplify the analysis of the scenarios, and assist in the search for optimal solutions.

Key features of adaptive management are:

- Iterative decision-making (evaluating results and adjusting actions on the basis of what has been learned); and
- Feedback between monitoring and decisions (learning).

14.2.2 INTERNAL MONITORING AND REPORTING

The RAP requires Kitale – Morpus Project Implementation Unit to engage in continuous-active and comprehensive self-monitoring of the activities related thereto all adverse impacts, and compliance. Starting from the beginning of preliminary works and consequent construction phase. PIU will be responsible for monitoring the infrastructure construction, livelihood restoration activities and compensation. It will establish a monitoring group for this purpose. The monitoring staff will report regularly to the KENHA’s safeguards unit of the National Steering Committee. Self-monitoring and reporting by the project to national Steering Committee. is intended to be the chief (but not exclusive) means of ensuring compliance by the Kitale – Morpus PIU with its obligations.

14.2.3 Monitoring of Construction Activities

The PIU will undertake, on daily basis, a compliance monitoring of the contractors’ environmental and social activities as per the RAP, Environmental, Health, and Safety





guidelines, the approved Environmental Management and Monitoring Plan, sub plans and site-specific environmental plans prepared by the contractors. The contractors are also required to report to the developers about their progress, their monitoring system and their monitoring data on a monthly basis.

14.2.4 Monitoring of Resettlement Activities and Measures

To closely follow actual social impacts by the resettlement activities, including compensation of affected households, appropriate monitoring and feedback of monitoring outputs will be conducted. The project aims to have all resettlement and livelihood restoration activities well in place before impacts occur during project operation phase providing affected households with opportunities for cropping. The Kitale – Morpus Road Project PIU will monitor not only its own progress in resettlement and compensation activities for affected households against an agreed schedule, but also the changes in household income (cash and imputed) from affected land uses, as well as from livelihood restoration and development activities.

Table 43: RAP Monitoring Indicators

Monitoring requirements	Indicator	Frequency	Responsibility
Loss of farmland and crops	No of PAPs compensated for land No of PAPs who have purchased replacement land. No. of PAPs who have resumed farming activities	3 Months (quarterly)	RIC, Witness NGO, KeNHA, Consultant and NLC.
Loss of residential structures	No of PAPs compensated for residential structures No of PAPs who rebuild their residential structures		
Loss of business structures and business income	No of PAPs compensated for loss of business income and structures No of PAPs who rebuild their business structures No of PAPs who have resumed trading activities and are getting profit		
Loss of Trees	No of PAPs compensated for loss of trees No of PAPs who have been provided with tree seedlings and have re-establish their plantations.		
Public Consultations	<ul style="list-style-type: none"> Number of public consultations related to RAP processes held and their minutes Type of issues raised at public		



Monitoring requirements	Indicator	Frequency	Responsibility
	consultation meetings No of PAPs attending the public consultation meetings		
Loss of employment	No of PAPs compensated for loss of employment Employment status of economically active members of PAHs <ul style="list-style-type: none"> • Earnings/income by source, separating compensation payments of PAHs • Pre- and post-disturbance changes to agriculture and off-farm income-earning activities • Amount and balance of income and expenditure • Access to income-generating natural resource base (wood, grass, sand, stones) • 		
Livelihood restoration Training	No. of PAPs trained Level of skills of PAHs members		
Vulnerability	No of Vulnerable PAPs compensated Number of vulnerable persons benefiting from livelihood restoration programs. <ul style="list-style-type: none"> • Status of vulnerable people as compared to their initial situation. • Number of people or groups assisted to improve their livelihood 		
GRM	GRM put in place and functioning normally No of PAPs reporting complaints No of complaints addressed and feedback given No of complaints outstanding No of GRM committee members trained		



14.3 Completion Audit

The project will recruit a RAP Audit Consultant (firm of experts) who will conduct external monitoring as part of its core function. The RAP Audit consultant will undertake compliance and completion audit. The purpose of the compliance/completion audit is to determine whether the Project has met its RAP commitments and can be released from further responsibility. Hence, the independent compliance and completion audit will focus on the assessment of compliance with the commitments of this RAP, the relevant Kenyan legislation, the WB Policies and KfW guidelines.

The purpose of the compliance/completion audit is to determine whether the Project has met its commitments and can be released from further responsibility. Hence, the independent compliance and completion audit will focus on the assessment of compliance with the commitments of this RAP, the relevant Kenyan legislation and the WB Policies. The compliance and completion audit will be performed about one year after completion of RAP implementation, including the completion of the livelihood restoration programs. The compliance reviews will concentrate on: -

- Overall compliance with applicable legislation, international requirements and commitments of this RAP
- Compliance with the eligibility criteria described in this RAP
- Actual delivery of entitlements as described in this RAP
- Compliance with implementation mechanisms described in this RAP
- The completion audit will assess all activities needed to achieve compliance were implemented and whether compensation (and resettlement) can be deemed complete.

A key objective of this RAP is that compensation and livelihood restoration measures should lead to sustainable restoration or enhancement of affected people's quality of life and income levels. At the time when affected people's quality of life and livelihoods can be demonstrated to have been restored, the RAP process can be deemed as completed. The RAP completion audit will be conducted upon completion of compensation of all the PAHs.



14.4 RAP BUDGET

The total budget for resettlement compensation is Kshs. **357,998,310** including disturbance allowance and livelihood restoration, conveyancing and succession and grievance redress. In addition, administration cost of 15 per cent for the RAP implementation and monitoring and evaluation have been considered. However, the total costs of the RAP are bound to change, as the unit prices will further be reviewed by NLC at the early stage of implementation to reflect the market prices and/or value and hence full replacement cost at that time.

Table 45: RAP Budget

Total RAP Cost	Value (Kshs)
Land	124,893,918
Structures	103,246,794
Crops and Trees	5,608,560
Loss of Business income	2,370,000
Sub Total 1	236,119,272
Disturbance cost (15%)	35,417,890
Sub Total 2	271,537,162
Livelihood Restoration (15%)	40,730,574
Facilitation of Grievance Redress and Resettlement Committees	5,000,000.00
Contingency costs 15% of RAP cost	40,730,574
Sub-Total 3	86,461,148
Grand Total(sub-Total 2+ Sub-total 3)	357,998,310

Final Steps

The Social Safeguards team will in consultations with key stakeholders organise for disclosure of the RAP to PAPs and PAHs as well as stakeholders for further inputs. In addition, the team will submit final Draft to KEHNA to facilitate transmission of the same to the National Land Commission and avail themselves for consultations on acquisition process that NLC will provide leadership as per the law.



REFERENCES

- 2019 Kenya Population and Housing Census Volume 1 Population Distribution by Administrative Units; August 2020; by KNBS
- Constitution of Kenya, 2010
- IFC (2002), Handbook for Preparing a RAP, International Finance Corporation, 2121 Pennsylvania Avenue, NW, Washing, DC 20433 USA.
- RAP Reports 1 (2017)
- Republic of Kenya, Ministry of Lands, Sessional Paper No.3 of 2009 on National Land Policy, August 2009.
- Republic of Kenya, The Land ACT, 2012
- Republic of Kenya, The Land and Environmental Court Act 2011.
- Republic of Kenya, The Land Registration Act 2012
- Well – Being in Kenya a Socio- Economic Profile: 2020; by KNBS
- World Bank (2004), Involuntary Resettlement Policy 4.12 (Revised April 2004).



15 ANNEXES

1. Annex- i: VMGP
2. Annex-ii: Signed FPIC document
3. Annex- iii: The cadastral maps
4. Annex -iv: Avoidance principle
5. Annex-v: Stakeholder Engagement Plan
6. Annex -vi: Minutes of stakeholder engagement meetings
7. Annex -vii: Attendance registers for stakeholder engagement meetings
8. Annex -viii: census tools
9. Annex -ix: Socio-economic survey tools
10. Annex –x: Valuation Roll
11. Annex –xi: ToR for Witness NGO
12. Annex- xii: ToR for Rap Implementation Consultant
13. Annex- xiii: Grievance log form
14. Annex- xiv: Grievance feedback form
15. Sample stakeholder engagement photos