



**KENYA TRANSMISSION NETWORK IMPROVEMENT PROJECT (P-KE-FA0-022)**

**RESETTLEMENT ACTION PLAN (RAP) FINAL REPORT FOR**

**THE PROPOSED MALINDI-KILIFI DOUBLE - 82.5 KM, 220Kv Transmission line**

**APRIL 2022**

## PROJECT

**KENYA TRANSMISSION NETWORK IMPROVEMENT PROJECT (P-KE-FA0-022)**

**CONSULTANCY SERVICES FOR PREPARATION OF RESETTLEMENT ACTION PLAN, VULNERABLE AND MARGINALIZED GROUPS PLAN AND ENVIRONMENTAL & SOCIAL IMPACT ASSESSMENT 82.5km 220 KV MALINDI-KILIFI TRANSMISSION LINES AND SUBSTATION**

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## DOCUMENT CONTROL

This document and its contents have been prepared by Africa Waste and Environment Management Centre (AWEMAC) and are intended solely for Kenya Electricity Transmission Company (KETRACO) information and use in relation to Resettlement Action Plan for the 82.5km 220 Kv Malindi-Kilifi Transmission Lines.

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## LIST OF ACRONYMS AND ABBREVIATIONS

AfDB	African Development Bank
AIDS	Acquired Immunodeficiency Syndrome
AP	Angle Points
AWEMAC	Africa Waste and Environment Center
BP	Bank Procedure
CBO	Community-Based Organization
CIDP	County Integrated Development Plan
CRC	Community Resettlement Committee
CoK	Constitution of Kenya
EDCF	Economic Development Cooperation Fund
EIA	Environmental Impact Assessment
EMCA	Environmental Management and Coordination Act
EPRA	Energy and Petroleum Regulatory Authority
ERC	Energy Regulatory Commission
ESIA	Environmental and Social Impact Assessment
ESC	Economic Social and Cultural Rights
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
FPIC	Free, Prior and Informed Consultations
GoK	Government of Kenya
GRM	Grievance Redress Mechanism
HH	Household
HIV	Human Immunodeficiency Virus
ICT	Information Communication Technology
IDA	International Development Association
IESIA	Integrated Environmental and Social Impact Assessment
IFC	International Finance Cooperation
IP	Indigenous People
KETRACO	Kenya Electricity Transmission Company Limited
KFS	Kenya Forest Service
KII	Key Informant Interviews
KM	Kilometer
KPLC	Kenya Power and Lighting Company
Kv	Kilovolts
KWS	Kenya Wildlife Service
LCPDP	Least Cost Power Development Plan
MEA	Multilateral Environmental Agreement
MoE	Ministry of Energy
MoLPP	Ministry of Lands and Physical Planning

MVA	Mega Volt Amp
NEC	National Environment Council
NEMA	National Environmental Management Authority
NGO	Non-Governmental Organization
NLC	National Land Commission
NMK	National Museum of Kenya
NPGD	National Policy on Gender and Development
OP	Operational Policy
OP4.01	Environmental Assessment
OP 4.04	Natural Habitats
OP 4.36	Forestry
OP 4.09	Pest Management
OP 4.11	Physical Cultural Resources
OP4.10	Indigenous Peoples
OS	Operational Safeguards
PDO	Project Development Objectives
PDP	Project Displaced Persons
PIT	Project Implementation Team
PLWD	Persons Living with Disability
PPP	Public Private Partnership
PMRU	Project Management and Resettlement Unit
RAP	Resettlement Action Plan
REA	Rural Electrification Authority
RIM	Registry Index Maps
RoW	Right of Way
RPF	Resettlement Policy Framework
SA	Social Assessment
PMRU	Project Management and Resettlement Unit
SP	Social Protection
SHE	Safety, Health & Environment
ToR	Terms of Reference
AFDB	Africa Development Bank
WRA	Water Resources Authority

## DEFINITION OF TERMS

The following terms used in this Resettlement Action Plan (RAP) shall have the following meanings unless stated otherwise. Other important concepts as used have been defined inside the text where they apply.

**Assets:** Comprises land, structures, or crops/trees, unless otherwise defined.

**Bodaboda:** Are bicycle and motorcycle taxis commonly found in East Africa. While motorcycle taxis like *boda bodas* are present throughout Africa and beyond, the term *boda boda* is specific to East Africa drawn from a Swahili language.

**Census:** A field assessment /survey carried out to identify and determine the number of project-affected persons and households(PAPs/Hs), their assets, and potential impacts; in accordance with the procedures satisfactory to the relevant government authorities, and the African development bank policies.

**Compensation:** The payment in kind, cash or other assets given in exchange for the taking of land, or loss of other assets, including fixed assets thereon, in part or whole. Includes:

- **Cash Compensation:** Monetary payment to which the Project Affected Persons are entitled in order to replace land or other assets taken for project use at full replacement cost. Include cash for land, cash for assets, cash for lost income.
- **In-Kind Compensation:** Non-monetary payment to which the Project Affected Persons are entitled in order to replace land or other assets taken for project use at Gross replacement cost. For losses that cannot easily be valued or compensated for in monetary terms, in-kind compensation may be appropriate. However, this compensation should be made in goods or resources that are of equivalent or greater value and that are culturally appropriate. In-kind compensation may entail agricultural land for agricultural land, commercial land for commercial land, grazing land for grazing land etc, as well as asset for asset compensation, e.g., public infrastructure, community facilities, and immovable assets such as various kinds of trees, crops etc.
- **Disturbance allowance:** Part of compensation for structures given to PAHs whether they relocate or not. It is provided for under the Kenyan government legislation and has been considered under this RAP at 15 per cent.

**Cut-off date:** This is the date of completion of the census and assets inventory of persons affected by a project. The date after which anyone who moves into the project area is no longer entitled to compensation and/or other resettlement benefits. Persons occupying the project area after the cut-off date are not eligible for compensation or resettlement assistance.. A cut-off date of 17<sup>th</sup> December 2021 was established for this RAP but in case of any delay of implementation of 2years and above it would be ratified by the gazette notice.

**Economic displacement:** Loss of income streams or means of livelihood resulting from land acquisition or obstructed access to resources (land, water, or forest) resulting from the construction or operation of a project or its associated facilities.

**Entitlement:** Range of measures comprising cash compensation, income rehabilitation assistance, transfer assistance, income substitution, and relocation which are owing to business restoration and/ or PAPs, depending on the type, degree and nature of their losses, to restore their social and economic base.



**Host population:** People living in or around areas to which people physically displaced by a project will be resettled who, in turn, may be affected by the resettlement.

**Income Restoration:** Measures required ensuring that PAPs have the resources to at least restore, if not improve, their livelihoods.

**Involuntary displacement:** The involuntary taking of land resulting in direct or indirect economic physical and social impacts caused by:

- Loss of benefits from use of such land;
- Relocation or loss of shelter;
- Loss of assets or access to assets; or
- Loss of income sources or means of livelihood, whether or not the project-affected person has moved to another location.

**Involuntary land acquisition:** The taking of land by the government or other government agencies for compensation, for the purposes of a public project/interest against the will of the landowner.

**Land:** The physical surface and anything growing on or underneath the surface extending to the airspace above the surface and the soil below the surface. It includes any structures thereon whether temporary or permanent which may be required for the project. Land can be put to different uses such as agricultural, residential, commercial, industrial.

**Land acquisition:** The taking of or alienation of land, buildings or other assets thereon for purposes of the project activities implementation.

**Open Market Value:** An opinion of the best price at which the sale of an interest in an asset would have been completed unconditionally for cash consideration on the date of valuation, assuming: a willing seller; that, prior to the date of valuation, there had been a reasonable period (having regard to the nature of the asset and state of the market) for the proper marketing of the interest, for the agreement of price and terms and for the completion of the sale; that the state of the market, level of values and other circumstances were, on any earlier assumed date of exchange of contracts, the same as on the date of valuation; that no account is taken of any additional bid by a purchaser with a special interest; and that both parties to the transaction had acted knowledgeably, prudently and without compulsion.

**Permanently displaced person:** PAP living on a Parcel of land which is  $\leq 1$  Acre and  $\geq 50\%$  affected, is narrow and the remaining parcel is uneconomical, is uneconomical because of the gradient of the land is inhabitable to due environmental issues including marshy or swampy land and Commercial plots whose impact is such that they are rendered commercially unviable

**Physical displacement**—Loss of shelter and assets resulting from the acquisition of land associated with a project that requires the affected person(s) to move to another location

**Project-Affected Persons (PAPs):** Persons who, for reasons of the involuntary taking or voluntary contribution of their land and other assets under the project, result in direct economic and/or social adverse impacts, regardless of whether or not the PAPs physically relocate

**Project-Affected Household (PAHs):** A household that is affected if one or more of its members is affected by sub-project activities, either by loss of property, land, loss of access, or otherwise affected in any way by the implementation of the project activities.

**Project-affected sites:** Clearly defined and/or surveyed areas or places earmarked for takeover, permanently or temporarily, for purposes of implementing project activities.

**Relocation:** Physical moving of PAPs from their pre-project place or residence, place for work or business premises, to an area that is not affected by the project. In some cases PAPs are moved away from the project corridor but within the same parcel of land or to other parcels.

**Resettlement Action Plan (RAP):** Also known as a Resettlement and Compensation Plan, a resettlement instrument (document) prepared when sub-project locations are identified and involves land acquisition which leads to or involves the physical displacement of persons, and/or loss of shelter, and/or loss of livelihoods and/or loss, denial or restriction of access to economic resources. RAPs are prepared by the project owners (managers or their appointed representative) impacting on the PAHs and their livelihoods and contain specific and legally binding requirements for compensation of the PAHs before the implementation of such project activities.

**The Resettlement Policy Framework (RPF):** The RPF sets out KETRACO's policy statement for development of a resettlement procedural framework manual for all its transmission infrastructure that involve involuntary resettlement. It sets out the resettlement objectives and principles, organizational arrangements and funding mechanisms for any resettlement that may be necessary during investments implementation. It guides the preparation of Resettlement Action Plans of individual investments to meet the needs of the Project Affected Persons (PAPs).

**Replacement cost:** The replacement of assets with an amount sufficient to cover full replacement cost of lost assets and related disturbance and transaction costs including applicable taxes. In terms of land, this may be categorized as follows:

- Replacement cost for agricultural land
- Replacement cost for houses and structures
- Full replacement cost.
  
- **Replacement cost for agricultural land:** The pre-project or pre-displacement, whichever is higher, value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of:
  - Preparing the land to levels similar to those of the affected land;
  - Any registration, transfer taxes and other associated fees.
  
- **Full Replacement cost for houses and other structures:** The prevailing cost of replacing affected structures of the quality similar to or better than that of the affected structures in an area. Such costs shall include:
  - Building materials;
  - Transporting building materials to the construction site;
  - Any labour and contractors' fees; and
  - Any registration costs.

- **Replacement costs for land in urban areas:** the market value of land of equal size and use, with similar or improved public infrastructure facilities and services preferably located in the vicinity of the affected land, plus the cost of any registration and transfer taxes.
- **Full replacement cost:** The current market value of the asset plus transaction costs (e.g. taxes, stamp duties, legal and notarization fees, registration fees, travel costs and any other such costs as may be incurred as a result of the transaction or transfer of property). In applying this method of valuation, depreciation of structures and assets is not taken into account. With regard to land and structures, replacement costs are defined as follows: Agricultural land—the market value of land of equal productive use or potential located in the vicinity of the affected land, 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. Residential land—the current 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 structures—the cost of purchasing or building a new structure, with an area and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labour and contractors' fees and transaction costs such as registration and transfer taxes.

**Resettlement assistance:** The measures to ensure that project-affected persons who may require to be physically relocated are provided with assistance such as moving allowances, residential housing or rentals, whichever is feasible and as required, for ease of resettlement during relocation.

**Squatters:** are persons without legal claims to the land occupied/used by and may/or may not have legal claim to the structures. The term 'squatters' in this report is typically used for those occupying structures for residential/commercial purposes without legal claim to the land in which the structures are located in.

**Transition Assistance:** in addition to the Disturbance Allowance for structures and crops, KETRACO's RPT will provide to vulnerable PDPs and eligible Pap's assistance in the form of a management resource (whether it be a KETRACO representative or someone agreeable to the PAP to oversee the transition); or an allowance will be paid for this person to oversee the process. The specific assistance will be developed and agreed with the PDP/PAP as part of their individual compensation package.

**Vulnerable PAPs:** Socially and economically disadvantaged groups of persons such as widows, the disabled, very old persons or household heads who are likely to be more affected by project implementation or are likely to be generally constrained to access or seek out their entitlements promptly. Vulnerable is any person or groups who might suffer disproportionately or face the risk of being marginalised from the effects of resettlement as they are less able to cope with change. Vulnerable households by implication also include Incapacitated households with no one fit to work owing to advanced/old age-associated incapacities, disabilities etc.; and child-headed households and street children, poor households, natural resource dependent communities and ethnic/social group minorities.

Vulnerable status can be determined by identifying a group's likelihood of facing harder conditions as a result of the resettlement because of such specific factors as a group's gender, economic status, ethnicity, religion, language or health condition. Depending on the specific context of the resettlement operation, vulnerable groups may thus include, for example, female-headed households, those below the poverty line, the landless, indigenous peoples, those without legal title to assets, those with physical handicaps, or ethnic, religious and linguistic minorities. Identifying vulnerable groups should be the result of careful analysis of the social and

economic context, the presence of factors that may cause vulnerability and the capacity of the group to cope or adapt.

**Wayleave:** A RoW over the land of another. This RoW is for carrying sewer, drain, power line or pipeline into, though, over or under any lands but in so doing may interfere with the existing buildings.

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## EXECUTIVE SUMMARY

### 1. Compensation Summary

	Variables	Data
1) General		
1	Region/Province/Department	Kilifi County
2	Municipality/District	Malindi, Kilifi and Ganze Sub counties.
3	Village/Suburb	Several villages from Kakuyuni location in Malindi sub county to Takaungu location in Ganze Sub County
4	Activity(ies) that trigger resettlement	Provision of RoW for the construction of the proposed Malindi-Kilifi 220kv transmission line 82.5 KM requiring a 40m wide wayleave corridor
5	Project overall cost	Kshs 697,428,960.53
6	Overall resettlement cost	Kshs. 465,863,543.17
7	Applied cut-off date (s)	18 <sup>th</sup> December 2021
8	Dates of consultation with the people affected by the project (PAP)	August 2019 and December 2021
9	Dates of the negotiations of the compensation rates / prices	18 <sup>th</sup> December 2021 Further negotiations during verification stage of RAP implementation
2) Specific information		
10	Number of people affected by the project (all PAPs including those not eligible for compensation)	3,654
11	Number of Physically displaced	407
12	Number of affected households	636
13	Number of females affected (female household heads)	191
14	Number of vulnerable project affected household heads	270
15	Number of major PAP	407
16	Number of minor PAP	229
17	Number of households losing their shelters	407
18	Total area of lost arable/productive lands (ha)	330
19	Number of households losing their crops and/or revenues	566
20	Total areas of farmlands lost (ha)	330
21	Estimation of agricultural revenue lost (USD)	188,622.94
22	Number of buildings/structures to demolish totally	1,060
23	Number of tree-crops lost	17,270
24	Number of commercial kiosks to demolish	22
25	Number of Permanently Displaced Persons (PDPs)	43

### 2. Introduction

Kenya's long-term development blueprint, the Vision 2030, aims at transforming Kenya into a globally competitive, newly industrialized, middle income, and prosperous country. The growth objectives underpinning the Vision 2030 require a sustainable annual economic growth rate of more than 10% supported by industry,

agriculture, and services. Efficient, accessible, and reliable infrastructure has been identified as an enabler for achieving sustained economic growth, development, and poverty reduction by lowering the cost of doing business and improving the country's global competitiveness. The electricity subsector has adopted a 20-year rolling plan that will align the sector with the Vision targets. The plan provides the road map to meet the estimated power demand. Power generation sequence, necessary network upgrades and expansions required to adequately evacuate the generated power and efficiently meet the demand is proposed. To achieve this Vision, the Government of the Republic of Kenya is seeking the financial support of African Development Bank (AfDB) to finance an electricity transmission infrastructure project under the Kenya Transmission Network Improvement project (KTRNIP). The project consists of three sub projects/lines i.e., the proposed 82.5km Malindi-Kilifi 220kV transmission line (covered in this Resettlement Action Plan (RAP) as well as Kabarnet-Rumuruti and the Narok-Bomet 132Kv transmission lines.

The proposed Malindi- Weru-Kilifi 220 kV transmission line and associated substations forms part of this project. This project aims to improve the power systems, and electricity access and reliability within the region, in line with the Kenya Growth and Development Strategy. The Project will be coordinated by The Ministry of Energy (MoEP) and implemented by Kenya Electricity Transmission Company (KETRACO).

The main development objective of the proposed project is to improve power transfer capacity, quality electricity supply and supply reliability of high voltage (HV) transmission Network and enhance socio-economic development in the targeted areas. It also supports to improve efficiency of supply by reducing technical losses and providing evacuation alternatives for renewable (wind and solar) power generation projects in the project targeted areas.

The achievement of development objectives will be assessed using the following key outcome indicators:

- Increased network efficiency, reliability and transfer capacity
- Increased access to sustainable energy services
- Increased employment during project construction,
- Reduced local pollution and GHG emissions from the use of traditional biomass and kerosene for cooking and lighting.

### 3. Project description

The 220kV Malindi to Kilifi double circuit line measures approximately 82.5KM with a wayleave of 40 meters – 20 meters on both sides from the center line. It has 18 angle points (AP) from Kilifi Substation to Malindi Substation.

The proposed 220kV single circuit transmission line is planned to be constructed off the existing 220/33kV substation at Malindi to the proposed switch station at Weru. The components of the sub-project will include construction of 220KV double circuit line from Weru (switch station) to Kilifi, establishment of a 220/132KV substation at Kilifi and construction of 220KV switch station at Weru. This will also include a 132KV link from the proposed 220/132kV SS at Kilifi to the existing 132kV Kilifi Substation.

The transmission line is proposed to begin at Malindi Substation, Kakuyuni in Goshi location traversing through the following locations: Goshi, Jilore, Lango Baya, , Sokoke, and terminating at the Proposed Kilifi Substation, in Kilifi Township Location. The line is reasonably away from densely populated townships and residential areas. It also veers off to avoid Arabuko Sokoke Forest at Northwest of Vitengeni between AP5-AP10 and deviates the densely populated area of Kilifi.



#### 4. Objectives of the RAP

This report contains the updated Resettlement Action Plan (RAP) for the proposed Malindi-Kilifi 220kv transmission line 82.5 KM. The 2021 update was undertaken as the data collected in the initial RAP in 2019 was obsolete.

The Rap identifies, documents, quantifies, and mitigates potential physical, economic, and cultural impacts arising from the proposed project. The overarching goal of the RAP was to:

- i. To avoid involuntary displacement where feasible or minimize the impacts where resettlement is unavoidable i.e., mitigate residual risks and impacts through compensation at full replacement cost where applicable
- ii. To design and implement resettlement as a sustainable development program; including ensuring displaced receive resettlement assistance to ensure their livelihoods, capacity to earn a living and community ties are restored at least, if not improved.
- iii. Ensure that displaced people are meaningfully consulted and given opportunities to participate in the planning of resettlement
- iv. To ensure compensation and related budget is considered as part of project costs.

#### 5. Legal And Regulatory Framework

The RAP has been developed in accordance with the Laws of Kenya, KETRACO's Resettlement Policy Framework (RPF), AFDB'S Integrated Safeguards System-Policy Statement and Operational Safeguards (ISS) more so OS 2. Involuntary resettlement: land acquisition, population displacement and compensation and Korea Exim bank's Economic Development Cooperation Fund (EDCF) Safeguard Policy.

##### A. National

This section reviews various legislations which deal with involuntary resettlement and acquisition of way leave access/easement in Kenya.

##### i) The Constitution of Republic of Kenya

The national constitution recognizes and protects the right to private property, including land. However, with the projects of national interest, the government has been given a room by the constitution to acquire privately owned land to pave the way for projects of national interest

Section 61 (2) of the Constitution has classified land as public, community or private. The proposed transmission line will traverse public, community, and private land. These are discussed briefly below.

- *Public/Government Owned Land:* Government land includes all un-alienated Government land held and occupied by Government agencies, territorial sea and seabed, all public roads whether gazetted or not and land that remained un-adjudicated Land Act.
- *Community/Trust Land:* All trust lands are vested in county councils, to hold such land for the benefit of the persons ordinarily resident on that land. In this case, the land is owned by a ranch.
- *Private Land:* Article 40 of the Constitution of Kenya recognizes and protects the right to private property including land.

##### ii) The Land Act

The Act also specifies the manner for determination and compensation award for the creation of a public right of way. Section 143 (2) states that a public right of way may be—a right of way created for the benefit of the national or county government, a local authority, a public authority or any corporate body to enable all such

institutions, organizations, authorities, and bodies to carry out their functions, referred to in this Act as a wayleave; or (b) a right of way created for the benefit of the public, referred to in section 145 of this Act as a communal right of way.

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

## **B. KETRACO Resettlement Policy Framework**

The objective of the RPF is to establish the principles, procedures, entitlements and eligibility criteria, organizational arrangements, and provisions for monitoring and evaluation (M&E), the framework for stakeholder and PAPs participation, as well as the mechanisms for addressing grievances which will be applied to the proposed transmission project.

The Resettlement Policy Framework (RPF) is applicable to projects that involve physical displacement through acquisition of land for project activities, economic displacement, or restricted access to natural resources and assets that lead to loss of income sources or means of livelihood. The RPF provides project stakeholders with the procedures to address the risks that may arise if successful implementation of a project requires economic or physical displacement of populations

## **A. INTERNATIONAL**

### **i) AfDB OS 2. Involuntary resettlement: land acquisition, population displacement and compensation**

This safeguard consolidates the policy commitments and requirements set out in the Bank's policy on involuntary resettlement, and it incorporates refinements designed to improve the operational effectiveness of those requirements. The safeguard retains the requirement to provide compensation at full replacement cost; reiterates the importance of a resettlement that improves standards of living, income-earning capacity, and overall means of livelihood; and emphasizes the need to ensure that social considerations, such as gender, age, and stakes in the project outcome, do not disenfranchise project-affected people.

The main features of this directive are as follows:

- a) All viable alternative project designs should be explored to avoid or minimize the need for resettlement and when it cannot be avoided, to minimize the scale and impacts of resettlement.
- b) Resettlement measures are to be conceived and executed as development activities.
- c) Assistance should be given to the community in their efforts to improve former production levels, income-earning capacity and living standards, or at least restore them to the levels at which they would have been without the project.
- d) Displaced persons should be:
  - Compensated at Full replacement cost prior to the actual move;
  - Assisted with relocation; and
  - Assisted and supported during the transition period.
- Particular attention will be given to socially disadvantaged and vulnerable groups such as the very poor, the disabled, minorities, orphans and child-headed families, squatters and others without clear legal rights to land, those incapacitated by advanced age, among others. This has been complied with. Vulnerable groups have been identified and earmarked for special assistance.

- Communities will be given opportunities to participate in planning, implementing and monitoring their resettlement/compensation. This has been complied with; and extensive community and stakeholder consultations were undertaken. Also, the views of the community members and other stakeholders have been considered and integrated into the RAP.

The proposed project is classified as a Category 1 project under the bank's Operational Safeguards. ISS annex 2- Integrated safeguards system defines Category 1 projects as those likely to induce significant, irreversible adverse environmental and / or social impacts, or significantly affect environmental or social components that the Bank or the borrowing country considers sensitive.

#### ii) Korea Eximbank's Economic Development Cooperation Fund (EDCF) Safeguard Policy

Korea EximBank is committed to ensuring the environmental and social sustainability of EDCF funded projects. The objectives of the EDCF safeguard policy are to :

- Avoid adverse impacts of project impacts on the environment and affected people when avoidance is not possible; and
- Minimize, mitigate and/ or compensate for adverse project impacts on the environment and affected people when avoidance is not possible; and
- Help the borrower to strengthen their safeguard systems and develop the capacity to manage environmental and social risks.

The proposed Kabarnet -Rumuruti 132 Kv transmission Line is classified as a Category A (High Risk) project. "Category A" projects are those which have significant adverse environmental and social impacts and high risks that are irreversible.

### 6. Main socio-economic characteristics of the PAPs

A socio-economic survey was undertaken on the entire stretch of the transmission line. In total 454 household heads out of the 636 affected PAHs were interviewed. Of these, 263 (58%) were male and 191(42%) were female. The census showed that a total of 3,654 project affected persons (PAPs) are found in the 636 households.

**Age:** 76% of the PAHs have an average of 4 family members with most members i.e., 46% being below the age of 18 years. Those aged between 19-35 years are 30%. A small proportion, 7% of the affected persons, are above 60 years.

**VMGPs:** The socio-economic survey came across one (1) youthful respondent in Konjora 3 village – Kilifi Township location who were noted to be of Bajun origin. The respondent is polygamous with three children. The respondent has assimilated into the Giriama and practices business, rears livestock and undertakes subsistence farming. Therefore, the RAP team did not come across any significant settlement occupied by the Indigenous people (IP), such as "the Bajuni" and "the Waatha" The RAP findings indicates that no Social Assessment (SA) report or Vulnerable and Marginalized Group Plan (VMGP) will be prepared for this project since no indigenous communities are traversed. The project will therefore implement targeted interventions to ensure vulnerable individuals and households are adequately and effectively engaged and equally access project benefits and opportunities

**Education:** 41% PAH respondents have attained only primary education. Other educational levels are

secondary 17%, college 5%, pre-primary 2%. University education and vocational education are 1% respectively. However, a significant proportion of 32% have no formal education. Education is an essential aspect; therefore, PAPs with limited ability to read and write might require special assistance from their representatives to uphold the process of free, prior, and informed consultation process, (meaningfully informed and consulted), especially during the process of compensation and resettlement. Further, the implication from the education statistics suggests that the PAPs might only be able to provide a semiskilled or unskilled labor force.

**Occupation and Income:** In terms of occupation, only 26% of the household heads are employed. For those employed, main occupations are casual laborers 52%, employed in the private sector 28%, self-employed/business 10%. Other household heads' occupations are paid employees (within the household) 8%, while volunteering/internship 2%. Monthly income for substantial household heads 360 (79.3%) is estimated to be less than Kshs10,000 attributed to their main livelihood activities i.e., agriculture.

Land is an essential factor of production, as such people utilize it for various socio-economic purposes including subsistence farming. In the project area, PAHs not only use land for settlement but also practice agriculture/farming (poultry, livestock farming and aquaculture). Agriculture is a significant source of livelihood for the PAPs along the transmission line. They mainly practice mixed farming.

**Living Conditions:** In terms of access to electricity, 84.3% PAHs are not connected to electricity. Only 15.7% of the structures are connected to the power grid. A majority of project-affected households 74% mainly use the electricity to light up their homes, and 12% utilize it for business purposes, while 6% utilize the electricity for domestic cooking and 8% for water heating.

87% of the PAHs use firewood as their primary source of cooking energy. Charcoal at 9% while LPG is used by only 3%.

The primary sources of water are: Public taps 361(79.5%), piped water into plot yard 39(8.6%), piped water into dwelling 32(8.6%).

## Land Ownership

Majority of the affected landowners 56% have purchased their land, whereas 25% inherited. Those allocated are 15%, and squatters or landowners with an unknown status are 4%. Generally, the data shows that 73% of landowners affected did not have title deed irrespective of whether they were purchasers, inheritors, or illegal occupiers. The RAP recommends that the land ownership issue being emotive should be addressed by the relevant stakeholders before project commences.

## 7. Social and economic impacts of the project

The RAP identified the project impacts as displacement, loss of land, loss of structures, loss of trees, loss of crops, and loss of income for some of the PAPs. Overall, a total of 636 households , 1 public institution, 3 religious institutions, 1 company and a Grouch Ranch are affected. The 636 Households represents 3654 persons. These impacts are defined briefly below:

Type of Loss	No. of PAHs
<b>Total number of PAHs</b>	<b>636</b>
PAHs losing Land and Residential Structures	<b>336</b>
PAHs losing primary residential structures on another people's land (Squatters on KFS land)	<b>71</b>
<b>Total physically displaced PAHs losing residential structures</b>	<b>407</b>
PAHs losing Land only	<b>183</b>

PAHs Losing Business Structure & Loss of Business Income (business structure owners) only	9
PAHs losing business structure and loss of business income on other people's land (squatters) only	16
PAHs who are Tenants	21
<b>Total Number of PAHs affected</b>	<b>636</b>
<b>Public Entities affected</b>	
Kenya Forest Service	1
<b>Total Public Institutions</b>	<b>1</b>
<b>Companies/ Associations/Churches Affected</b>	
Word Celebration Centre	1
Sokoke PEFA Religious institutions	1
Barikiwani Religious institutions	1
African Plantation Capital Limited	1
Weru Group Ranch 20	1
<b>Total Companies/ Associations/Churches Affected</b>	<b>5</b>
<b>Total Number of PAPs</b>	<b>3654</b>

#### i) Land requirements for the project

The 220kV Malindi to Kilifi double circuit line measures approximately 82.5KM with a wayleave of 40 meters – 20 meters on both sides from the center line. It has 18 angle points (AP) from Kilifi Substation to Malindi Substation. The total area of affected land parcels is 330 Ha or 815.448 Acres. Parcels of land traversed by the proposed RoW range in size from one Ha to thousands of Ha tracts of private land or land held in trust by County Councils or land owned by public institutions and/or owned by local or foreign investment companies or multinational companies.

A total of 592 land parcels are affected with 519 PAH landowners as shown below.

Location	No. of land parcels	No. of Landowners (PAHS)
Goshi / Kakuyuni	38	66
Jilore	96	76
Langobaya	180	146
Sokoke/Nyari	139	140
Tezo-Kilifi Township/Takaungu	139	91
<b>Total</b>	<b>592</b>	<b>519</b>

7% of land parcels (592) are fully affected (full impact) whereas 93% of land parcels have partial impact.

In addition, 5 more parcels are owned by a public institution, 3 religious institutions, a local company and a group ranch.

Table 6-3. Types of land tenure

Type of Owner	Number of Acres	Percentage
Private individuals	720.148	88%
Public institutions (Kenya Forest Service)	42	5%
Religious Institutions	0.7	0%
Local Companies (African Plantation Limited)	12.9	2%
Ranch (Weru 20)	39.7	5%
Total	815.448	100%

## ii) Impact on Physical Assets

A total of 407 PAHs will be physically displaced in terms of losing residential structures within the land they own or on other people's land. 1060 structures are affected.

## iii) Socio-cultural impacts

An approximate of 24 graveyards were observed to be within the proposed RoW.

The elderly proposed that the proposed project should avoid any interference with the existing graves either during construction works or clearing access routes, since the graves hold cultural values and social ties to the bereaved. Slight adjustment of the ROW and towers/pylons to avoid sensitive cultural properties like graves was informed by the ESIA from specifically the local community during stakeholders' engagement process.

## iv) Impact on Enterprises/Business structures

There are diverse business enterprises within the proposed line RoW. The most affected are small-scale businesses which vary from retail shops, food kiosks, local eateries owned by the PAPs who have been considered for compensation. 16 PAHs will lose business structure and loss of business income on other people's land (squatters) while PAHs losing business structure and loss of business income on other people's land (squatters) are 13.

## v) Impact on Public facilities and Associations / Groups

Table 6-5 Impacts on Public Facilities

Type of Public Facility	Location	Total Area Affected (Acres)	Nature of Impact and Description
<b>Public Institutions</b>			
Kenya Forest Service	Goshi	42.00	Minimal Impact. Only a small section of land and trees are affected
<b>Structures within Religious institutions</b>			
Word Celebration Centre	Jilore	0.20	Full Impact- Entire religious institutions structures are affected (Semi-Permanent Structure).
Sokoke PEFA Religious institutions	Nyari	0.25	Full Impact- Entire structures in the religious institution's premises are affected. These include Main religious institution's structure, Toilet, and Kitchen
Barikiwani Religious institutions	Konjora	0.25	Minimal Impact. Areas affected include: Two Pit Latrine
<b>Companies</b>			

Type of Public Facility	Location	Total Area Affected (Acres)	Nature of Impact and Description
<b>Public Institutions</b>			
African Plantation Capital Limited	Langobaya	12.9	Minimal Impact, areas affected is only one temporary structure and the company's fence. A section of crops/Bamboo trees will be affected Minimal Impact- Not to affect its operations
<b>Associations</b>			
Weru Group Ranch 20	Langoba ya	39.70	Minimal Impact, only a small section of land is affected

#### vi) Impact on Trees and Crops

The proposed project traverses largely agricultural land with various farming activities being undertaken as described in previous sections. A number of tree varieties and perennial crops are likely to be damaged during construction. An estimated 17,270 tree crops will be damaged and compensated. All damaged trees and crops will be enumerated upon damage and compensated as guided by KETRACO's RPF at full replacement cost. In this case, at least 566 PAHs are losing trees and crops.

#### vii) Impact on Squatters

There are squatters resident on KFS land in Madunguni area. 71 of these are losing residential structures while 16 will be losing business structures and income.

#### viii) Impact on vulnerable Groups

There are a total of 270 PAH heads that have been identified along the project corridor. In this regard, the RAP proposes these be considered to AfDB ISS receive the entitlements as AfDB ISS prescribed in this RAP report

Category	No.
Differently abled Person	35
Female Household heads (including 41 Widowed)	191
Older persons 70+	44
Total	270

### 8. Eligibility And Cut-Off Date

All PAPs surveyed in the ROW before the 'cut-off-date' will be eligible for compensation. Normally, the land laws in Kenya allow compensation to affected people who are legal occupants of the land. However resettlement assistance and compensation for other losses apart from land will be provided to PAP without legal titles as per the AfDB Involuntary Resettlement Policy.

The cutoff date helps in curbing opportunistic behavior among the project affected, preventing an influx of developments within a project's footprint in anticipation of compensation, as is familiar with speculators. The cut-off date communicated to the PAPs is 18<sup>th</sup> December 2021 and will be ratified through a Kenya gazette as per the law.

### 9. Valuation Methodology And Compensation Package

The procedure followed in this report is based on legal procedure outlined in the Valuers ActCap 532, which requires that a duly authorised valuer be engaged in making cost valuation of assets to be possessed

by any development project. The other statutes governing valuation adopted in this report are the Land Acts 2012. The independent valuer also took cognisance of the values detailed in KETRACO's RPF as well as AfDB policy on need for replacement value.

#### **i) Choice of Valuation Methodology For this RAP**

Measurements and geo-referenced photographs of the affected properties was taken for ease of identification and correct data entry.

The data collected during field survey was as follows,

- i. Land size was established by the surveyor noting the size of the whole land and also the land affected (The challenge was in cases where the land is not adjudicated. The land is held informally by individuals through inheritance or purchase. Under such cases, the affected land and whole land per individual could not be established. The estimate is reached by using the land size established by the surveyor. Informal subdivisions are dealt with before offer letters are given to the PAPs.
- ii. Affected structures were measured and the structures characteristic noted. They include the materials used in the construction of walls, roof, floor and the status of the structure. Trees were counted, noting the types of the trees, and the level of maturity.
- iii. On crops, it was a planting season, hence not many crops were captured in the farm. Those captured; the area affected was measured, noting the type of crop, level of maturity and crop harvest per season.

The type and extent of the assets impacted, along with the principle that no PAH should be left worse off than they were prior to project implementation, determined the method of valuation for assets. Generally, this RAP has adopted the three methods of valuation as follows.

Generally, this RAP has adopted the three methods of valuation as follows.

1. Land valuation is based on the Market approach where comparable sales of similar parcels of land are adjusted from location to location to arrive at a value.

To minimize displacement impacts as much as possible KETRACO will expropriate and replace any non-economic viable land. The term "non-economically viable land" refers to (usually small) portions of properties that are not to be expropriated because they are not located within the Project corridor, but become uneconomically viable because: (i) other, larger parts of the same plot are being expropriated; or (ii) an adjacent plot, with which it was aggregated, is being expropriated.

This project will provide compensation for land for PAHs with recognized formal and/or customary land rights based on gross replacement cost. KETRACO will compensate for limited loss of use of land affected by the wayleave trace (this refers to land under wayleave that is severely affected by the TL). For wayleave, where the affected parcel of land is too small making it uneconomically viable and/or where existing residence (s) and structures are unable to be relocated within the unaffected area of the parcel, KETRACO will offer full replacement cost compensation to such a PAH, for loss of productive use of the affected land, plus all transaction costs as stipulated by ISS, to enable the PAHs to purchase alternative land of a similar size and productive value. The PAHs will retain ownership and use of the affected parcel and a wayleave easement will be registered against the affected plot.

KETRACO will pay for limited loss of use of land within the wayleave corridor at rate of between 30% and 100% of the Market Value depending on impact.

Land will be compensated as guided by the bands in the table below:



Category	Total Area (approximate) In acres	Percentage Affected	Rate of Compensation
	Above 1.0 acre	Above 30%	@ per centum % of Trace Value
	Above 1.0 acre	1-30%	30% of Trace Value
	0.75 –1 Acres	1-30%	50% of Trace Value
1.	0.75 –1 Acres	31-49%	50% of Site Value
2.	0.75 –1 Acres	≥50%	Full Market Value
	≤0.5Acre	1-20%	50% of Trace Value
3.	>0.5Acre	>20%	Full Market Value/site value
4.	≤0.25 Acres	1-10%	50% of Trace Value
	>0.25 Acres	≥10%	Full Market Value /Site value

(Source: KETRACO's RPF)

In the case of KFS land and trees, KETRACO will apply for a 'special use licence meaning authorization issued to a person to undertake an activity whose primary purpose is to yield public benefit in transportation, communication, energy, research or education as per the The Forest Conservation And Management Act No. 34 Of 2016.

- Investment approach is applied where the property is revenue earning such as businesses and rental houses.

**In terms of business/rental loss of income,** Tenants will be compensated to take care of the time (three months) they will be looking for alternative accommodation for their businesses.

Since formal business records could not be ascertained, loss of income for businesses was arrived at through vigorous interviews to ascertain the amount of income one earns taking into account general assessment of the business factoring the expenses to get the net profit. Rental income was determined through interviewing tenants. Landlords therefore received a 3 months' allowance per tenant rent payment.

- Cost approach is used for structures owned by the project affected persons whereby the cost of the construction is estimated at rates provided by the KETRACO's Resettlement Policy Framework multiplied with the area to come up with a value of the structure.

The recommended option for this Project, and in line with integrated safeguards system AfDB ISS, is compensation in kind through support to provide PAPs (including institutions) with fit-for-purpose replacement housing and structures/assets including community and public facilities, but the preferred mode of compensation option by the PAHs is cash.

Compensation for non-residential structures in cash will be provided as an option. However, based on the consultations with the PAHs, the preference is cash compensation for residential structures for which they consider as more appropriate. As such, KETRACO will aim to "offer the choice of replacement property of equal or higher value, with equivalent or better characteristics and advantages of location, or cash compensation at full replacement value where appropriate".

In the event that affected households still opt for the compensation in cash, KETRACO will provide compensation for both residential and non-residential structures at full replacement cost (without taking depreciation into account).

The project will apply a 15 per cent disturbance allowance in addition to the assessed compensation values for affected structures

4. Compensation of affected crops was valued according to the gross market value of the affected crops. Gross market value makes full provision for owners' crops or users input already expended (labor, seeds, fertilizer, etc.). To calculate the compensation for losses of production from annual crops, the market value is multiplied with the area of the affected crops. For affected plots with mixed crops, an average was considered.
5. The trees affected by the transmission line corridor were recorded according to the size (Young, Medium, or Mature) and valued at the current market value based on replacement costs of similar or comparable trees depending on age and its future potential. These are based on KFS AND Ministry of agriculture rates.

To comply with AfDB ISS, the compensation rates for crops and economic trees are required to reflect full replacement cost, which corresponds to market value plus transaction costs without subtraction of depreciation value. To meet this requirement, KETRACO will supplement, where necessary, the Government-provided compensation rates with a top-up to ensure that the total amount of cash received is equivalent to the full replacement value of the affected standing crops/trees, at the date of the enumeration

#### 6. Vulnerable PAPs

Assistance will take the following forms, depending on vulnerable people's requests and needs:

- Assistance and prioritisation in the compensation payment procedures;
- Assistance in the post payment period to secure the compensation money;
- Priority in processing disbursement of compensation packages
- Moving and transition support or allowance during the relocation period.

In addition, to what is discussed in earlier sections of this chapter, the following intervention areas have been considered as possible areas of in-kind resettlement assistance to vulnerable PAP households during the RAP implementation:

- Targeted and localized house-to-house or group sensitization for the vulnerable PAP households during pre-payment consultations.
- Priority consideration in processing resettlement compensation payments and specialized assistance in explaining and filling out compensation payment forms.
- Livelihoods capacity development for selected members of vulnerable PAP households, in line with local livelihood opportunities and economy.
- Counselling and guidance for members of vulnerable PAP households.
- Consideration for employment in project activities for some of the members of the vulnerable PAP households.

## ii) Livelihood Restoration

Even where temporary loss of business or another form of livelihood is involved, it has the potential to impact on or result in long term impoverishment of the PAPs. Besides, resettlement should be pursued as a development option, seeking to improve the lives of those affected. This requires specific and deliberate strategies in investment in the lives of those affected.

Affected households are entitled to participate in and to benefit from the targeted set of livelihood restoration programs, which were developed for this RAP:

- Pre-Compensation financial training for the sustainable use of cash compensation (including training on the maintenance of a bank account, on small household investments, saving strategy and financial planning on the household level);
- Business skills training: facilitation of access to alternative income generating activities.
- Provision of hybrid seeds for improved production to PAHs.

A detailed livelihood restoration matrix including the budget, timelines, responsibility, and measures for each identified livelihood during the study is outlined in table 7-2. It covers General Agricultural Support Program, Livestock support programs, Local employment opportunities, Enterprise Based Livelihood.

Table 1-1 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><b>Option 1:</b> 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>	<b>Option 1:</b> 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 KETRACO	<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>
		Rightful owners of the affected	<b>Option 2:</b> Constructed in kind replacement house of size (measured floor area or number of rooms) at least equivalent to	Vulnerable PAHs who choose in kind	Financial training for the sustainable and

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
		houses and structures who choose to have replacement houses/ structures replaced in kind (built by the Project)	<p>the PAH's pre-resettlement housing, with consideration of functional spatial use, at location of owner's own choice.</p> <p>For PAHs who choose to have project build their houses, an agreement will be signed with the PAHs describing the house to be built, the location and the expected time of final relocation (in principle should not exceed 6 months)</p> <p>Materials from the affected structure may be salvaged at the owner's expense within the notice period given to vacate defined by the project schedule and prior to demolition.</p>	<p>replacement house and if the affected structure was present within the project area by the cut-off date and identified and verified through final asset and valuation.</p> <p>All PAHs in this category must prove that the affected structure is their primary residence.</p>	<p>prudent use of cash compensation</p> <p>Monitoring mechanism at main stages of construction of dwelling units.</p>
2.	Loss of business income/wages	Persons earning livelihoods (income or wages) from affected assets	<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.</p> <p>Any other transitional costs such as extended storage, lost wages, etc.</p>	<p>PAH must provide proof of business income or 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 Registered Valuers.</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>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
3.	Sanitation facilities (Pit latrines & bath shelters).	Rightful owners of the affected structures (residential, commercial and other)	<p>Cash compensation for all structures at full 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 to vacate defined by the project schedule and prior to demolition.</p>	<p>Cash option is available to owners of affected structures that are either complete or incomplete</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 KETRACO.</p> <p>NB: Vulnerable Owners already given a replacement house that already includes these facilities will not receive additional cash compensation.</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Monitoring mechanism at main stages of resettlement.</p>
4.	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 full replacement cost, based on professional valuation.</p> <p>Statutory Disturbance Allowance of 15% of the total compensation amount for structures.</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>Cash compensation to owners of affected structures that are either complete or incomplete. All structures must have been present within the project area by the cut-off date and identified and verified</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Monitoring mechanism at main stages of resettlement.</p>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
				through final asset inventory and valuation.	
5.	Land for Primary Residential land/ plot – permanent OR partial loss	Registered owner or claimants of communal/ranch and privately held land on which complete immoveable housing structure is established for primary residence.	<p><b>Option 1:</b> Self-managed relocation (Cash compensation with relocation plans overseen)</p> <p>Legally established interests, including user rights, on community land will be compensated in accordance with Kenyan Law.</p> <p>Assistance in fasttracking Succession (where needed)</p>	<p>All PAHs in this category must prove that the affected 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>PAHs may be required to 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>Financial training for the sustainable and prudent use of cash compensation</p> <p>Easements will be registered on the affected property by the project.</p> <p>Provision of support registration cost and required formalities to ensure security of tenure for vulnerable PAHs where needed. Monitoring mechanism at main stages of resettlement</p>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
				(especially for PAHs who do not have sufficient land to rebuild their structures on and are required to replace land for dwellings).	
			<p><b>Option 2:</b> Assisted relocation (Cash compensation held by project and land and structures identified and acquired by the project) mainly directed at Vulnerable PAHs</p> <p>PAHs to identify suitable resettlement land whose value does not exceed compensation value of affected land and to negotiate and conclude the sale agreements with sellers, transfer of cash to the sellers and successfully transfer of land ownership to the PAHs.</p> <p>Assistance in fastracking Succession (where needed)</p> <p>Assistance in conveyancing and transferring title (for vulnerable PAHs) where needed.</p> <p>Legally established interests, including user rights, on community land will be compensated in accordance with Kenyan Law</p>	<p>All PAHs in this category must prove that the affected land is their primary residence (either through formal or traditional verification processes) – Largely targeted at vulnerable PAHs</p> <p>All listed vulnerable PAHs and all PAHs who neither own other resettlement land nor have identified suitable resettlement land.</p> <p>This is the risky category of land PAHs who will require direct project intervention during RAP Implementation</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>The local administration will assist in identification of relocation land and coordinate related activities in liaison with KETRACO.</p> <p>Provision of support registration cost and required formalities to ensure security of tenure for vulnerable PAHs where needed.</p> <p>Monitoring mechanism at main stages of resettlement</p>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
		Squatters	<p>Cash compensation for all structures at full replacement cost, based on professional valuation.</p> <p>Statutory Disturbance Allowance of 15% of the total compensation amount for structures.</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>	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 KETRACO	Monitoring mechanism at main stages of construction of dwelling units.
6.	Permanent OR partial loss of agricultural farming land	Registered owners or claimants of communal and privately held lands	<p><b>Option 1:</b> Self-managed relocation (Cash compensation with relocation plans overseen)</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Assistance in fasttracking Succession cases (where needed)</p> <p>Assistance in conveyancing and transferring title (for vulnerable PAHs) where needed.</p> <p>Legally established interests, including user rights, on community land will be compensated in accordance with Kenyan Law</p>	<p>PAPs must prove ownership (either through formal or traditional verification processes) at the time of verification</p> <p>Payment of compensation 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</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 registration cost and required formalities to ensure security of tenure for vulnerable PAHs where needed.</p>



#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
				<p>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 Sale Agreements 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 Registered Valuers.</p>	Monitoring mechanism at main stages of resettlement
			<p><b>Option 2:</b> PAHs to identify suitable resettlement land whose value does not exceed the total compensation and is within the defined project area and to negotiate and conclude the sale agreements with sellers, transfer of cash to the sellers and successfully transfer of land ownership to the PAHs (Mainly directed at vulnerable PAHs).</p> <p>Assistance in fasttracking Succession cases (where needed)</p>	<p>PAHs must prove ownership (either through formal or traditional verification processes) at the time of final asset surveys.</p> <p>Payment of compensation for lost</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Assistance to identify suitable land and negotiate with the</p>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
			<p>Assistance in conveyancing and transferring title (for vulnerable PAHs) where needed.</p> <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.</p>	<p>assets and land made before displacement.</p> <p>All listed vulnerable PAHs and all PAHs who neither own other resettlement land nor have identified suitable resettlement land.</p> <p>This is the is also a risky category of land PAHs who will require direct project intervention during RAP Implementation</p>	<p>potential land sellers. This will be achieved the use the local administration chain of command within their areas of jurisdiction in liaison with KETRACO</p> <p>Provision of support registration cost and required formalities to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of resettlement by KETRACO PIT</p>
7.	Permanent loss of grazing land	Registered owners or claimants of communal and privately held lands	<p>Registered owners or claimants:</p> <p>Cash compensation of the value of the land at replacement cost.</p> <p>Provision of support registration and required formalities to ensure security of tenure (for vulnerable PAHs) where needed.</p> <p>Assistance in fasttracking Succession cases (where needed)</p> <p>Assistance in conveyancing and transferring title (for vulnerable PAHs) where needed.</p>	<p>For cash compensation, persons must prove ownership and interest (either through formal or traditional verification processes) at the time of final asset surveys. NLC will require to confirm the bona fide person(s) who have determined interest on the affected land</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>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
				as provided in the Land Act	Monitoring mechanism at main stages of resettlement
8.	Public Assets i.e. Affected properties, Structures, crops and trees excluding land.	Public Institutions National/County Government	<p>Cash compensation is done upon identification of affected properties (excluding land) of the government institutions affected.</p> <p>Special use license to grant wayleave through the KFS land.</p> <p>Land for Government institutions are not compensated for by another government institutions but only other properties are for purposes of replacement.</p>	Existing prior to cut off date	N/A
9.	Annual Crops	Owners of crops on farm land	<p>The project will make every effort to ensure land is taken after annual crops have been harvested. In such circumstances, no compensation for annual crops will be paid.</p> <p>Where crops are planted as part of the regular farming cycle in the project area and land is required, prior to harvesting, Crop Owners receive:</p> <p>Cash: Damaged crops will be compensated in cash as mature crops at agreed rates determined annually based on full replacement cost determined by Ministry of Agriculture based on market prices plus transaction costs</p>	Crop owners identified through final asset surveys by KETRACO and or its agent	<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>Business skills training and enlightenment on alternative income generating activities.</p> <p>Monitoring mechanism at main stages of resettlement</p>
10.	Perennial Crops (Including fruit and	Owners of crops on farm land	Cash compensation based on replacement cost determined by Ministry of Agriculture and Kenya Forest Service for crops/ fruit	Crops or trees in place (rooted) at cut-off	Financial training for the sustainable and

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
	economically valuable trees)		trees and trees of economic/ medicinal value respectively based on market prices plus transaction costs Compensation according to defined growth stage or size categories.	date and identified through final surveyors by KETRACO and or its agent..	prudent use of cash compensation
11.	Loss of shelter/commercial space	Tenants	Tenants will be compensated to take care of the time (three months) they will be looking for alternative accommodation for their businesses/families.	Identified through final census survey based on agreed criteria relevant to the project as documented in this RAP.	Financial training for the sustainable and prudent use of cash compensation
12.	Vulnerable Support Program (Tailored)	All PAPs in the project area considered vulnerable due physical challenges, sick or at a certain old age bracket require livelihood restoration support. This category refers to PAHs with other forms of vulnerabilities which may require special consideration. Vulnerable individuals and families who may	Transitional hardship assistance program appropriate to specific cases and based on Project assessment, including: - <ul style="list-style-type: none"> <li>• Priority in physical mobilization and transfer to resettlement plot;</li> <li>• A preference for in-kind compensation</li> <li>• Assistance in the compensation payment procedure</li> <li>• Resettlement near to kin and former neighbors to maintain informal support networks where feasible</li> <li>• Moving assistance to physically displaced vulnerable PAHs for their properties and salvages during resettlement.</li> </ul>	Identified through final census survey based on agreed Vulnerability criteria relevant to the project as documented in this RAP.	Special assisted transit to new land  Additional moving, loading and unloading assistance, if necessary;  Other specific support related to moving process (e.g., medical assistance for vulnerable PAPs who may be sick) identified by support case workers.  Follow up on orphans to make sure they identify and register in school upon

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
		find it difficult to cope with the Transition e.g. the elderly (over 60 years old), physically challenged, those suffering from chronic illness; widows and children who are under 18 years			<p>relocation. The Persons with Disability (PWD) and those HIV affected access 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 case of relocation and ensure they are compensated</p> <p>The vulnerable such as mentally sick, people</p>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
					<p>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 with APDK office.</p>

## 10. Consultations and negotiations held / conducted.

Consultation and public participation were undertaken at two main levels which included Interested parties or other stakeholders and individuals/groups / entities / Institutional consultations and community /PAPs consultations.

- The Interested parties or other stakeholders and individuals/groups / entities entailed key informant interviews and a workshop. The key informant interviews were held with National Government, County, and Sub- County administrators of various departments. An interested parties or other stakeholders and individuals/groups / entities workshop was convened on 8th August 2019 in Kilifi town at Hotel Mnarani Beach Club with a total of 38 attendees. The meeting was carried out in form of a workshop to create awareness of the proposed project, incorporate interested parties or other stakeholders and individuals/groups / entities' opinions to the RAP exercise, and engage the technocrats and professionals in a more exhaustive way as they have direct interest and contact with key issues identified on the ground.
- Community consultation meetings were also held at various levels.
- Joint ESIA-RAP Process Awareness / Commencement Meetings: RAP Process Awareness / Commencement Meetings were undertaken during the initial RAP in 2019.. A total of five (5) RAP awareness / commencement meetings were held with a total attendance of 1130 (623M and 507 Female). The participants at the meeting were briefly sensitized about the PAPs compensation procedures and encouraged to attend the scheduled RAP meetings for detailed information.
- Meetings with PAPs in 2021 update: 9 meetings targeting the PAPs were held attracting a total of 650 attendants (436 Male and 214 females).
- Vulnerable individuals and households' meetings: A total of six (6) meetings targeting vulnerable persons were also held along the proposed transmission alignment in 2019. The meetings were attended by 209persons (72Male and 137Female)

### i) Concerns Raised During RAP Consultation Meetings

Numerous concerns were raised during these consultative meetings; however, what came out clear were issues related to compensations on land and structures. How the compensation and reallocations will be made for the affected persons. Land issues also emerged whereby the audience raised concerns over pending court cases on the affected land and if the project implementer will take time to identify rightful landowners regardless of whether they occupy unregistered land or registered land parcels. PAPs also asked if those without titles deed would be compensated. The proponent responded that the fate of registered lands but have no title deeds, the payment will be held until the owners have been determined. On issues relating to compensation, the resettlement expert responded that the properties would be compensated fairly, considering the current market price for affected assets as well as their replacement cost if applicable. Matters on land disputes, the RAP team leader explained the Grievance Redress Mechanism (GRM) will be formed and available at no cost at community level through CRC to help resolve the disputes and in case the complainant is not satisfied they can seek legal redress from courts of law at their own cost. However, compensation will be made after all issues are resolved.

## 11. Grievance Redress Mechanism

The RAP implementation process provides opportunities for the PAPs to air and articulate their queries, concerns, issues, complaints, dissatisfaction or sense of injustice or unfairness, and seek to have these resolved

amicably, and in the shortest time possible.

This RAP proposed a three-tier grievance redress mechanism; at the community level, the KETRACO level and legal redress.

- The community level consists of Community Resettlement Committees. Following the sensitization, the PAPs on the need for grievances redress, the RAP team leader during the meetings with PAPs explained the criteria of selection and representation of various Community Resettlement Committees (CRC) members. Thereafter, the members were given 30 minutes to elect their CRC representatives. The Community Resettlement Committees (CRC) were unveiled in every administrative location and chaired by the Chief assisted by the sub location Assistant Chief. However, in Kilifi Township location and Langobaya Location, two CRCs were formed at Sublocation level traversed by the RoW, due to the huge number of PAPs in these locations. The CRC will acknowledge receipt of the grievance in 5 days and resolve within 1 month.
- The second level grievance redress will be the KETRACO level. KETRACO will seek to resolve complaints through its internal processes or seek arbitration/mediated resolution before informing the complainant to seek judicial resolution if they are still not satisfied. KETRACO's internal project grievance redress process will include redress by the PIT, or the institution of an arbitration/mediation process by the Company Secretary where appropriate. KETRACO will acknowledge receipt of complaints within two weeks and will strive to resolve each complaint within two months.
- *Third Level: Legal & Judicial Redress Mechanisms in Kenya:* In the event that that the complainants are dissatisfied with the outcome of the second level of grievance resolution, they shall be advised to seek recourse through the following dispute resolution bodies at their own cost and as a last resort. For land acquisition related matters, this is mainly directed to the Land and Environment Court.

## **12. Institutional Arrangements for RAP implementation**

The overall responsibility of compensation and resettlement rests with the implementing agency- KETRACO. KETRACO will be the lead agency in the RAP implementation and will work together with the County and National Governments in the PA to implement the RAP.

### **i) KETRACO Project Implementation Team**

KETRACO will nominate a team composed of experts with diverse key disciplines to oversee the RAP implementation process herein referred to as the KETRACO Project Implementation Team (PIT).KETRACO projects are managed by the PIT but the RAP process is spearheaded by the Environmental and safeguard section.

The RAP implementation team will be responsible for:

- 3) Delivery of the RAP compensation and rehabilitation measures;
- 4) Appropriate coordination between the agencies and jurisdictions involved in the RAP implementation;  
and
- 5) The measures (including technical assistance) needed to strengthen the implementing agencies' capacities for managing the facilities and services provided under the project.

The day-to-day role of the PIT RAP implementation team will be to:

- a) Plan and coordinate prompt compensation payments;



- b) Plan and coordinate non-cash compensation such as special assistance to vulnerable groups;
- c) Ensure that the compensation process and entitlements adhere to legal provisions such as spousal and children's consent where it applies, and following the succession Act in case of the death of a PAH;
- d) Report to the KETRACO's senior management team and stakeholders;
- e) Ensure that the information needs of the PAHs are disseminated promptly and effectively;
- f) Establish, manage and update the RAP implementation database;
- g) Contribute to the regular monitoring and evaluation of the RAP implementation;
- h) Consult and sensitise the community and PAHs with regard to the RAP implementation progress.
  - Validation of PAHs prior to compensation
  - Making payments for loss/ easement of land, structures, trees and crops to the PAHs (payments to be made to bank accounts through the National Land Commission)
  - Appropriate coordination between the agencies and jurisdictions involved in the RAP implementation; and
  - Coordinate construction schedule of contractors
  - Alert PAHs on when they would be needed to relocate.
  - Plan, facilitate and coordinate CRC trainings and subsequent meetings

## ii) Community Resettlement Committee (CRC)

The CRC committees were established at the community level in each settlement (Location) and varied from a 7 to 15-member committee depending on the Location's or settlements uniqueness. A representative of the local government administration such as chief or assistant chief was elected a default member and (where needed). Every committee at its activation will select a chairperson, vice-chairperson and secretary. The secretary must be someone who can read and write in English.

A total of eight (8) committees were formulated along the Malindi – Kilifi line (*Annex 11 – List of CRC members*). The committees will be initiated to ensure timely execution of the whole process and further clarify the role of PAPs and their responsibility in the resettlement process. Membership was drawn from a variety of factors including Project Affected Persons (male, female, structure/landowners, affected institutions where needed, persons living with disabilities, council of elders' representatives, Youth, religious groupings, etc.), and cognizance of local dynamics. For authority, the local chief or assistant chief representation in the committee will be the convener.

The committee's role will include: -

- Assist PAPs to file a complaint.
- To address PAPs grievances as the first point of contact, within 1 month and at no cost to PAP.
- Publicize the grievance management procedures.
- Receive, review, investigate, and keep track of grievances through the grievance logs/registers.
- Adjudicate and develop redress options for the raised grievances.
- Monitor fulfillment of agreements achieved through the committee.
- Provide inputs into the monitoring and evaluation process, such as monthly reports on grievances.

### **iii) Community Liaison Officer (CLO)**

A Community Liaison Officer (CLO) representing, or wayleave officer employed by KETRACO will be included in the CRC. The CLO positions will be filled by staff hired from the communities in the project area.

### **13. Monitoring and evaluation of the execution**

A comprehensive M&E framework should seek to track progress on five critical areas of RAP inputs, activities, output, purpose/ objectives and the goal/ long-term objective. These relate broadly to the two main components of a monitoring plan as identified by IFC's handbook on resettlement such as RAP performance and RAP impact/outcome monitoring, and under which a variety of questions can be used as an essential guide in the monitoring process

#### **i) Internal Performance Monitoring**

Internal performance monitoring allows KETRACOs to measure physical progress against milestones and schedules of required actions established in the RAP. It is meant to be an internally driven continuous process such as routinely aimed at ascertaining the RAP implementation achievements against a set of specific actions. Performance monitoring assesses KETRACO performance in line with this RAP's scheduled activities, with a bias towards inputs, activities, and outputs such as measures if inputs (here defined as the services, resources or goods that contribute to achieving outputs and, ultimately, desired outcomes) are delivered promptly or on schedule. Internal monitoring is the responsibility of the Project Implementation Team.

Monitoring reports will be completed by the Resettlement Implementation Team and KETRACO's Monitoring Officer, and provided to internal Project Management to review and discuss issues identified and corrective actions. In line with AfDB requirements for Category 1 reports, monthly RAP implementation reports will be submitted to the Bank.

Monitoring of the compensation process and activities is to ensure that effectiveness is achieved throughout the RAP implementation process.

Internal monitoring will be thematically carried out at two process levels; during the resettlement compensation payment period and after that period (post-compensation payment period).

#### **ii) External Impact evaluation (Midterm Evaluation)**

The external impact evaluation will gauge the effectiveness of the RAP and its implementation in meeting the needs of the affected population such as assessing the satisfaction of affected people with resettlement initiatives and, thus, the adequacy of those initiatives. Its focus is largely on the effects of resettlement or compensation, although it will incorporate some performance aspects. For instance, it will purposely validate the work done by the PIT in monitoring, to ascertain that the targets are met, and the objectives of the RAP are adhered to. In brief external impact evaluation objectives will include:

- i. Review the results of the internal monitoring and review overall compliance with the RAP.
- ii. Assess whether resettlement objectives and targets have been met / adhered especially with regard to compensation, livelihoods and standards of living levels, etc.
- iii. Determine overall adequacy of entitlements and the rehabilitation to meet the objectives.

Clear lessons learnt and recommendations to KETRACO on how to improve performance and impacts should be the primary deliverable from this exercise. The report should advise KETRACO management of changes necessary to improve implementation of the RAP towards the achievement of its objectives, including strategies on how to implement those changes. In this regard, therefore, it should be held a minimum six months after the start of the RAP implementation but not more than one year.

### iii) Post-Implementation Evaluation (Completion Audit)

Upon completion of the RAP implementation (at least six months but not more than a year later), KETRACO should undertake an audit to determine if the outcome of the RAP complies with the objective of the RAP towards restoration or improvement of the standard of living of the PAPs. The post implementation evaluation will verify if all commitments were delivered and whether mitigation measures had the desired effect. If the outcome of the audit reveals that these objectives may not have been realized, KETRACO is required to propose follow-up measures, as they may deem appropriate. This also documents the lessons learnt for feeding into the implementation of other RAPs and future projects.

The audit is undertaken by an external independent third party and will consider the baseline conditions, the results of resettlement monitoring, and midterm review. Also, the auditors will make their assessments, surveys, and interviews in the field and with PAPs.

The completion audit is intended to verify the results of the RAP implementation indicators, and to assess whether the RAP implementation achieved the resettlement objectives.

### 14. Total cost for the full implementation of the RAP

Subject to terms of reference, limiting conditions, general remarks and the analysis of potential damage and application of valuation methodologies, the likely cost of the damages anticipated from the proposed 82.5km 220 Kv Malindi –Kilifi double circuit line from Malindi substation to Kilifi substation is; Kshs **697,428,960.53**.

This cost is inclusive of compensation budget; administrative costs, miscellaneous costs, and contingencies; grievance redress mechanism implementation; support to Vulnerable individuals and households; stakeholder engagement; monitoring and evaluation; and livelihood restoration.

The grand total / certificate of value for the RAP can be broken down as follows:

*Table 10-3 Certificate of Value*

Location	Costs (Kshs)
Goshi	37,329,351.79
Jilore	142,332,007.10
Lango Baya	95,266,843.26
Sokoce/Nyari	54,554,707.53
Tezo/Kilifi North township	136,380,633.47
<b>Subtotal (compensation budget)</b>	<b>465,863,543.17</b>
Livelihood Restoration Plan-Actual cost	32,300,000
<b>Total Compensation and Livelihood restoration</b>	<b>498,163,543.17</b>
10% of <b>Total Compensation and Livelihood restoration</b> to cater for administrative costs, vulnerable, miscellaneous costs, and contingencies	49,816,354.32
Stakeholder engagement and Grievance Redress Mechanism Implementation Plan- 10% of Total Compensation and Livelihood restoration	49,816,354.32

Asset /Impact validation verification exercise (5% Total Compensation and Livelihood restoration)	24,908,177.2
Monitoring And Evaluation-5% of Total Compensation and Livelihood restoration	24,908,177.2
Contingency (10% Total Compensation and Livelihood restoration)	49,816,354.32
<b>Grand Total RAP Budget</b>	<b>Kshs 697,428,960.53</b>

## 1 CHAPTER ONE: INTRODUCTION

### 1.1. Project Background information

The country's long-term development blueprint, the Vision 2030, aims at transforming Kenya into a globally competitive, newly industrialized, middle income and prosperous country. The growth objectives underpinning the Vision 2030 require a sustainable annual economic growth rate of more than 10%, supported by industry, agriculture and services. Efficient, accessible and reliable infrastructure has been identified as an enabler for achieving sustained economic growth, development and poverty reduction by lowering the cost of doing business and improving the country's global competitiveness.

The electricity sub-sector has adopted a 20-year rolling plan that will align the sector with the Vision targets. The plan provides the road map to meet the estimated power demand. Power generation sequence, necessary network upgrades and expansions required to adequately evacuate the generated power and efficiently meet the demand is proposed.

As part of the plan to achieve this target, the Government of the Republic of Kenya is seeking the financial support of US\$370 million from the AFDB for the Kenya Transmission Network Improvement Project (KTNIP), which includes the proposed 82.5km Malindi-Kilifi 220kV transmission line (covered in this Resettlement Action Plan (RAP) as well as Kabarnet-Rumuruti and the Narok-Bomet 132Kv transmission lines. The proposed implementation period is 5 years, from 2022 to 2027. The project aims to improve the power systems and electricity access and reliability, in line with the Kenya Growth and Development Strategy. The Project will be coordinated by The Ministry of Energy (MOE) and implemented by Kenya Electricity Transmission Company (KETRACO).

#### ***Project Development Objectives***

The main development objective of the proposed project is to improve power transfer capacity, quality electricity supply and supply reliability of high voltage (HV) transmission Network and enhance socio-economic development in the targeted areas. It also supports to improve efficiency of supply by reducing technical losses and providing evacuation alternatives for renewable (wind and solar) power generation projects in the project targeted areas.

The achievement of development objectives will be assessed using the following key outcome indicators:

- 6) Increased network efficiency, reliability and transfer capacity
- 7) Increased access to sustainable energy services
- 8) Increased employment during project construction,
- 9) Reduced local pollution and GHG emissions from the use of traditional biomass and kerosene for cooking and lighting.

#### ***Project Components***

KETRACO, a public sector company, will be responsible for implementation of the transmission line investment and associated technical assistance activities. Ministry Of Energy (MOE) will be responsible for implementing the technical assistance component while also coordinating overall project activities.

The project comprises of three focused components elaborated below:

- 10) Transmission network improvement, which consists of construction of High Voltage (HV) transmission lines, and construction of new substations and extension of associated existing substations (details of which will be finalized during Appraisal).
- 11) Project Management and Supervision consultancy services to review design documents, specifications, and bid documents, management and supervision of construction activities and the implementation of the Environmental and Social Impact Assessment (ESIA) and Resettlement Action Plan as applicable.
- 12) Implementation Support and Capacity Building program for KETRACO to finance training, communications, and capacity building for KETRACO to strengthen operation and maintenance HV transmission lines, institutional monitoring including of environmental and social (E & S) and climate impacts and mitigation potential of the transmission infrastructure, evaluation, and mainstreaming gender in electricity infrastructure construction and operation.

## **1.2. Project Beneficiaries**

The proposed project targets to improve the HV transmission network that in turn results in increase in the power transfer capacity of the transmission lines and substations and improve reliability of electricity supply customers (domestic, commercial, industrial, public institutions etc.) in the targeted five counties in the western part of Kenya.

The key beneficiaries include households, commercial, small & medium enterprises (SMEs) etc. that will get access to the electricity network for the first time and existing customers whose use of electricity will replace consumption of kerosene and other fuels for lighting and will enable productive activities. It is therefore expected that the project will have a particularly profound impact on the opportunities available to women and girls and other marginalised groups, for example through reducing the drudgery associated with household tasks that often fall to women.

## **1.3. Scope and Objective of RAP**

This report contains a Resettlement Action Plan (RAP) for the proposed 82.5km Malindi-Kilifi 220kV transmission line. It identifies, documents, quantifies and mitigates potential physical, economic and cultural impacts arising from the proposed power transmission project. It is developed in compliance with the provisions of Kenyan Legal Framework, KETRACO's internal instruments developed in line with national laws and AfDB's Integrated Safeguards System (ISS): Policy statement and Operational Safeguards, specifically Operational safeguard 2 on land acquisition, population displacement and compensation.

The overarching goal of the RAP was to:

- v. To avoid involuntary displacement where feasible or minimize the impacts where resettlement is unavoidable i.e. mitigate residual risks and impacts through compensation at full replacement cost where applicable
- vi. To design and implement resettlement as a sustainable development program; including ensuring displaced receive resettlement assistance to ensure their livelihoods, capacity to earn a living and community ties are restored at least, if not improved.
- vii. Ensure that displaced people are meaningfully consulted and given opportunities to participate in the planning of resettlement
- viii. To ensure compensation and related budget is considered as part of project costs.

The RAP study included baseline socio economic assessment on the project affected persons (PAPs), actual census of the PAPs, nature of impacts on PAPs, categorization of PAPs based on impacts on them, eligibility criteria for compensation, valuation of structures, crops/trees (where applicable) and total land affected, Entitlement Matrix, grievance redress mechanism (GRM) and a report detailing all these variables as well as a determination of the cut-off date.

Specifically, the objectives of this RAP are to:

- i. Provide proposals to ensure resettlement is avoided or minimized where possible, and viable alternatives explored. Where it is not possible to avoid resettlement, resettlement and compensation principles, organizational arrangements and design criteria are conceived and to be executed as sustainable development programs, providing sufficient investment to PAPs and giving them opportunities to share the benefits of the project. The aim is to improve or sustain the livelihoods and living conditions of the PAPs to the same level or better than prior to project operations and/or resettlement.;
- ii. Identify potential project affected persons; and undertake a socio-economic baseline of their economic, social and cultural life to assist in the design of mitigation measures and for monitoring and evaluation during the project implementation period;
- iii. Document the impacts of the proposed projects on the occupants and their way of life, including to carry out an asset inventory survey of all potential assets that will be affected, undertake valuation for Project Affected Persons' (PAPs) assets and livelihoods and recommend measures to minimize displacement/resettlement effects and safeguard livelihoods;
- iv. Document acceptable entitlements to guide compensation and other mitigation actions to PAPs. Further, develop compensation/resettlement/livelihood restoration options that are technically and economically feasible, and culturally compatible with the people's preferences.
- v. Conduct extensive and in-depth stakeholder consultations with all project stakeholders, and particularly the Project Affected Persons.
- vi. Set out implementation strategies and arrangements for RAP, including institutional responsibilities, organizational procedures and a grievance redress system that takes cognizance of the existing local context;
- vii. Put in place a Monitoring and Evaluation, and reporting system for the RAP implementation, and
- viii. Compile a Project Affected Persons (PAP) and asset register.

#### **1.4. RAP Methodology**

A participatory and consultative approach was employed by the consultant ensuring meaningful, proactive, accessible, communicative and inclusive consultation of Project affected persons (PAPs) and interested parties or other stakeholders and individuals/groups / entities in the process as outlined in Chapter Five. This combined qualitative and quantitative methods of data collection. The methods included literature review, Free Prior and Informed Consultations (FPIC) with the PAPs, PAPs census and socio-economic survey / census, valuation, interested parties or other stakeholders and individuals/groups / entities' consultation, key informant interview, RAP commencement / Awareness meetings, meetings with PAPs, and Vulnerable individuals and households' meetings. All mobilization for field activities/data collection was undertaken through the office of the County Commissioner, chief and assistant chiefs. Other announcements were made in religious gatherings, notices, letters, 'nyumba kumi' / village elders and chiefs office. Succeeding sub -sections briefly highlights the approach adopted for the RAP.

#### 1.4.1. Literature Review

Key documents applicable to the resettlement process were reviewed, these included: KETRACO's Frameworks – RPF, ESMF and VMGF; and policies, plans, legislation and institutions applicable to resettlement in Kenya including relevant international policies. The review included an analysis on the differences between the Kenyan laws and the AfDB Operational safeguard 2 in relation to compensation and resettlement. The literature review helped to analyze and highlight the relevant institutional frameworks for resettlement in Kenya; property assessment/valuation methods in the country and acted as a legal basis for consultations with project affected communities. In line with legal provisions, the communities were henceforth informed on the nature/type of compensation and the RAP process to be followed to ensure they benefited from the compensation.

In summary, the following documents were reviewed;

##### **Documents:**

- AfDB Operational safeguard 2
- KETRACO's Resettlement Policy Framework (RPF);
- KETRACO's Environmental and Social Management Framework (ESMF)
- KETRACO Vulnerable and Marginalized Groups Framework (VMGF)
- AfDB's Environmental and Social Assessment procedures (ESAP)
- AfDBs 2013 Integrated Safeguards System Policy Statement and Operational Safeguards

##### **Policy documents:**

- Big four Agenda, 2017
- Kenya Vision 2030
- The National Land Use Policy (Sessional Paper No.1 of 2017)
- Sessional Paper No. 6 of 1999 on Environment and Sustainable Development Policy.
- Gender Policy, 2001
- HIV/AIDS Policy, 2009
- Third Medium Term Plan (MTP III) (2018-2022)
- National Policy on Gender and Development (NPGD), 2000
- Kenya National Youth Policy (2016)
- National Policy on Older Persons and Ageing, 2009
- Sessional Paper No. 2 of May 2006 on Gender Equality and Development

##### **Plans' documents:**

- Least Cost Power Development Plan, 2017-2037
- Kilifi County Integrated Development Plan, 2018-2022

##### **Legislation** in Kenya relevant to the proposed project: -

- The Constitution of Kenya, 2010;
- Environmental Management and Coordination Act (EMCA, Cap 387) and relevant subsidiary legislation.
- Energy Act, 2019;
- Land Act, 2012;
- Land Registration Act, 2012;
- National Museums and Heritage Act, No. 6 of 2006;
- National Land Commission Act, No. 5 of 2012;
- The Valuers Act Cap 532



- National Gender and Equality Commission Act, 2011.
- HIV/AIDS Prevention and Control Act (Act No. 14, 2006)
- The Physical and Land use Planning Act, 2019;
- The Prevention, Protection, and Assistance to Internally Displaced Persons and Affected Communities Act, 2012
- The Law of succession Act, Cap 160
- The Matrimonial Property Act, 2013
- The Public Health Act (Cap. 242)
- Environment Management and Coordination Act (EMCA), Cap 387
- Limitation of Actions Act Cap. 22 (revised in 2012)
- Climate Change Act, 2016;
- County Governments Act, No. 17 of 2012; together with its Amendment Act, 2016
- Persons with Disabilities Act, 2003
- Protection of Traditional Knowledge and Cultural Expressions Act, 2016;
- The Agriculture, Fisheries and Food Authority Act of 2013
- The Survey Act (Cap 299
- State Corporations Act
- Land Value (Amendment) Act, 2019

#### **1.4.2. Free prior and informed consultations**

Consultations to ensure Free, Prior and Informed Consent (FPIC) driven consultations were undertaken to inform the communities about the proposed transmission line project (meaningfully inform and consult to acquire community consent) in a timely manner and based on a pre-agreed plan. The following was achieved:

- i. The process established a participatory process for identifying potential impacts and benefits of the project through affected communities' consultation meetings, focus groups discussions, valuation and census process.
- ii. The locals were accorded a chance to be engaged in a fair and culturally appropriate way and determined how they would wish to be involved throughout the project phase.
- iii. The support of the communities from the proposed project area was solicited and their consent achieved, evidence of the consultations documented.
- iv. The consultant engaged with the local leadership (chiefs, assistant chiefs and village elders / managers) to determine the nature of the local power structure and document the procedures for the entry and access into the community.
- v. The consultant obtained accurate and detailed data on local livelihoods, customs, and historical traditions for adequate information to KETRACO, project partners and other interested agencies.

Through community participation and consultations, the consultant was able to determine the preferred mechanisms for information provision and consultations. Key representatives in decision making were also identified and their details documented.

#### **1.4.3. PAPs Census and Socio-economic Survey**

A systematic parcel/structure by parcel/structure transect walk was undertaken along the entire 82.5km long within a wayleave of 40 meters – 20 meters on both sides from the center line - from Malindi substation to Kilifi substation in 2018 and updated in 2021, whereby PAPs and affected land developments were identified and recorded with structures being geo-referenced. Where PAPs could not be found, the village elders / managers who accompanied the consultant provided the names of the PAPs and facilitated access where the extent of



the project impact on their property was assessed and captured. In some cases, the consultant made second attempts for a face to face interviews with the PAPs who were initially absent. Given that the cut-off date was set during the RAP update of December 2021 as 18 Dec 2021, all physically displaced PAPs, structures including businesses and respective tenants were enumerated with each livelihood activity being recorded. PAP details such as names, household members, phone numbers, ID numbers were also captured (Refer to Annex 1).

The socio-economic survey gathered quantitative information on household's demographics; living conditions; access to essential social services; livelihoods; Land tenure, employment and income; and perceptions about the project and available compensation and resettlement options. In total, 454 household heads of whom 58% were male and 42% female were interviewed during the census. The census showed that a total of 3,654 project affected persons (PAPs) live in 454 households in the proposed transmission line right of way (RoW). Details of the Socio-economic Survey can be found in chapter four.

#### **1.4.4. Valuation**

A valuation exercise was undertaken by a registered valuer. This included verification of the project impact by assessing the location of the affected assets (both land and structures); location and size of the property (land) in respect to the Right of Way. The affected structure's plinth area measurements were verified using a tape measure, and its make (including materials), type of impact, its use (residential, commercial, religious) noted. All verification was undertaken in the presence of the land/property owners who were physically present at the time. In most cases, the chief, assistant chief, or a community elder nominated by the chief's office accompanied the team to all houses/structures. This safeguard measure ensured that the correct PAP including members of Vulnerable individuals and households' details and ownership status were captured. The properties were inspected for valuation purposes in December 2021 by duly qualified valuers with relevant experience and knowledge to undertake the valuation of these assets and livelihood. The PAPs including Vulnerable individuals and households were explained to the implications of each law/policy and how it affected them. All details were captured using Asset Inventory Questionnaire found in Annex 2.

#### **1.4.5. Consultation and Public Participation**

Consultation and public participation were undertaken at two main levels which included; interested parties or other stakeholders and individuals/groups / entities / Institutional consultations and affected community consultations.

***Interested parties or other stakeholders and individuals/groups / entities / Institutional consultations***  
**consultation:** The Interested parties or other stakeholders and individuals/groups / entities entailed key informant interviews and a workshop. The key informant interviews were held with National Government, County and Sub-county administrators of various departments such as Ministry of Labour, Social Security, and Services - Kilifi Office; Department of Children's Services, Ministry of Gender, Children and Social Development - Kilifi Office; Ministry of Education – Kilifi Office, Ministry of Health – Kilifi Office, Ministry of Water and Sanitation – Kilifi Office. An interested parties or other stakeholders and individuals/groups / entities workshop was convened on 8th August 2019 in Kilifi town at Hotel Mnarani Beach Club with a total of 38 attendees (29M, 9F). The meeting was carried out in form of a workshop to: create awareness of the proposed project, incorporate interested parties or other stakeholders and individuals/groups / entities' opinions to the RAP exercise, and engage the technocrats and professionals' in a more exhaustive way as they have direct interest and contact with key issues identified on the ground.

**Community consultation:** The affected community consultation meetings were also held at various levels; RAP process commencement /awareness meetings; meetings with PAPs and Vulnerable individuals and households' meetings.

- Joint ESIA-RAP Process Awareness / Commencement Meetings: RAP Process Awareness / Commencement Meetings were undertaken during the initial RAP in 2019.. A total of five (5) RAP awareness / commencement meetings were held with a total attendance of 1130 (623M and 507 Female). The participants at the meeting were briefly sensitized about the PAPs compensation procedures and encouraged to attend the scheduled RAP meetings for detailed information. Courtesy calls were made to the respective local administration leaders (Chiefs and Assistant chiefs) to advise on the most suitable venues for holding the RAP awareness meetings. The venues' selection was also based on ease of site accessibility, population, and renown venues for holding meetings in the respective project alignment.
- Meetings with PAPs in 2021 update: 9 meetings targeting the PAPs were held attracting a total of 650 attendants (436 Male and 214 females). The selection of the meeting venues was done in consultation with the local leadership including village elders, assistant chiefs and Senior chiefs. Further, the nine (9) venues' selection were based on ease of accessibility by PAPs, PAPs population in the respective areas – sublocation and location, and renown venues for holding meetings in the respective project areas. All the key locations, sublocations and villages with high concentration of settlements and households clusters along the proposed line were covered during the consultation meetings with PAPs.
- Vulnerable individuals and households' meetings: A total of six (6) meetings targeting vulnerable persons were also held along the proposed transmission alignment in 2019. The meetings were held at; Chief's Office Grounds in Jilore Location, Chief's Office/DO's Grounds in Longobaya Location, Mgandini Football Grounds (Fumbini Primary School) in Kilifi Township Location, Malanga sub-chiefs' Grounds - Malanga sublocation -Lango Baya Location, Dida Primary School – Dida Location and in Sub Chiefs' Camp in Mongotini Sublocation – Goshi Location. Local chiefs, village managers were used to inform the Vulnerable individuals and households of the planned meetings as well as the venues. The meetings were attended by 209persons (72Male and 137Female)

In addition, ESIA Public meetings and RAP PAPs meetings had been used to communicate information to the target Vulnerable individuals and households. Amongst those in attendance were various Vulnerable individuals and households such as people living with disabilities, elderly, and widows.

During the RAP update in 2021, more PAP meetings were held. Prior to the actualization of these meetings, the team made courtesy visits to the DCC of the locations that gave a green light the green light to proceed and communicated with the Senior Chiefs involved to fully support the initiative. The local administration (senior chiefs, Assistant chiefs and village elders) then organized for the meetings by mobilizing the community members affected. Thereafter, the meeting venue was agreed on based on the centrality for all community. 9 meetings were held in 9 different locations with the purposes of sensitizing the community members and creating awareness on the KETRACO Project, informing the community members on the RAP update process and the compensation procedures.

### 1.5. Data Analysis and Report Writing

Quantitative data from the survey were entered in excel, and cleaned. Also, aggregations were conducted in Excel. This is presented in statistical tables, charts in the relevant sections of this RAP. Qualitative data was analyzed through content and thematic analysis and presented in prose form. All valuation (asset inventory) data was entered and documented – *Annex 2 – Asset inventory*.

## 1.6. RAP Field Challenges

While undertaking the RAP exercise, the encountered challenges as outlined below:

*Table 1-1: RAP field challenges and solutions*

Field Challenges	Solutions
The high number of absentee landowners who reside in other parts of the country.	The chief/ village elders/ neighbors provided contact details including telephone numbers or other information on how to reach the absentees. Where these could not be reached, the chief stood in as a representative in the enumeration of these assets. Absentee land owners during project implementation will be gazetted.
The heavy, prolonged and persistent rain slowed down the work progress	Acquired raincoats, gumboots and umbrellas and relocated some meetings to social halls, religious institutions.
A section of PAPs constructing structures/houses even after the announcement of the Cut Off date.	Appealed to chiefs / assistant chiefs / village elders to ensure compliance on cutoff date.
Property ownership disputes were witnessed in some cases with some matters pending in court. The disputes in some occasions disrupted the RAP enumeration exercise.	Chiefs and village elders intervened to allow the exercise to continue and PAPs remain to solve their disputes the formal way through the chief.
Most of PAPs interviewed were unable to provide land ownership documents despite claiming ownership of the land.	Relevant details were recorded and ownership confirmation documents were followed up with later.

## 1.7. Minimizing Resettlement

The transmission corridor maintains a wayleave of 40 meters – 20 meters on both sides from the center line - from the existing Malindi substation to Kilifi Substation. The transmission corridor is 99.9% rural and avoids market and other population concentration centers and settlements. In line with the requirements of AfDB Operational safeguard 2 that involuntary resettlement should be avoided as much as possible, where feasible, or minimized while exploring all viable alternative project designs, to a high degree, the survey of the transmission corridor considered mechanisms to minimize resettlement and construction costs:

- 13) The assessment of the corridor established that the transmission line corridor to a higher extent avoided public facilities where possible.
- 14) The survey of the transmission line to a great extent minimized physical, social, cultural and economic displacement of the PAPs. Also, proposed measures to be considered to avoid or minimize resettlement include adjustment of the transmission towers to avoid graves in homesteads. The locals were categorical that graves hold cultural values and social ties to the bereaved. As per the mitigation hierarchy – avoidance of the graves was reached as a viable measure in consultation with the PAPs. Avoidance was also informed / confirmed from an engineering perspective and previous good &

replicable practices by KETRACO. Therefore, no compensation has been provided for graves since none will be affected / exhumed.

Slight adjustment of the ROW and towers/pylons to avoid sensitive cultural properties like graves was informed by ESIA from specifically the local community during stakeholders' engagement process.

- 15) During preparations for construction, existing access roads shall be used as much as practicable where possible to avoid the destruction of crops that lie within the RoW. Where perennial crops are ready for harvesting during construction, the owners will be encouraged to harvest. However, if the crops must be damaged, enumeration will be done to facilitate compensation of damaged crops.
- 16) There can also be slight (a few metres) diversion of the alignment to avoid potentially sensitive cultural property such as religious institutions/mosques, graves or other critical social amenities. This will be pursued as a sign of goodwill by the project and KETRACO to win the support of the community.

### 2.1 Introduction

Kenya Electricity Transmission Company Limited - KETRACO (the Proponent) has identified priority projects under the Least Cost Power Development Planning process and through feasibility studies. The transmission projects will provide reliability, enhance security of supply to the existing demand hubs in the country; expand transmission capacity necessary to enhance electrification initiatives and reduce technical losses in areas currently served by long medium voltage lines.

This resettlement action plan (RAP) report and project description is specifically for the proposed 82.5km 220kV Malindi-Kilifi double circuit line and new 220/132kV substation at Kilifi which is part of a programme that includes two other transmission lines i.e., the Kenya Transmission Network Improvement Project (KTNIP), which includes the proposed 82.5km Malindi-Kilifi 220kV transmission line (covered in this Resettlement Action Plan (RAP) as well as Kabarnet-Rumuruti and the Narok-Bomet 132Kv transmission lines.

### 2.2 The 82.5 KM 220kV Malindi-Kilifi double circuit line and new 220/132kV substation at Kilifi.

The 220kV Malindi to Kilifi double circuit line measures approximately 82.5 kilometers with a wayleave of 40 meters – 20 meters on both sides from the center line. It has 16 angle points (AP) from Malindi Substation to Kilifi Substation.

### 2.3 Proposed transmission and substation scope.

The project will entail construction of approximately 55 KM 220KV double circuit line between Weru and the proposed 220/132/33KV New Kilifi substations, including bay extensions to accommodate two-line bays at Weru substation. The scope also includes construction of approximately 27KM of single circuit line from Malindi to Weru to form a second circuit between the two stations, one 220kV bay extension at Malindi and installation of an additional 220/33kV ,1x23MVA transformer at Malindi.

#### 2.3.1 Transmission line scope

The transmission line scope includes construction of approximately 55 KM 220KV double circuit line and 27km 220kv single circuit line (1XACSR Canary Conductor per phase, OPGW 48 core and Aluminum clad steel).

This will therefore entail the construction of approximately 82.5Km of 220KV transmission line from the existing 220/33KV Malindi substation to 220/132kV New Kilifi through 33/220kV Weru substation (Malindi Solar). The 220kV transmission line from Malindi to Weru will be single circuit while the 220KV transmission line from Weru to the New Kilifi will be a double circuit.

#### 2.3.2 Substation scope

##### 2.3.2.1 Weru

At Weru substation the scope will include 220 KV bus bar modifications/extension to accommodate:

- Two (2) new line bays for New Kilifi lines.
- One new line bay for second circuit to Malindi substation.

### 2.3.2.2 Malindi

At the existing Malindi substation, the scope will entail the following:

- Modification of the existing 220kV single bus bar to double bus bar configuration.
- Installation of an additional 220/33kV, 1x23MVA transformer
- Establishment of a new 220 KV line bay to accommodate the incoming line from Weru
- Modification of the existing 33KV bus bar to single bus with bus coupler to accommodate an addition of three (3) extra 33KV feeders.

### 2.3.2.3 New Kilifi

At the New Kilifi substation, the scope will entail the following:

- Establishment of a new 220/132kv substation
- New 220KV switchyard, double bus, breaker, and half configuration complete with two (2) diameters to accommodate two line and two transformer bays.
- Installation of 2X7.5MVar 220KV line reactors complete with bays and switchgear.
- Installation of 2x110MVA 220/132KV transformer

The following illustration shows the existing infrastructure and the proposed project network configuration of the coast region 220KV subsystem

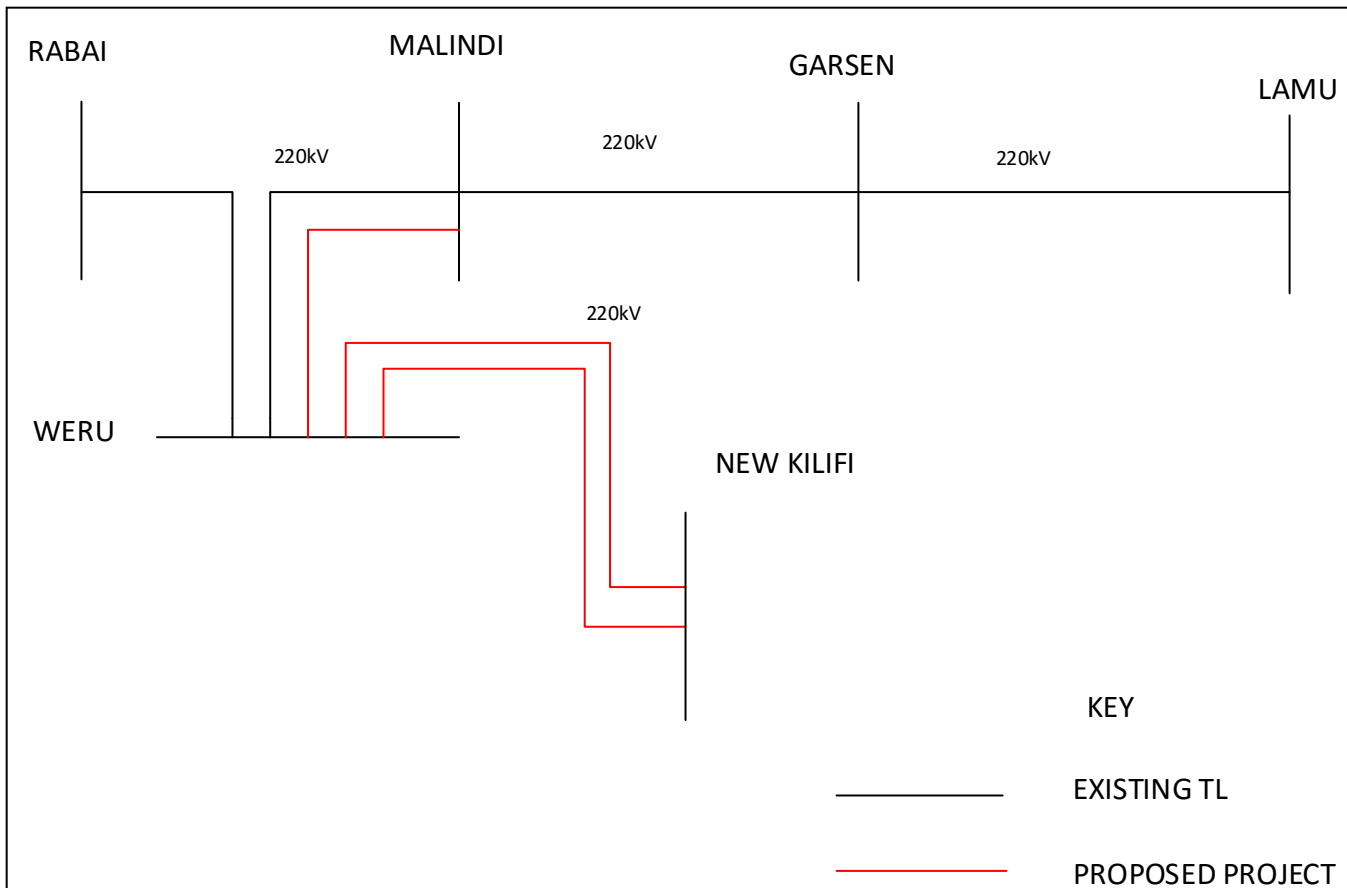


Figure 2-1: Overview: existing infrastructure and the proposed project network configuration

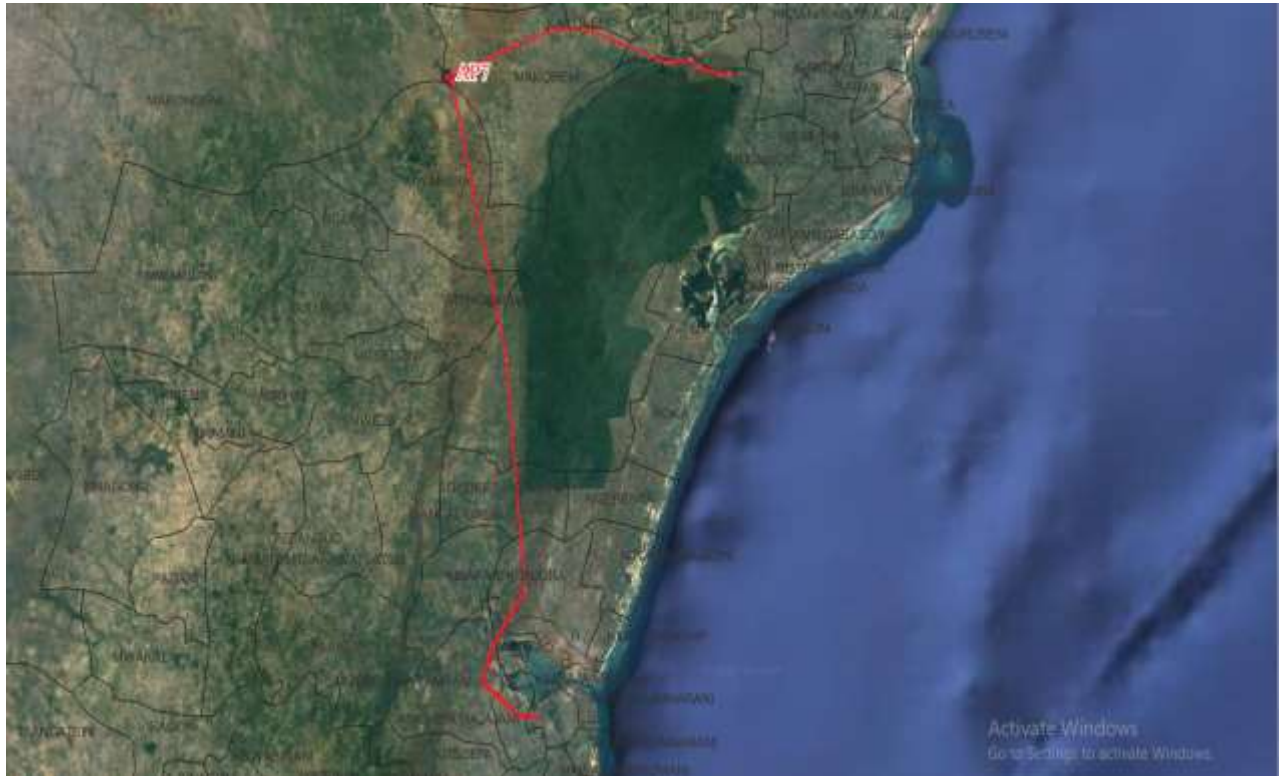
The transmission line is proposed to begin at Malindi Substation, Kakuyuni in Goshi location traversing through the following locations: Goshi, Jilore, Lango Baya, Vitengeni, , Sokoke, and terminating at the Kilifi Substation, in Kilifi North Township. The line is reasonably away from densely populated townships and residential areas. It also veers off to avoid Arabuko Sokoke Forest (Figure 2-2). At North West of Vetengeni between AP5-AP10, the line deviates the densely populated area of Kilifi (Figure 2-3).

The estimated capital cost of this sub-component project is estimated at USD 79.86 million. Based on the economic analysis contained in the feasibility study report, the economic benefits of supply will outweigh the costs

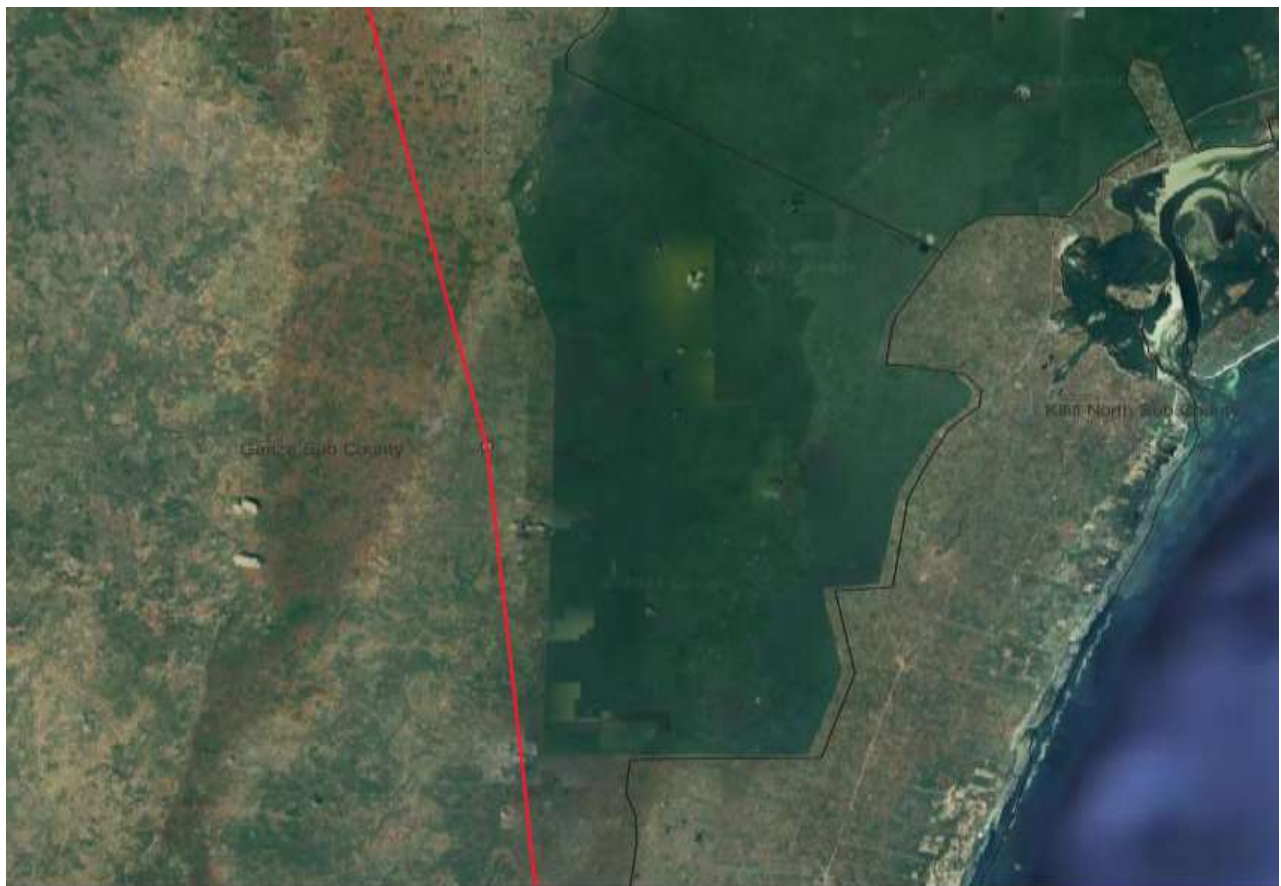
*Table 2-1: Kilifi-Malindi 220kv final Angle Point Coordinates*

No.	Name	East	North	Chain (M)
19	TT- MALINDI	608515.769	9645649.961	75916.623
18	AP16	607796.736	9645681.785	75196.887
17	AP15	605819.157	9644540.211	73159.884
16	AP14	604978.841	9646717.324	72157.157
15	AP13	603195.073	9646521.139	70362.633
14	AP12	602873.151	9646541.563	70040.064
13	AP11	595180.966	9649288.701	61872.048
12	AP10	592312.812	9649000.379	58989.439
11	AP9	589125.403	9647979.834	55642.637
10	AP8	584848.403	9646168.834	50998.021
9	LOOP IN AT WERU	582679.000	9645981.000	48820.501
8	LOOP OUT AT WERU	582630.000	9645960.000	48767.191
7	AP7	583020.748	9645492.926	48158.223
6	AP6	588127.443	9623385.576	25468.726
5	AP5	589816.183	9605455.279	7459.079
4	AP4	591181.163	9601872.954	3625.514
3	AP3	591981.957	9601029.505	2462.467
2	AP2	593441.693	9600252.393	808.765
1	AP1	593592.435	9599807.590	339.113
0	KILIFI SS	593909.000	9599686.000	0.000





*Figure 2-2: Overview: 82.5km of Kilifi- Malindi (near Arabuko) 220KV Powerline*



*Figure 2-3: 82.5km 220Kv Kilifi- Malindi 220KV deviates the densely populated area of Kilifi*



### 2.3 Geographic Location of the 82.5 Malindi-Kilifi double circuit line

The proposed sub-projects – 82.5220kV Malindi-Kilifi double circuit line and 220/132kV substation at Kilifi - are located within Kilifi County, coastal region in Kenya. Kilifi County lies between latitude 2°20" and 4°0" south, and between longitude 39°05" and 40°14" East. Kilifi County borders Kwale County to the South West, Taita Taveta County to the West, Tana River County to the North, Mombasa County to the South and Indian Ocean to the East. The county covers an area of 12,370.8km<sup>2</sup>.

Kilifi County has seven sub counties namely: Kilifi North, Kilifi South, Ganze, Malindi, Magarini, Rabai and Kaloleni. It has 35 wards, 54 locations, and 165 sub locations.

The transmission line specifically traverses Malindi Sub-County, Kilifi North Sub-County and Ganze Sub County. Table 2-5 gives a highlight of the locations, sub-locations and villages traversed by the proposed transmission alignment.



Figure 2-4: Map of Kilifi County in the National context

Table 2-2: Kilifi County Administrative Units by Area

Kilifi County Administrative Units by Area Sub County	Area (Km2)	No. of wards	No. of location	No. of Sub locations
Kilifi North	530.3	7	7	22
Kilifi South	400	5	7	16
Ganze	2,941.6	3	14	48
Malindi	627.2	5	8	18
Magarini	6,979.4	6	8	28
Kaloleni	686.4	4	11	21
Rabai	205.9	4	7	12
<b>Total</b>	<b>12,370.8</b>	<b>35</b>	<b>62</b>	<b>165</b>

Table 2-3: Locations, sub-locations and villages traversed by the proposed transmission line

SN.	Location	Sublocation	Village
1.	Goshi	Kakuyuni Mongotini	Kalia Papo -A, Kalia Papo -B, Mifundani, Kwa hisia
2.	Jilore	Jilore Kakoneni	Kibao Kuche, Jilore A, Kebelengani/,Madumadu, Vitongoni C, Vitongoni A, Sosoni B, Sosonio A, Za Mkono, Pii Village, Majengo B, Kakoneni, Kakoneni, Kakoneni
3.	Lango-Baya	Lango-Baya Makobeni Malanga	Vikwatani, Pishi Mwenga, Bao-lala, Lango-Baya, Mitsedzini, Chagani
4.	Sokoke	Nyari	Nyari 2, Nyari 1, Kasava / Angaza
5	Kilifi Township/ Takaungu	Konjora Takaungu	Konjora 3, Konjora 1, Galilaya, Sea Horse Mavueni, Takaungu, Mdangarani

## 2.4 Brief description of the transmission line Route

Table 2-4: Observations along the proposed transmission route

Route Range /Location	TL route (distance from the Kilifi substation)	Observation
Kalia Papo village, Mifundani village, Kwa hisia village in Goshi Location	AP 14 AP15, AP 16)	17) Existence of vegetation and potential of wildlife dispersal zones from Arabuko Sokoke Forest 18) High concentration of households / settlements Village settlements and

Route Range /Location	TL route (distance from the Kilifi substation)	Observation
		residential houses exists along the proposed transmission route
Kibao Kuche Village in Mungotini sublocation in Goshi Location	AP 12 to AP 13	19) The proposed line traverses a wetland off the Athi-Galana-Sabaki river 20) Mixed farming mainly maize crop 21) High concentration of households / settlements
Kakoeni trading center in Jilore Location	AP 11	22) Semi urban area with small scale business activities 23) High concentration of households / settlements
Weru Group Ranch in Lango Baya Location	Loop In - Loop Out to AP 8, AP 9 and AP 10	24) Sparsely populated / Low concentration of households / settlements 25) Grassland vegetation depicting livestock rearing
Parts of Dida area in Sokoke Location Parts of Matano Manne Village in Vitengeni Location Mwahera Location	AP 6 up to Loop In - Loop Out	26) Existence of shrubs and vegetation potential of wildlife dispersal zones from Arabuko Sokoke Forest 27) Low concentration of households / settlements
Angaza Village, Kasava Nyari 1 and 2 in Sokoke Location	AP 4, AP 5 up to AP 6	28) Existence of mixed farming consisting of crops mainly maize and livestock (cattle) 29) Existence of bushland and thick vegetation showing potential of wildlife dispersal zones from Arabuko Sokoke Forest 30) Middle concentration of households / settlements
Galilaya Konjora 1; and Konjora 3 village in Kilifi Township Location, Mavueni, Takaungu, Mdangarani	AP 1, AP 2 AP 3 up to AP 4	31) Existence of mixed farming consisting of crops (maize, cashew nuts, mango trees) and livestock rearing (cattle). 32) High concentration of households / settlements

**\*\*Worth noting; The Angel points (AP) were officially denoted in reverse - from Kilifi to Malindi - hence Malindi which ideally is the commencement point is denoted as AP 16 whereas Kilifi the end point is AP1.**

Table 2-4 gives a tabular description of the proposed transmission route vis-à-vis the traversed villages, the angle points (Aps) and key observations / features along the transmission route.

The proposed transmission line starts at Malindi substation, Kakuyuni in Goshi location and runs past Madunguni Forest, which is reserved by Kenya Forest Service towards Jilore location. Villages in Goshi location

affected by the project include; Kaliapapo A, Kaliapo B, Kwa Saleh, Mongotini and Kibao Kiche. The area has a rural setup. The main economic land use is agriculture with the presence of low density single-unit residential houses. The area is largely dominated by informal settlements, with mostly semi-permanent and temporary structures. Generally, houses in the area are not connected to the power grid. Majority of the residents reside along Athi-Galana-Sabaki River with the presence of small-scale household irrigation. Soils are mainly a mixture of sand and loam soils with the topography being fairly level. The area around the substation is clear with the existing Malindi substation and transmission lines. At AP 12 the proposed line traverses a wetland in Mongotini village, off the Athi-Galana-Sabaki River.

The proposed transmission traverses through Jilore location, running parallel the existing Rabai-Malindi 220kV transmission line and runs past AIC Mission Religious institutions land. Villages in Jilore location affected by the project include; Sosoni A and Sosoni B, Mwareni, Majengo A and Majengo B and Kakoneni. The main economic land use is agriculture and improved settlements, with mostly permanent and semi-permanent houses. Generally, houses in the area are connected to the power grid and mains water supply from Malindi Water and Sewerage Company. Lango Baya Location starts after Kakoneni Sub-location (AP 10, AP 11). The proposed transmission line traverses Weru Group Ranch, Viriko and Vitengeni/Madamani, Kilifi/Mwahera A and Mwahera C localities. Villages in Lango Baya include Chagani, Makobeni, and Malanga.

The household's concentration declines as the proposed project line crosses Weru Group Ranch and Sokoke area (AP8 – AP6). Sokoke/Nyari Location starts at Nyari depression and runs towards Sokoke Rare and Sokoke Dida localities, which are due West of Arabuko Sokoke Forest. Sokoke location in Kilifi (AP6 to AP5) highlighted the existence of deep bushy vegetation and the potential of wildlife dispersal zones from Arabuko Sokoke. Notably there was high concentration of households along the right of way between AP6 to AP2 (figure 2 -5) which could be attributed to the proximity to Kilifi Town – an urban area.

The proposed project transmission route has also been designed to avoid crossing the Arabuko-Sokoke forest by avoiding the forest from AP4, AP 5 up to AP 6. The proposed transmission line avoids the forest all the way up to AP 16 (Malindi station). The proposed line is closest to the forest at AP6 (1.85km), AP12 (287m), AP13 (275) and AP16 (465m). The 420Km<sup>2</sup> Arabuko - Sokoke coastal dry forest and its adjoining habitats is a globally recognized biodiversity hotspot. The region has been designated IBA (Important Bird Area) and is home to the globally endangered birds including Clarke's Weaver, Sokoke pipit, Amani Sunbird, Spotted Ground Thrush and Sokoke Scops Owl. However, the ESIA has provided innovative and cost-effective mitigation measures to ensure sustainable interaction of the project with the neighboring Arabuko Sokoke IBA area.

The land designated for new 220/132kV substation at Kilifi township is an open field that is served by a marram road all the way from the existing kilifi – Mombasa Road. The land has no other services e.g., electricity and to the south of the farm some homesteads were observed but they will likely not affect work on the proposed site.



*Figure 2-5: The proposed site for the New 220/132kV substation at Kilifi denoted by the yellow circle. The site hosts an existing Kilifi substation*

*Source Google Maps.*

### 3 CHAPTER THREE: POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK

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#### 3.1 Introduction

This chapter describes the pertinent national policy, legal and regulatory instruments, and applicable international standards and policies on Resettlement Action Planning for the proposed project. Key documents applicable to the resettlement process were reviewed, these included: policies, plans, legislation and institutions applicable to resettlement in Kenya including relevant international policies. The review included an analysis on the differences between the Kenyan laws and the AfDB Operational safeguard 2 in relation to resettlement. The literature review helped to analyze and highlight the relevant institutional frameworks for resettlement in Kenya; property assessment/valuation methods in the country; and acted as a legal basis for consultations with project affected communities. Each policy and law institution was explained in terms of how it affected local communities individually and collectively. In some cases, the communities sought interpretation especially in terms of compensation, complaints, relocation; upon which clarification and interpretation was done.

#### 3.2 KETRACO Guiding Frameworks

##### 3.2.1 KETRACO'S Environmental and Social Management Framework (ESMF).

The ESMF was prepared by KETRACO to address the environmental and social impacts of projects undertaken by Ketraco including those such as the proposed Malindi to Kilifi transmission line project. The ESMF sets out the principles, rules, guidelines and procedures to assess the environmental and social impacts of subprojects prepared during Project implementation. It includes guidelines to prepare measures and plans to reduce, mitigate and/or offset adverse impacts and enhance positive impacts of subprojects, provisions for estimating and budgeting the costs of such measures, and information on the agencies responsible for addressing project impacts. The ESMF is a key guiding document for preparation of the Environmental and Social Impact Assessment of the proposed project.

##### 3.2.2 KETRACO'S Resettlement Policy Framework (RPF)

The Resettlement Policy Framework (RPF) was prepared by the KETRACO to address the resettlement and compensation principles of projects undertaken by Ketraco including the proposed Malindi to Kilifi transmission line project. The aim of the RPF was to establish the resettlement and compensation principles, which include the process for undertaking socio-economic surveys and a census of the project affected persons (PAPs), a description of eligibility criteria for assessing compensation under the project, cut-off date for inclusion of PAPs in the Resettlement Action Plan or Abbreviated Resettlement Action Plan (RAP/ARAP), organizational arrangements for implementation of the RAP/ARAP (to be prepared in accordance with the RPF), and the design criteria to be applied to meet the needs of the people who may be affected by the various subprojects, whether or not PAPs have to physically move. The objective of the RPF is to establish the principles, procedures, entitlements and eligibility criteria, organizational arrangements, and provisions for monitoring and evaluation (M&E), the framework for stakeholder



and PAPs participation, as well as the mechanisms for addressing grievances which will be applied to the proposed transmission project.

The Resettlement Policy Framework (RPF) is applicable to projects that involve physical displacement through acquisition of land for project activities, economic displacement, or restricted access to natural resources and assets that lead to loss of income sources or means of livelihood. The RPF provides project stakeholders with the procedures to address the risks that may arise if successful implementation of a project requires economic or physical displacement of populations. It provides guidelines on how the project will avoid, manage or mitigate all project related displacement risks. The RPF is a key guiding document for preparation of the Resettlement Action Plan.

### **3.2.3 KETRACO's Vulnerable and Marginalized Groups Framework (VMGF)**

The Vulnerable and Marginalized Groups Framework (VMGF) describes the policy requirements and planning procedures that should be used during the preparation and implementation of the project components, especially those identified as occurring in areas where IPs/VMGs are present. The VMGF highlights the need for screening to be done to assess and confirm the presence of VMGs. VMGF highlights that a site-specific social assessment (SA) should be prepared that should inform the preparation of individual VMGPs as set out in the Framework and further public consultations and stakeholder engagements should be conducted. The VMGF by KETRACO is therefore a key guiding document for preparation of the social assessment and VMGPs if need arises.

### **3.3 The Constitution of Kenya, 2010**

The national constitution recognizes and protects the right to private property, including land. However, with the projects of national interest, the government has been given a room by the constitution to acquire privately owned land to pave the way for projects of national interest.

Section 60 of Chapter 5 lays down the principles of land ownership and use as follows:

- Equitable access to land;
- Security of land rights;
- Sustainable and productive management of land resources;
- Transparent and cost-effective administration of land;
- Sound conservation and protection of ecologically sensitive areas;
- Elimination of gender discrimination in law, customs, and practices related to land and property in Kenya; and
- Encouragement of communities to settle land disputes through recognized local community initiative.

The Constitution establishes the protection of legally acquired land and property rights, and any acquisition of rights of land and property, be it voluntary or involuntary, must comply with the law. The recognition of alternative dispute resolution mechanisms is aimed at expediting issues of land rights, transfer and supporting economic development even in events of development of projects of national interest.

The Constitution equally grants powers to the State to regulate the use of land. Article 66 (1) gives circumstances in which the State can exercise its powers of eminent domain (the legal right of a government to take private property for public use without the owner's prior consent upon payment of just compensation) to include: in the interest of defense, public safety, public order, public morality, public health, or land use planning. These provisions will be triggered for this project as the transmission line is for public purposes.

The above powers of eminent domain are only exercisable in compliance with Section 40 of Article 4. Article 40 (3) (b) and Article 66 (1) stipulate that the State can deprive a person of private property (including community land) for a public purpose or in the public interest. In such circumstances, the State must pay compensation, keeping in mind the following broad guidelines: Prompt payment in full; allows any aggrieved party access to a court of law, and allows the State to pay to occupants of the land who may not hold title to the land.

In this regard, it is prudent that a RAP is prepared for projects and compensation packages done in line with the prevailing legislative framework.

### **3.3.1 Classification of Land under the Constitution of Kenya: Sections 61-64**

All land in Kenya belongs to the people of Kenya collectively as a nation, as communities, and as individuals. Land in Kenya is classified as public, community, or private as explained in the sections below:

**Article 62. Public land:** land which at the effective date was un-alienated government land as defined by an Act of Parliament in force at the effective date; (b) land lawfully held, used or occupied by any State organ, except any such land that is occupied by the State organ as lessee under a private lease; (c) land transferred to the State by way of sale, reversion or surrender; (d) land in respect of which no individual or community ownership can be established by any legal process; (e) land in respect of which no heir can be identified by any classification of land; (f) all minerals and mineral oils as defined by law; (g) government forests, government game reserves, water catchment areas, national parks, government animal sanctuaries, and specially protected areas; (h) all roads and thoroughfares provided for by an Act of Parliament; (i) all rivers, lakes and other water bodies as defined by an Act of Parliament; (j) the territorial sea, the exclusive economic zone and the sea bed; (k) the continental shelf; (l) all land between the high and low water marks; (m) any land not classified as private or community land under this Constitution; and (n) any other land declared to be public land by an Act of Parliament. The constitution also indicates that Public land shall not be disposed of or otherwise used except in terms of an Act of Parliament specifying the nature and terms of that disposal or use.

**Article 63: Community Land:** This is a land that communities identified based on ethnicity, culture, or similar community interests and consists of land:

- (a) Land lawfully registered in the name of group representatives under the provisions of any law;
- (b) Land lawfully transferred to a specific community by any process of law;
- (c) Any other land declared to be community land by an Act of Parliament; and
- (d) Land that is— (i) lawfully held, managed or used by specific communities as community forests, grazing areas or shrines; (ii) ancestral lands and lands traditionally occupied by hunter-gatherer communities; or (iii) lawfully held as trust land by the county governments.



**Section 64: Private land:** consists of (a) registered land held by any person under any freehold tenure; (b) land held by any person under leasehold tenure; and (c) any other land declared private land under an Act of Parliament.

*The National Constitution shall be supreme in actualizing the national interests of the project while safeguarding the interests of the community. Land in Kenya including Kilifi County is classified as public, community, or private. The proposed transmission line traverses the two categories of land (public and private) with the most affected being privately owned land. Some of the key public affected land includes Kenya Forest Service in Goshi Location.*

### 3.4 Pertinent National Policies

Kenya has a policy framework relevant to wayleave acquisition and resettlement issues in order to attain the RAP objectives. The Policies below have been discussed in detail. The following section provides details on policies and strategies about the project.

#### 3.4.1 The Big Four Agenda

The Big Four Agenda (GOK, 2017) was launched during the 54th Jamhuri Day Celebrations on 12 December 2017 and elaborates the specific agenda and measures the Jubilee administration will focus on over the period 2018-2022. The areas of focus set out are food security, affordable housing, manufacturing and universal healthcare.

*The proposed project will see an increase in energy / electricity supply, quality, reliability and a reduction of power cost in the country, one of the key enablers of economic growth critical for achieving the Big Four Agenda on sustainable development.*

#### 3.4.2 Kenya Vision 2030

Kenya Vision 2030 is a comprehensive national development plan for the period 2008- 2030. The plan was established following a successful implementation of the Economic Recovery Strategy for Wealth and Employment Creation which ensured the country's economy was back on the path for realization of rapid economic growth since 2002.

- Vision 2030 (GOK, 2007) is divided into three fundamental pillars: economic, social and political. The social pillar aims at realizing a just and cohesive society enjoying equitable social development in a clean and secure environment.
- These pillars are anchored on the following foundations: macroeconomic stability; continuity in governance reforms; enhanced equity and wealth creation opportunities for the poor; infrastructure; energy; science, technology and innovation; land reform; human resources development; security and public sector reforms.
- The Vision 2030 aims at transforming Kenya into a globally competitive, newly industrialized, middle income and prosperous country. The growth objectives underpinning the Vision 2030 require a sustainable annual economic growth rate of more than 10% supported by industry, agriculture and services.

- Efficient, accessible and reliable electricity infrastructure has been identified as an enabler for achieving sustained economic growth, development and poverty reduction by lowering the cost of doing business and improving the country's global competitiveness.

The proposed Project aims to support creation of transmission and distribution infrastructure to enhance electricity service provision in Kenya in tandem with Vision 2030 on energy as a key enabler. The proposed transmission line and associated substations will contribute to the realization of the Vision's goals through the creation of a reliable, efficient grid.

*The resettlement action planning process for the transmission line is thus a step towards providing an enabling environment to achieve this broad objective for the plan and opening up of Kilifi County for more investors.*

### **3.4.3 Sessional Paper No. 1 of 2017 on National Land Policy**

The overall goal of the national land use policy is to provide legal, administrative, institutional and technological framework for optimal utilization and productivity of land related resources in a sustainable and desirable manner at national, county and community levels. The Policy is premised on the philosophy of economic productivity, social responsibility, environmental sustainability and cultural conservation. Key principles informing it include efficiency, access to land use information, equity, elimination of discrimination and public benefit sharing.

- Amongst the key principles envisioned by the policy include;
  - Land use planning, resource allocation and resource management for sustainable development to promote public good and general welfare;
  - Environmental management and sustainable production in the utilization of land resources;
  - Coordination and integration of institutional linkages in planning at sectoral and cross-sectoral levels to foster collaboration and decision making among different land users;
  - Equitable utilization of land resources to meet governance, social-economic and cultural obligations of the people of Kenya;

*The proposed project will be consistent with the provisions of this Policy e.g., this RAP is a first step towards defining and reconciling the modalities for the acquisition of land for PAPs.*

### **3.4.4 Sessional Paper No. 6 of 1999 on Environment and Sustainable Development Policy.**

The policy defines approaches that will be pursued by the Government in mainstreaming the environment into development. The policy harmonized environmental and developmental objectives with the broad goal of achieving sustainable development. The policy paper also provided guidelines and strategies for government action regarding environment and development. *This policy is relevant to the proposed transmission line project in view of the potential impacts on the environment and involvement of the public in project planning.*

### **3.4.5 Sessional Paper No. 2 of 2019 on National Policy on Gender and Development**

Kenya's commitment to gender equality requires that the views, needs, interests and rights of women, girls, men, and boys and those of the special interest groups, shape the development

agenda to ensure that all participate in and benefit equally for development. To achieve its goal of inclusive growth and attain Sustainable Development, Kenya must address the disparities between women and men and different social groups. In order for this to be realized, it will be necessary to mainstream gender in the identified key sectors.

*The RAP process ensured that gender concerns are mainstreamed into the process to affirm that the needs and interests of each gender are addressed. In the implementation period of the RAP, it shall be governed under this principle to ensure that the needs of each gender are addressed through sufficient mitigation measures.*

#### **3.4.6 Third Medium Term Plan (MTP III) (2018-2022)**

The Third Medium Term Plan (MTP III) (GOK, 2018) of the Kenya Vision 2030 outlines the main policies, legal and institutional reforms as well as programmes and projects that the Government plans to implement during the period 2018-2022. It builds on the achievements of the first and second MTPs and prioritizes implementation of the Big Four Agenda initiatives. Under infrastructure, the Plan aims to meet the demands of a growing population through the following programmes and projects:

- Increased electricity generation capacity from 2,699 MW in FY 2017/18 to 5,221 MW in FY 2021/22
- Connect 5 million new households and 15,739 public institutions to electricity through the Last Mile Connectivity Programme

*The proposed project is hence in line with the MTP III as it will support the transmission of electricity geared towards power for the last mile connectivity programme.*

#### **3.4.7 The Kenya Youth Development Policy (2019)**

The Kenya Youth Development Policy (KYDP) 2019 seeks to provide an opportunity for improving the quality of life for the youth in Kenya through their empowerment and participation in economic and democratic processes as well as in community and civic affairs. It also advocates for the creation of a supportive social, cultural, economic, and political environment that will empower the youth to be active actors in national development.

*The RAP process has identified the needs and concerns of youth and included their views in chapter 5 on public consultation and participation. In the implementation period of the RAP, it shall be governed under this principle to ensure that the youth are not left out in the resettlement process.*

#### **3.4.8 National Policy on Older Persons and Ageing, 2009**

The older people are often discriminated against and neglected. They are also prone to risks as are children, women, youth and the PLWDs. The policy aims to facilitate the integration and mainstreaming of the needs and concerns of older persons in national development. The policy, among other issues, emphasizes on social protection in old age through either non-contributory benefits focused on reducing poverty and vulnerability, or contributory benefits aimed at maintaining the income of individuals.

*The national policy for older persons and ageing lays the basis for the intervention and involvement of the elderly in development matters. The elderly have been involved in the RAP process through vulnerable PAPs engagement (Chapter 5) with their views being taken into consideration.*

### **3.4.9 Sessional Paper No. 2 of May 2006 on Gender Equality and Development**

The Sessional Paper provides a framework for gender mainstreaming and recognizes that socio-cultural attitudes held by men and women, and socialization processes are of great significance in determining the unequal status between men and women. It also recognizes that development initiatives impact differently on men and women and in turn women and men impact differently on the development process.

*The RAP report has ensured gender equality concerns were mainstreamed during the RAP census, consultation and participation and through engagement of vulnerable persons. The policy is further addressed in the chapters on GRM, Entitlements and in the Asset Register. In the implementation period of the RAP it shall be governed under this principle to ensure that gender equality concerns are adhered to.*

### **3.4.10 Least Cost Power Development Plan, 2017-2037**

The 10-year Least Cost Power Generation plan (LCPDP) covering the period 2021-2030 is derived from a long term 20 year rolling plan covering the period 2020-2040. It integrates Feed-In-Tariff Policy approvals and provides a focus on the national Government Big 4 Agenda and undertakings for the post Covid-19 development support program in collaboration with development partners. The report covers a comprehensive load forecast generation plan, Ancillary service requirements and Tariff evolution.

The main objective of the plan and its update (from 2011 -2030) is to take into account new assumptions, reflect on emerging technologies as well as market dynamics that may influence future power expansion plans and accommodate new Government policy guidance on renewable energy expansion in the immediate long term. A key objective of the plan is to simulate the generation plants; - and prepare a Transmission System expansion plan in line with the generation expansion.

*In transmission the report covers the target network for the period 2021-2030 ensuring that the target network is adequate, secure and cost effective. Implementation of this RAP and the transmission project will significantly contribute towards achievement of this Least Cost Power Development plan.*

### **3.4.11 Kilifi County Integrated Development Plan, 2018-2022**

Kilifi County Integrated Development Plan, 2018-2022 suggests that access to electricity in Kilifi County is estimated at 21%. The proposed project aligns to Kilifi County CIDP which aims at the promotion of equitable, clean and affordable access to energy as one of the strategic priorities of the county.

*It is envisioned that the proposed project will support adequate transmission of power for the last mile Connectivity programme within Kilifi County aimed at expanding electricity infrastructure through the rural electrification programmes.*

### **3.5 Relevant National Legislation and regulatory framework**

#### **3.5.1 The Land Act No.6, 2012**

The Act specifies the manner for determination and compensation award for the creation of a public right of way. Section 143 (2) states that a public right of way may be—a right of way created for the benefit of the national or county government, a local authority, a public authority or any corporate body to enable all such institutions, organizations, authorities, and bodies to carry out their functions, referred to in this Act as a wayleave; or (b) a right of way created for the benefit of the public, referred to in section 145 of this Act as a communal right of way.

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

Section 148 gives provisions for compensation for wayleave, while section 149 gives power to the courts to make orders in determining any question or dispute regarding the existence or effect of a public right of way. According to Sec 148 (5), If the person entitled to compensation under this section and the body under a duty to pay that compensation are unable to agree on the amount or method of payment of that compensation or if the person entitled to compensation is dissatisfied with the time taken to pay compensation, to make, negotiate or process an offer of compensation, that person may apply to the Court to determine the amount and method of payment of compensation and the Court in making any award may, make any additional costs and inconvenience incurred by the person entitled to compensation.

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

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

*Being the prime legislation on matters of land management, the Land Act is key to the implementation of the RAP as well in dealing with grievances that may arise.*

### **3.5.2 The National Land Commission Act, 2012**

The Act establishes the National Land Commission with the purpose of managing public land and carrying out acquisitions of land for specified public purposes as indicated below:

- i. To manage public land on behalf of the national and county governments;
- ii. To recommend a national land policy to the national government;
- iii. To advise the national government on a comprehensive programme for the registration of title in the land throughout Kenya;
- iv. To conduct research related to land and the use of natural resources, and make recommendations to appropriate authorities;
- v. To initiate investigations, on its initiative or a complaint, into present or historical land injustices, and recommend appropriate redress;
- vi. To encourage the application of traditional dispute resolution mechanisms in land conflicts;
- vii. To assess tax on land and premiums on immovable property in any area designated by law; and
- viii. To monitor and have oversight responsibilities over land use planning throughout the country.

*The NLC is mandated to manage and administer unregistered community land on behalf of the communities. The land Act No. 6 of 2012-Gives the definition of an easement and wayleave. Also details the procedure of application of wayleave through the NLC. It will take up the issues of verification of ownership after the completion of the RAP Study. It will set out clear procedures for land acquisition considering project impacts and land rights. The exercise will be part of the verification of ownership of property before compensation is paid and relocation carried out. KETRACO will share the Final RAP Report to NLC with a schedule of lands to be affected for ownership verification and gazettelement for “acquisition.”*

### **3.5.3 The Environment and Land Court Act, 2012**

The Act enacts Article 162(2) (b) of the Constitution; to establish a superior court to hear and determine disputes relating to the environment, use, occupation of, title to land, and to make provisions for its jurisdiction, functions, and powers, and connected purposes.

The Court has the power to hear and determine disputes relating to; (a) environmental planning and protection, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals, and other natural resources; (b) compulsory acquisition of land; (c) land administration and management; (d) public, private and community land and contracts, choices in action or other instruments granting any enforceable interests in land; and (c) land administration and management; (d) and any other dispute relating to environment and land.

*This Act complements the Land Act, 2012 in addressing grievances that are likely to arise from the RAP implementation process for the proposed project.*

### 3.5.4 The Land Registration Act No. 3, 2012

The Act provides for the registration of absolute proprietorship interests over a land (exclusive rights) that has been adjudicated or any other leasehold ownership interest in the land. Such land can be acquired by the state under the Land Act 2012 in the project area. Sections 98 to 100 of Act give provisions on creation of easements and analogous rights through a given piece of land as it the case for the wayleave for the transmission line. With regard to the maintenance of boundaries, the Act requires every proprietor of land to maintain in good order the fences, hedges, stones, pillars, beacons, walls, and other features that demarcate the boundaries, pursuant to the requirements of any written law.

*The proposed project will require landowners and specifically PAPs to identify their land boundaries which are within the RoW. This law allows for creation of easements and analogous rights through a given piece of land as is the case for the wayleave for the proposed transmission line.*

### 3.5.5 The Valuers Act Cap 532

The Valuers Act provides for the registration of Valuers and the regulation of the valuation profession and practice in Kenya. Clause 21 prohibits any person who is not a Registered Valuer and whose name does not appear in the register to prepare and submit a valuation report. The importance of these provisions is that a valuation report prepared by a person or firm not registered under the provisions of Clause 21 is invalid and cannot be used for the basis of compensation.

*The provisions of this Act were relevant to the proposed project and RAP process. An independent, registered Valuer was used for the purposes of returning independent land valuations that will inform the compensation process for land.*

### 3.5.6 The Energy Act, 2019

The Act consolidates the laws relating to energy, to provide for National and County Government functions in relation to energy; to provide for the establishment of powers and functions of the energy sector entities; promotion of renewable energy; exploration, recovery and commercial utilization of geothermal energy; regulation of midstream and downstream petroleum and coal activities; regulation, production, supply and use of electricity and other energy forms; and for connected purposes.

*Part VII (Section 170 -186) of the Act provides legal aspects on rights of way, wayleaves and use of land for energy resources and infrastructure. Section 170 gives the leeway to develop energy infrastructure including but not limited to electric supply lines, petroleum or gas pipelines, geothermal or coal infrastructure, on, though, over or under any public, community or private land as provided under the concerning the Land Act, 2012.*

### 3.5.7 National Gender and Equality Commission Act, 2011.

The Commission was established through an Act of parliament and is mandated but not limited to perform the following functions:

(a) promote gender equality and freedom from discrimination in accordance with Article 27 of the Constitution; (b) monitor, facilitate and advise on the integration of the principles of equality and



freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions; (c) co-ordinate and facilitate mainstreaming of issues of gender, persons with disability into the overall national development framework.

*This Act complements the National Land Act, 2012 to ensure equity and equality on resettlement and compensation across the gender divide to those affected by the project.*

### **3.5.8 The Physical and Land Use Planning Act, 2019;**

This Physical and Land Use Planning Act, 2019 makes provision for the planning, use, regulation and development of land and for connected purposes. Article 5 of the Act under Principles and norms of physical and land use planning notes that physical and land use planning shall; (a) promote sustainable use of land and livable communities which integrates human needs in any locality; (b) be in a manner that integrates economic, social and environmental needs of present and future generations, (c) be comprehensive, sustainable and integrated at all levels of government, taking into consideration the interests of all parties concerned; (e) be inclusive and must take into consideration the culture and heritage of people concerned; and (f) take into account new approaches such as transit-oriented development, mixed land-uses, planning for public transport and non-motorized transport among others to achieve sustainable development and more efficient use of natural resources. The 3rd Schedule of the Act Article 1 gives considerations for Easements and Wayleaves of base transmission stations. Article 4 notes major developments should be subjected to environmental and social impact assessment.

*The proponent of the proposed transmission line should ensure compliance with the provisions of the act and land use planning. Public participation has been conducted to ensure the involvement of stakeholders in the planning process.*

### **3.5.9 The Prevention, Protection, and Assistance to Internally Displaced Persons and Affected Communities Act, 2012**

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

- Justification as to why the displacement is unavoidable and that there is no other feasible alternative.
- Seeking free and informed consultation from the affected persons
- Holding a public hearing on project planning
- Provision of reasonable notice time to allow the affected person to review and react to the displacement conditions; and
- Displacement process should reflect respect to human rights.
- Relocation of the affected persons will be guided by the following factors: -



- Full information on the affected persons and ensuring their participation;
- Identification of safe, adequate and habitable alternatives;
- Availability of safety, nutrition, health, and hygiene as well as protection at the new location; and
- Acceptability by the host communities in the new location (if re-location is implemented).

Section 22. Provides for Procedures for displacement induced by development projects as follows:

- Subject to the Constitution and section 21(2) of this Act and before the decision to give effect to the displacement of persons due to development projects or projects to preserve the environment, the Government shall seek the free and informed consultations of the affected persons; and hold public hearings on the project planning.
- The decision to give effect to the displacement of persons shall give the justification for the displacement and demonstrate that the displacement is unavoidable, and no feasible alternatives exist. The decision shall contain detailed justification on the alternatives explored.
- The Government shall ensure that the displacement is not carried out unless reasonable time is given to the affected persons to review the decision and challenge it before an independent body on the grounds that the conditions in section 21(2) are not adhered to; an effective remedy in accordance with articles 46 and 47 of the Constitution is available for those affected.
- The Government shall ensure that the displacement is carried out in manner that is respectful of the human rights of those affected, taking in particular into account the protection of the special needs of women, children and persons with special needs. This requires in particular full information of those affected and their effective participation, including by women, in the planning, management of the displacement, and in defining suitable, durable solutions;
- provision of safe, adequate and habitable sites and to the greatest practicable extent, of proper accommodation; and (c) creation of satisfactory conditions of safety, nutrition, health and hygiene and the protection of the family unity.

*The Act discourages the undue creation of internally displaced persons as a result of projects of national importance. This RAP report therefore ensures adequate compliance with the law to avert permanent displacement of persons. The RAP has also outlined the procedures for displacement and compensation where avoidance is not feasible.*

### **3.5.10 The Law of succession Act, Cap 160**

The Act defines and consolidates the law relating to intestate and testamentary succession and the administration of estates of deceased persons, and for purposes connected in addition to that and incidental to that.

*The Act is key to RAP implementation in order to legally actualize compensation for affected property owned by deceased family members.*

### 3.5.11 The Matrimonial Property Act, 2013

This is an Act of Parliament to provide for the rights and responsibilities of spouses concerning matrimonial property and connected purposes.

*The Act will be vital when compensating affected families on land, structures, and crops whereby interests and rights to the property for both the husband and wife will need to be considered.*

### 3.5.12 The Public Health Act (Cap. 242)

Part IX Section 8 & 9 of the Act states that no person/institution shall cause nuisance or condition liable to be injurious or dangerous to human health. Any noxious matter or wastewater flowing or discharged into a watercourse is deemed as a nuisance.

Part XII Section 136 states that all collections of water, sewage, rubbish, refuse and other fluids which permit or facilitates the breeding or multiplication of pests shall be deemed nuisances. The Act addresses matters of sanitation, hygiene, and general environmental health and safety.

*In implementation of the RAP, the provisions of the Act shall be taken into consideration so that PAPs can move to new homesteads with better states of sanitation and hygiene compared to their previous homesteads.*

### 3.5.14 Environment Management and Coordination Act (EMCA), Cap 387

The Act provides for establishment of an appropriate legal, institutional and regulatory framework for environmental management. The EMCA was developed as a framework law. It is the only legislation that contains the most comprehensive system of environmental management in Kenya. The Act is based on the recognition that improved legal and administrative coordination of the diverse sectoral initiatives is necessary in order to improve national capacity for environmental management. It has the primary purpose of coordination and supervision of a wide range of environmental issues, which are contained in the regulations and guidelines. Section 3 of the Act highlights General Principles 23 that guide its implementation. Every person in Kenya is entitled to a clean and healthy environment and has to safeguard and enhance it. The Act is implemented through an institutional set up that includes the National Environment Council (NEC), National Environmental Management Authority (NEMA), Public Complaints Committee, National Environment Tribunal and the Board of Trustees for the Environment Trust Fund among others.

*This is the principle legislation governing and managing the biophysical environment and human environment by extension in Kenya. The RAP implementation shall take into place the ESMP provisions as proposed in the project ESIA study report to ensure that the potential environmental and social impacts are adequately mitigated as well provide room for mitigation of unforeseen impacts later. This RAP is in response to the displacement impacts noted in the ESIA.*

### 3.5.13 Limitation of Actions Act Cap. 22 (revised in 2012)

*According to the Act:*

Section 7; an action may not be brought by any person to recover the land after the end of twelve years from the date on which the right of action accrued to him or, if it first accrued to some person through whom he claims, to that person.

Section 9; where the person bringing an action to recover land or some person through whom he claims, has owned the land and has while entitled to the land being dispossessed or discontinued his possession, the right of action accrues on the date of the dispossession or discontinuance.

*Section 13 Right of action not to accrue or continue unless adverse possession:*

A right of action to recover land does not accrue unless the land is in the possession of some person in whose favor the period of limitation can run (which possession is in this Act referred to as adverse possession), and, where under sections 9, 10, 11 and 12 of this Act a right of action to recover land accrues on a specific date and no person is in adverse possession on that date, a right of action does not accrue unless and until some person takes adverse possession of the land.

*Section 38. Registration of title to land or easement acquired under Act.*

Where a person claims to have become entitled by adverse possession to land registered under any of the Acts cited in section 37 of this Act, or land comprised in a lease registered under any of those Acts, he may apply to the High Court for an order that he be registered as the proprietor of the land or lease in place of the person then registered as proprietor of the land

In this regard, affected parcels of land occupied by persons who do not possess land ownership documents to the land but claim to have occupied it for a period exceeding 12 years.

### **3.5.14 Climate Change Act, 2016;**

The Act provides for a regulatory framework for enhanced response to climate change; to provide for mechanisms and measures to achieve low carbon climate development, and for connected purposes. The Act should be applied for the development, management, implementation and regulation of mechanisms to enhance climate change resilience and low carbon development for the sustainable development of Kenya. The Act should be applied in all sectors of the economy by the national and county governments to—

- ☐ Mainstream climate change responses into development planning, decision making and implementation;
- ☐ Build resilience and enhance adaptive capacity to the impacts of climate change;
- ☐ Mainstream the principle of sustainable development into the planning for and decision making on climate change response; and
- ☐ Integrate climate change into the exercise of power and functions of all levels of governance, and to enhance cooperative climate

*The proposed project RAP should therefore ensure that livelihood restorations are climate-proof over the lifespan and undertaken as per provisions of the act specifically on planning and implementation stages.*

### 3.5.15 County Governments Act, No. 17 of 2012; together with its Amendment Act, 2016

This is an Act of parliament to give effect to Chapter Eleven of the Kenyan Constitution; to provide for the County government's powers, functions and responsibilities to deliver services and for connected purposes. This Act vests responsibility upon the County Governments in planning of development projects within their areas of jurisdiction be it projects of importance to the county government or those of national importance.

- Section 102 of the Act provides the principles of planning and development facilitation which include integration of national values in county planning, protect the right to self-fulfillment within the county communities and with responsibility to future generations, protection of rights of minorities and marginalized groups and communities, promotion equity resource allocation, among others.
- Section 103 of the Act sets out the prime objective of county planning which aligned to the bill of rights and the constitution of Kenya.
- Section 113 of the Act makes public participation in County planning processes compulsory
- Section 114 and 115 indicate and give guidelines in planning of projects of national significance and instil the aspect of public participation in every aspect of the planning process through that: clear strategic environmental assessments; clear environmental impact assessment reports; expected development outcomes; and development options and their cost implications.

Each county assembly is tasked with the role to develop laws and regulations giving effect to the requirement for effective citizen participation in development planning and performance management within the county.

*In the execution of the proposed project, the County Government of Kilifi forms a key stakeholder in project planning and other activities at the county level.*

### 3.5.16 Persons with Disabilities Act, 2003;

This act protects the rights of people with disabilities ensuring they are not marginalized and that they enjoy all the necessities of life without discrimination. The act guarantees that

- ☐ No person shall deny a person with a disability access to opportunities for suitable employment.
- ☐ A qualified employee with a disability shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits, incentives or allowances as qualified able-bodied employees.
- ☐ An employee with a disability shall be entitled to exemption from tax on all income accruing from his employment.

*A person with disability is entitled to exemptions which apply with respect to exemptions and deductions as described in Schedule 42 subsection (2) of the act, among other provisions within this act that should be complied with by all parties involved. The study identified a number of persons living with disabilities whose rights were upheld through vulnerable persons consultations. It is expected that their rights will be upheld in the implementation part of the report.*

### **3.5.17 Protection of Traditional Knowledge and Cultural Expressions Act, 2016;**

The Act of parliament provides a framework for the protection and promotion of traditional knowledge and cultural expressions which gives effect to Articles II, 40 and 69(L) (c) of the Constitution. The Act requires a person who uses traditional knowledge or cultural expressions beyond its traditional context should indicate the source of the knowledge or expression and where possible, the origin of the knowledge or expression, and use such knowledge or expression in a manner that respects the cultural values of the holders.

- Article 2 of Act requires that traditional knowledge or cultural expressions shall not, without the free prior informed consultation of the owners, be used for-(a) the reproduction of the traditional knowledge or cultural expressions; (b) the publication of the traditional knowledge or cultural expressions.

*Based on this the consultants / proponent will be required to ensure provisions of the act such as prior and informed consultations of the locals is undertaken.*

### **3.5.18 The Agriculture, Fisheries and Food Authority Act of 2013**

The Act provides for the establishment of the Agriculture, Fisheries and Food Authority, the administration of matters of agriculture and the preservation, utilization and development of agricultural land and related matters. "Agriculture" in this Act means cultivation of land and the use of land and water for any purpose of husbandry, aquaculture and food production and includes cultivation of crops and horticultural practice, breeding of aquatic animals and plants, the use of land, fish harvesting and (e) the use of land for agroforestry. The Act requires the Authority in consultation with the county governments to among others promote best practices. Each county government is required to keep a register of land development orders and land preservation orders, which they may issue under this Act.

*Meanwhile the project shall ensure sustainable development principles are adopted throughout the entire project cycle, with the local community enjoying the benefit of natural resources they have been bestowed with. Further the RAP entitlement matrix has ensured that crop damages are compensated as guided by the Ministry of Agriculture at Kilifi County and in line with the project RPF.*

### **3.5.19 The Survey Act (Cap 299)**

The Survey Act makes provision in relation to surveys and geographical names and the licensing of land surveyors, and for connected purposes. Part (IV) of the Act establishes the clauses for licensing of surveyors and disciplinary proceedings against licensed surveyors. Part v highlights the conduct of surveys including the duties of licensed surveyors and non-liability of the Government. Part VI – gives provisions on the preservation of survey marks, and highlights need to have the boundary marks be shown on plans. Part ix – gives the offences indicating unqualified persons are forbidden to survey.

*The project and RAP exercise is therefore expected to uphold the provisions of the Survey Act during the land surveying process.*

### 3.5.20 State Corporations Act, Cap 446.

Part II of the State Corporations Act spells the establishment of state corporations by the President. It notes that the President may, by order, establish a state corporation as a body corporate to perform the functions specified in that order. A state corporation established under this Act have perpetual succession; in its corporate name be capable of suing and being sued; and is subject to this Act, be capable of holding and alienating movable and immovable property. The Act provides for the power of a state corporation to borrow money in Kenya or elsewhere shall be exercised only with the consent of the Cabinet Secretary and subject to such limitations and conditions as may be imposed by the Treasury with respect to state corporations generally or specifically with respect to a particular state corporation.

Kenya Electricity Transmission Company Limited (KETRACO) was incorporated on 2nd December 2008 and registered under the Companies Act, Cap 486 pursuant to Sessional paper No. 4 of 2004 on Energy. KETRACO is 100% Government owned and being a state corporation, it is regulated under the State Corporations Act, Cap 446. The Company was established to develop new high voltage electricity transmission infrastructure that will form the backbone of the National Transmission Grid, in line with Kenya Vision 2030. Its core business is to plan, design, build and maintain electricity transmission lines and associated substations. The voltage rating of the transmission lines include 132kV, 220kV, 400kV and 500kV (HVDC). KETRACO's mandate is to plan, design, and construct, own, operate and maintain high voltage electricity transmission grid and regional power interconnectors that will form the backbone of the National Transmission Grid. In carrying out this mandate, the Company is expected to develop a new and robust grid system in order to:

- Improve quality and reliability of electricity supply throughout the country
- Transmit electricity to areas that are currently not supplied from the national grid
- Evacuate power from planned generation plants
- Provide a link with the neighboring countries in order to facilitate power exchange and develop electricity trade in the region
- Reduce transmission losses that currently cost the country heavily every year and
- Reduce the cost of electricity to the consumer by absorbing the capital cost of transmission infrastructure

### 3.5.21 The Land Value (Amendment) Act, 2019

The Land Value (Amendment) Act, 2019 (the Act) came into force on 16 August 2019 and has amended various sections of the Land Act, the Land Registration Act as well as the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act. The Act aims at standardizing the value of land in Kenya for the primary purpose of enhancing efficiency and expediting the compulsory land acquisition process. Below are the key highlights applicable to the proposed project.

- Previously, the National Land Commission (NLC) was required to compensate a landowner prior to taking possession of the land. However, Amendment to Section 124 of the Land Act 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 establishes the Land Acquisition Tribunal (the Tribunal) which shall hear disputes related to the compulsory land acquisition process and in determining such disputes, confirm, vary or quash the decision of the NLC
- Insertion of a new section 107A to No. 6 Of 2012 provides that valuation of land for purposes of compensation shall be based on the Land Value Index. This is an analytical representation showing the spatial distribution of land values in a given geographical area at a specific time. It is to be developed jointly by the national government and county government.
- Apart from monetary compensation, the following new forms of compensation have been introduced under the Act:
  - allocation of an alternative parcel of land of equivalent value and comparable geographical location and land use to the land compulsorily acquired;
  - issuance of government bond;
  - grant or transfer of development rights as may be prescribed;
  - equity shares in a government-owned entity; and
  - any other lawful compensation.

*It is also expected that at implementation, KETRACO will ensure compensation of all persons affected by the project's activities including squatters for their lost assets and offer them resettlement assistance as necessary in line with the AfDB policy, RPF and Kenyan laws (with amendments)*

### 3.5.22 **The National** Museums Act 2019

It is an act of parliament that seeks to consolidate the law relating to; national museums and heritage, to provide for the establishment control, management and development of national museums and the identification, protection, conservation, and transmission of the cultural and natural heritage of Kenya. The Act will guide KETRACO to implement the proposed project in a culturally sensitive manner, taking into consideration cultural values and practices of the people in the project area.

### 3.5.23 **Community Land Act**

The CLA came into force on 21 September 2016 and aims at:

- Giving effect to Article 63 of the Constitution of Kenya, 2010 (the Constitution) which provides for a classification of land known as community land. To this end, the Constitution provides that community land shall vest in and be held by communities.
- Providing for, first, the recognition, protection and registration of community land rights. Second, the management and administration of community land. Third, the role of county governments in relation to unregistered community land and related matters.
- The Act repeals the Land (Group Representatives) Act (Chapter 287 of the Laws of Kenya) and the Trust Lands Act (Chapter 288 of the Laws of Kenya).

The CLA provides an opportunity for securing collective land rights founded on customary law, by

giving legal recognition of customary rights in land as lawful forms of property with equal legal force and effect as rights obtained and transacted under freehold and leasehold tenure. In so doing, it addresses the foundational issue that has historically undermined land rights of rural communities since colonial times. Important features of the CLA are outlined below;

- 33) **Ownership:** Community land has been defined as a consciously distinct and organized group of users of community land who are citizens of Kenya and share attributes such as; common ancestry; similar culture or unique mode of livelihood; socio-economic or other similar common interest; geographical space; ecological space; or ethnicity.
- 34) **Tenure systems:** Ownership of community land can be held as communal land, family or clan land, reserve land or in any other category of land recognized under the Act or other written law. In addition, community land can be held in land tenure systems such as customary, freehold, leasehold or any other tenure system recognized by law.
- 35) **Role of the County Government:** Counties are empowered to hold in trust on behalf of a community unregistered community land and any monies payable as compensation for compulsory acquisition of any such unregistered community land. Any such monies are to be deposited in a special interest earning account by the County Government and shall be released to the community upon registration of the community land. A County Government is prohibited from selling, disposing, transferring, and converting for private purposes or in any other way disposing of any unregistered community land that it is holding in trust on behalf of a community. Upon registration of community land, the trusteeship of the county government to manage and administer the community land ceases to exist.
- 36) **Registration:** Any community claiming an interest in or right over community land is required to register their land by application to the community land registrar who shall maintain a community land register for each registration unit. A certificate of title issued by the Community Land Registrar is evidence of ownership of the land and is not subject to challenge, except on grounds of fraud or misrepresentation to which the person is proved to be a party or where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.

A Certificate of reservation may be issued in the interim by the Registrar pending the registration of community land and acquisition of the certificate of title. The registration of a community as the proprietor of land shall vest in that community the absolute ownership of that land, while, the registration of a community as the proprietor of a lease shall vest in that community the leasehold interest described in the lease, together with and subject to all implied and express rights and privileges.

**Community Assembly and Community Land Management Committee:** A registered community must have a community assembly consisting of all adult members of the community. The community assembly elects between seven and fifteen members of the community assembly to constitute the community land management committee. The community is expected to elect between seven and fifteen members from among themselves to be the members of the community



land management committee. The functions of the Community Land Management Committee shall be to:

- Have responsibility over the running of the day to day functions of the community;
- Manage and administer registered community land on behalf of the respective community;
- Coordinate the development of community land use plans in collaboration with the relevant authorities;
- Promote the co-operation and participation among community members in dealing with matters pertaining to the respective registered community land; and
- Prescribe rules and regulations, to be ratified by the community assembly, to govern the operations of the community.

**Conversion of Community Land:** Community land can be converted to either public land or private land and vice versa. The Act provides that at least two-thirds of the community members must approve any conversion of community land. This does not however limit the application of the Land Act, 2012 and any other law in respect of compulsory acquisition of land. The Act recognizes and permits for the following conversion systems of community land:

- Conversion of community land into private land by; transfer; allocation by the registered community, but this has to be ratified by the community assembly.
- Conversion of public land into community land by allocation by the commission as stipulated in the Land Act.
- Conversion of private land to community land by; transfer; surrender; operation of law in relation to illegally acquired community land; and operation of any other written law.
- Conversions to public land by either by; compulsory acquisition; transfer; or surrender.

**Rights and Entitlement in the Community Land:** A registered community can, with the approval of the members, allocate part of the registered community land to a member or a group of members in the community at a fee for use and occupation for a period determined by the community. A separate title will not be issued to the individual and the rights of the community supersede that of the individual allocated land. There are other conditions for use of the land allocated which include; lawful use, the land cannot be assigned or leased to a third party; and the land must be surrendered back to the community if the individual is no longer entitled to use the land. The law also places obligations to the registered communities in the pastoral areas to ensure;

- They avail land to their members for the purpose of grazing;
- Reserve special areas for farming areas, settlement areas, community conservation areas, access and rights of way, cultural and religious sites, urban development, or any other purpose as may be determined by the community, county government or national government for the promotion of public interest.
- Ensure every member of the community has the right to equal benefit from community land, full and equal enjoyment of right of use and access with no discrimination based on gender, minority, and disability or marginalized groups.

**Customary land rights:** The Act recognises customary land rights including the customary right of occupancy and provides for their adjudication and documentation. The Act also gives customary land rights equal footing in law as freehold and leasehold tenure. In this regard, the term “customary land rights” is defined to mean rights conferred by or derived from African customary law, customs or practices provided that such rights are not inconsistent with the Constitution or any written law.

### **Registration of a community**

It is through the act of registration that a community attains the legal personality to be registered as owner of land. This is an important first step as only a registered community within the meaning of section 2 of the CLA can apply to be registered as a landowner. As part of the registration process, the community elects a Community Land Management Committee (CLMC), which oversees the process of registration of the community, including the development of its Constitution and Regulations, the registration of the land, and its management on behalf of the community upon registration.

The procedure for registration of “a community claiming an interest in or right over community land” is set out in section 7 of the Community Land Act and detailed in Part II of the Community Land Regulations and includes the following key steps;

- 37) A community claiming an interest in or right over community land is required to register its rights under the Land Registration Act. They must also have a plausible justification for why they are registering the community land as a collective, e.g. common ancestry, similar culture, etc. The Register of Members of the community is important, as it is the basis of inclusiveness, ensuring that all eligible members are identified and recorded. The number of members is important, as certain decisions require to be validated by a specific proportion of the total number of registered members of the community. The Constitution of the community specifies the details to be included in the Register of members, and how the register shall be maintained and updated.
- 38)
- 39) Before submission of the community formation and registration documents to the registrar of societies, the local chief must authenticate these documents by applying an official stamp to the application documents and letter.
- 40) The elected community representatives apply to the Registrar of Community Land for registration of the community, using the Form prescribed by the Community Land Regulations. The application shall be accompanied by:
  - 41) (a) The name of the community
  - 42) (b) The register of members of the community
  - 43) (c) A certified true copy of the Minutes of the Community Assembly at which it was resolved to apply for registration of the community
  - 44) (d) The Constitution of the community
  - 45) (e) A description of the interest being claimed by the community

- 46) Upon authentication of documents, the Registrar of Societies provides the community with a registration certificate after due diligence. This means the community is officially registered, but their interest in the land has not been documented.

### **Registration of community land**

Registration of community land is done in accordance with the provisions of the CLA and the Land Registration Act. It is preceded by adjudication, which includes the recording of community land claims, demarcation of community land and delineation of boundaries. Upon registration, a title deed in the prescribed form is issued in the name of the community. Thereafter, the community under the leadership of the CLMC can plan the development and management of the community land and the natural resources on it. Key steps of the registration process are outlined below;

**Notice:** Section 3 of the 2017 regulations requires group representatives that intend to register a claim in an interest in land to notify the community land registrar responsible for the community land registration unit within which the land is situate of the intention.

**Procedure:** A form for notification is provided in the Fifth Schedule. The notification is to be submitted in duplicate with the duplicate copy being retained by the community. It should also be signed by at least fifteen members of the community; and be accompanied with the prescribed fee.

**Election of members:** Upon receipt of the notification, the community land registrar invites all members of the community with communal interest to a public meeting for the purpose of electing the members of the community land management. Notice of the meeting is to be published through various media including newspapers, affixing notices on boards etc

**Election of Committee Members:** the Land Registrar, in consultation with the national and county government representatives for the area where land is located, will further convene and oversee the process of election of community land management committee members. The qualifications, vacation and the process of filling of vacancies are provided for under the regulations

**Application for registration:** The community land management committee will then apply to the registrar for registration of the community.

**Registration:** The registrar will consider an application for registration and may issue a certificate of registration in the name of the community. Upon registration, the community named in the certificate of registration becomes a body corporate with all the powers and responsibilities attendant thereto.

**Office bearers:** The persons elected as members of the Community Land Management Committee will now become the officers of the community with various functions including to manage and administer registered community land on behalf of the respective community and to coordinate the development of community land use plans in collaboration with the relevant authorities.

### **Procedure for registration of community land from group ranches**

Section 47 of the Community Land Act requires all registered group ranches to seek fresh

registration and transform themselves into communities in accordance with the Act. To convert from the group representatives to registration under the Community Land Act 2016, the following process will be followed as per the Community Land Regulations, 2017;

- Inventory: The Cabinet Secretary will ensure that there is an inventory of all land held under the repealed Land (Group representatives) indicating their status and forward it to the registrar
- Notice: Upon the commencement of these regulations, the registrar is required to notify the group representatives and their members of the requirement to convert into a community
- Timelines for application: Within twelve months of the commencement of the regulations, the groups are required to make an application to register as a community
- Effect of Conversion: Upon issuance of certificate of registration, the community's particulars and interest are to be entered in the register in accordance with the Land Registration Act, 2012 and thereafter a certificate of title or lease will be issued.
- Surrender of current titles: Before issuing certificate of title or lease, the registrar will require the surrender of the existing title document and certificate of incorporation issued under the Land (Group Representatives) Act for cancellation. If the titleholder does not comply, the title documents will be deemed cancelled at the expiry of thirty days.

#### **Unregistered Community Land**

County governments shall hold in trust all unregistered community land on behalf of the communities for which it is held. The respective county government shall hold in trust for a community any monies payable as compensation for compulsory acquisition of any unregistered community land. Upon registration of community land, the respective county government shall promptly release to the community all such monies payable for compulsory acquisition. Any such monies shall be deposited in a special interest earning account by the county government. The respective county government shall transfer the amount and the interests earned to the communities as may be prescribed.

### **3.6 International Policy and Legal Framework**

#### **3.6.1 AfDB's Integrated Safeguards System (ISS)**

The Environmental and Social Operational safeguards outlined in the AfDB's Integrated Safeguards System-Policy Statement and Operational Safeguards (ISS) sets out the requirements for Borrowers relating to the identification and assessment of environmental and social risks and impacts associated with operations supported by the Bank. The Bank believes that the application of these safeguards, by focusing on the identification and management of environmental and social risks and impacts, will support Borrowers' goal of protecting communities and the environment from unintentional harm, as well as in achieving their goal to reduce poverty and increase prosperity, in a sustainable manner, for the benefit of the environment and communities. The E&S Operational Safeguards will support Borrowers: (a) in achieving good international practice relating to environmental and social sustainability; (b) in fulfilling their national and international environmental and social obligations; (c) enhance non-discrimination, transparency, participation,

accountability, and governance; and (d) enhance the sustainable development outcomes of projects, activities and other initiatives through ongoing stakeholder engagement.

KETRACO commits to implementing the proposed project in conformity with the AFDB'S Integrated Safeguards System-Policy Statement and Operational Safeguards. The proposed Malindi -Kilifi 220 Kv TL is classified as a Category 1 project under the bank's Operational Safeguards.

*Table 3-1: An analysis of potential applicable AFDB Operational safeguards likely to be triggered by the project*

African Development Bank E&S Operational Safeguards	Applicable	Applicable Mechanism
OS 1- Environmental and social assessment	Yes	<p>The proposed project must undergo a full study ESIA as it is classified as a Category 1 'High Risk' project. This OS, together with OS10 (Stakeholder Engagement and Information Disclosure) provide the overall process framework for the environmental and social assessment and management of Bank financed operations at the level of the project, activities or other undertakings<sup>2</sup> supported through Bank financing. The objectives of OS1 are as follows:</p> <ul style="list-style-type: none"> <li>• Identify and assess the environmental and social risks and impacts—including those related to gender, climate change and vulnerability—of Bank lending, investment and grant-financed operations, in their areas of influence in a manner consistent with the OSs.</li> <li>• Provide opportunity for stakeholder engagement and consultation in the process of assessing and managing the environmental and social risks and impacts;</li> <li>• To adopt a mitigation hierarchy approach.</li> <li>• To adopt differentiated measures so that adverse impacts do not fall disproportionately on the disadvantaged or vulnerable, and they are not disadvantaged in sharing development benefits and opportunities resulting from the project. OS 1.</li> </ul>

OS 5: Labour conditions, health and safety	Yes	OS2 recognizes the importance of employment creation and income generation in the pursuit of poverty reduction and inclusive economic growth. Borrowers can promote sound worker-management relationships and enhance the development benefits of a project by treating workers in the project fairly and providing safe and healthy working conditions. The respect of workers' rights is one of the keystones for developing a strong and productive workforce. This OS is informed by the International Labor Organization's Declaration on the Fundamental Principles and Rights at Work.
OS 2. Involuntary resettlement: land acquisition, population displacement and compensation	Yes	<p>This safeguard consolidates the policy commitments and requirements set out in the Bank's policy on involuntary resettlement, and it incorporates refinements designed to improve the operational effectiveness of those requirements. It embraces comprehensive and forward-looking notions of livelihood and assets, accounting for their social, cultural, and economic dimensions. It also adopts a definition of community and common property that emphasizes the need to maintain social cohesion, community structures, and the social interlinkages that common property provides. The safeguard retains the requirement to provide compensation at full replacement cost; reiterates the importance of a resettlement that improves standards of living, income-earning capacity, and overall means of livelihood; and emphasizes the need to ensure that social considerations, such as gender, age, and stakes in the project outcome, do not disenfranchise project-affected people.</p> <p>The main features of this directive are as follows:</p> <ul style="list-style-type: none"> <li>e) All viable alternative project designs should be explored to avoid or minimise the need for resettlement and when it cannot be avoided, to minimise the scale and impacts of resettlement.</li> <li>f) Resettlement measures are to be conceived and executed as development activities.</li> <li>g) Assistance should be given to the community in their efforts to improve former production levels, income-earning capacity and living standards, or at least restore them to the levels at which they would have been without the project.</li> <li>h) Displaced persons should be:</li> </ul>

		<ul style="list-style-type: none"> <li>• Compensated at Full replacement cost prior to the actual move;</li> <li>• Assisted with relocation; and</li> <li>• Assisted and supported during the transition period.</li> <li>• Particular attention will be given to socially disadvantaged and vulnerable groups such as the very poor, the disabled, minorities, orphans and child-headed families, squatters and others without clear legal rights to land, those incapacitated by advanced age, among others. This has been complied with. Vulnerable groups have been identified and earmarked for special assistance.</li> </ul> <p>Communities will be given opportunities to participate in planning, implementing and monitoring their resettlement/compensation. This has been complied with; and extensive community and stakeholder consultations were undertaken. Also, the views of the community members and other stakeholders have been considered and integrated into the RAP.</p>
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### 3.6.2 Korea Exim bank's Economic Development Cooperation Fund (EDCF) Safeguard Policy

Korea Exim Bank is committed to ensuring the environmental and social sustainability of EDCF funded projects. The objectives of the EDCF safeguard policy are to:

- Avoid adverse impacts of project impacts on the environment and affected people when avoidance is not possible: and
- Minimize, mitigate and/ or compensate for adverse project impacts on the environment and affected people when avoidance is not possible; and
- Help the borrower to strengthen their safeguard systems and develop the capacity to manage environmental and social risks.

The proposed Malindi -Kilifi 220 Kv transmission Line is classified as a Category A ( High Risk) project. "Category A" projects are those which have significant adverse environmental and social impacts and high risks that are irreversible, diverse, or unprecedented.

### 3.6.3 Similarities between the Government of Kenya (GoK), and AFDB Guidelines and requirements

These are found to converge on the following points: -

- Assistance to the affected people to living standards, capacity for income generation, and production levels, to at least to restore to their former levels
- Participation of all stakeholders
- Consultations with project affected persons at every stage
- Grievance redress mechanisms for project-affected persons

#### 3.6.4 Differences between the Government of Kenya (GoK), and AfDB Guidelines

There are some differences between the African Development Bank policy and the laws of Kenya on resettlement and compensation. **Table 3-3** outlines African development bank AfDB ISS policy on involuntary resettlement and compares them to the Kenyan legislation on the same. Recommendations are made on the existing gaps of the Kenyan laws. In general, where there is a difference between Kenyan law and OS2, the latter shall prevail.



*Table 3-2:: Comparative Analysis of AfDB OS2 and Government of Kenya requirements including measures to address gap*

AfDB Operational Safeguards (OS 2)	Kenyan Context	Comparison	Recommendations
<b>General RAP Requirements</b>			
Avoid involuntary resettlement where feasible, or minimize resettlement impacts where involuntary resettlement is deemed unavoidable after all alternative project designs have been explored	Involuntary resettlement possible in contexts of projects of national importance. IDP Act allows for displacement only where it is unavoidable and no feasible alternatives exist. It requires the government to guard against factors and prevent and avoid conditions that are conducive to or have the potential to result in the displacement of persons	The Land Act does not stipulate that resettlement should be avoided wherever possible; on the contrary, as long as a project is for public interest, involuntary resettlement is considered to be unavoidable.	Ensure that resettlement issues are considered at the design stage of the project to avoid/minimize resettlement and associated issues. The design made efforts to avoid communal structures such as a school, 2 dams, water pans, small natural forests, market / densely populated areas and some mines which would have disrupted activities and livelihoods.
Ensure that displaced people are meaningfully consulted and given opportunities to participate in the planning and implementation of resettlement programmes;	The Land Act, 2012 Act provides steps for sensitizing the affected population. Gives provisions and guidance on consultation on implications and grievance procedures. IDP Act requires free and informed consent of the affected persons and holding of public hearings on the project planning	Same as the AfDB's	Both will apply. Stakeholder engagement meetings were carried out with PAPs and will continue to be held in the course of the acquisition. Various forms of engagement to be undertaken with affected parties.
Ensure that displaced people receive significant resettlement assistance under the project, so that their standards of living, income-earning capacity, production levels and overall means of	Kenyan the Law provides for livelihood restoration and resettlement. However, the Legislation does not elaborate on the details of the restoration activities.	Kenyan laws lack details on how resettlement support is to be provided to PAPs. Also while AfDb advocates for improvement beyond pre-project levels, Kenyan laws are generally restorative.	Implement AfDB Operational Safeguard (OS 2)

AfDB Operational Safeguards (OS 2)	Kenyan Context	Comparison	Recommendations
livelihood are improved beyond pre-project levels			
<b>RAP Process Requirements</b>			
<b>PAP Consultation:</b> appropriate notice to all potentially affected persons of public hearings, effective advance dissemination by the authorities of relevant information and relevant time period for public review of, comments on, and/or objection to any options of the proposed plan and opportunities to challenge the resettlement process and discuss alternative proposals and articulate their views and development priorities.	The Land Act outlines procedures for consultation with affected population and grievance management procedures. This includes gazettelement of the land and serving these notices to the PAPs, asking for their opinion on compensation value in the inquiry process etc IDP act requires free and informed consent of the affected persons.	Same as AfDB's	Adopt both Kenyan legislation and AfDB.
Special attention to consultations that involve Vulnerable groups. When the borrower or client has identified vulnerable communities that would potentially be affected by the project, the borrower/client engages in meaningful informed consultation and participation with the vulnerable communities, beginning as early as possible in the project cycle before the project is submitted for Board consideration and continuing throughout the project cycle. Inclusivity in a socially and culturally appropriate manner must be ensured	Kenyan law does not explicitly provide for special consultations for vulnerable groups.	Kenyan law does not explicitly provide for special consultations for vulnerable groups.	Implement AfDB policy

AfDB Operational Safeguards (OS 2)	Kenyan Context	Comparison	Recommendations
<b>Resettlement planning:</b> The borrower or client carries out a comprehensive socioeconomic survey—in line with international standards for social and economic baseline studies as agreed to in the environmental and social assessment process—including a population census and an inventory of assets (including natural assets upon which the affected people may depend for a portion of their livelihoods). This survey identifies the people who will be displaced by the project; all the relevant characteristics of those people, including conditions of vulnerability; and the magnitude of the expected physical and economic displacement.	Land Act requires inspection of the affected property and identification of the owners.	Kenyan Law does not require a RAP per se be prepared which is what includes the socioeconomic data.	Implement AfDB
<b>Grievance Redress Mechanism:</b> establish a credible, independent, accessible and empowered local GRM to receive, facilitate and follow up on the resolution of affected people's grievances and concerns about the environmental and social performance of the project	Land Act 2012 clearly outlines the steps and process for grievance redress that includes alternative dispute resolution, renegotiation with NLC and is backed by the judicial system through Environmental and Land Court Act. Recently, the law also provides for a tribunal (yet to be constituted)	Kenyan legislation meets AfDB's requirements	Adopt both policies but first set up project GRM and allow also for NLC grievance mechanism. Court process to be advised as a last resort
<b>Eligibility Criteria</b>			
<b>Eligibility Criteria</b> <i>Determined by:</i> (a) those who have formal legal rights to land or other assets recognized under the	The Land Act 2012 provides that written and unwritten official or customary land rights are recognized as valid land rights.	The OS 2 recognizes Eligibility as both formal (legal) and informal (customary) owners of expropriated land. However, it does not	Ensure ALL users (including illegal squatters, laborers, rights of access) of affected lands are included in the census survey and fairly

AfDB Operational Safeguards (OS 2)	Kenyan Context	Comparison	Recommendations
<p>laws of the concerned country i.e., generally people who are physically residing at the project site and those who will be displaced or may lose access or suffer a loss in their livelihood as a result of project activities.</p> <p>(b) those who do not have formal legal rights to land or other assets at the time of the census/evaluation but can prove that they have a claim that would be recognized under the customary laws of the country. (May include people who may not be physically residing at the project site or persons who may not have any assets or direct sources of livelihood derived from the project site, but who have spiritual and/or ancestral ties with the land and are locally recognized by communities as customary inheritors.</p> <p>(c) those who have no recognizable legal right or claim to the land they are occupying in the project area of influence and who do not fall into either of the two categories described above, if they themselves or witnesses can demonstrate that they occupied the project area of influence for at least six months prior to a cut-off date established by the borrower and acceptable to the bank.</p> <p><i>To determine eligibility:</i></p>	<p>The Law provides that people eligible for compensation are those holding land tenure rights. Land Act also recognizes those who have interest or some claim in the land such as pastoralist or who use the land for their livelihood. The constitution recognizes 'occupants of land even if they do not have titles' and payment made in good faith to those Occupants of land. However, this does not include those who illegally acquired land.</p> <p>Land Act 2012 provides for census through NLC inspection and valuation process.</p>	<p>specifically recognize all users of the land to be compensated for land. The constitution of Kenya on the other hand recognizes 'occupants of land' who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition is made.</p> <p>OS2 requires a census and socio-economic survey.</p>	<p>compensated/ assisted as necessary for each category.</p> <p>Implement both</p>

AfDB Operational Safeguards (OS 2)	Kenyan Context	Comparison	Recommendations
Carry out resettlement census. Cutoff date for eligibility is crucial			
<b>Vulnerable groups:</b> Member countries and other borrowers/ clients are responsible for protecting the physical, social and economic integrity of vulnerable groups and for paying particular attention to women, <sup>1</sup> . Their needs must be at the centre of the development approach. Appropriate differentiated assistance must be provided to help these disadvantaged groups cope with the dislocation and to improve their status.	Apart from the requirement that spouses are included in land and property transactions to safeguard their interest as elaborated in the Land Act 2012 Section 107, the Kenyan Legislation does not specifically cater for other vulnerable groups.	Kenyan laws lack specific details regarding acquisition and resettlement of vulnerable groups	Adopt AfDB OS2
<b>Measures:</b>			
The borrower or client gives preference to land-based resettlement strategies as a matter of priority and offers land to land compensation and/or compensation in kind in lieu of cash compensation where feasible; further,	47) The Land Value (Amendment) Act, 2019 value index expands the forms of compensation for	Both provide for cash compensation and alternative forms of compensation for compulsorily acquired land.	Ensure that all alternative options are considered before providing cash compensation. If cash is preferred, then this needs to be coupled with counselling.

1 Vulnerable status can be determined by identifying a group's likelihood of facing harder conditions as a result of the resettlement because of such specific factors as a group's gender, economic status, ethnicity, religion, language or health condition. Depending on the specific context of the resettlement operation, vulnerable groups may thus include, for example, female-headed households, those below the poverty line, the landless, indigenous peoples, those without legal title to assets, those with physical handicaps, or ethnic, religious and linguistic minorities. Identifying

vulnerable groups should be the result of careful analysis of the social and economic context, the presence of factors that may cause vulnerability and the capacity of the group to cope or adapt.

AfDB Operational Safeguards (OS 2)	Kenyan Context	Comparison	Recommendations
<p>the borrower or client clearly explains to the affected that cash compensation very often leads to rapid impoverishment.</p> <p>Affected populations are offered a range of different compensation packages, resettlement assistance and livelihood improvement options, as well as options for administering these measures at different levels and the affected persons themselves are given the opportunity to express their preferences.</p> <p>When cash payments are made, the affected people should be provided with counselling to ensure that they have the knowledge to use the compensation wisely.</p> <p>When land is not the preferred option for displaced people whose livelihoods are land based, non-land-based options – built around creating employment opportunity or self-employment are considered.</p>	<p>compulsorily acquired land, which may take any one or more of the following forms:</p> <ul style="list-style-type: none"> <li>a. Allocation of alternative parcel of land of equivalent value and comparable geographical location and land use to the land compulsorily acquired;</li> <li>b. Monetary payment either in lump sum or in instalments spread over a period of not more than one year;</li> <li>c. Issuance of government bond;</li> <li>d. Grant or transfer of development rights as may be prescribed; (e) equity shares in a government owned entity; or</li> <li>e. Any other lawful compensation</li> </ul>		
Affected people are compensated for all their losses at full replacement costs	The Land Value (Amendment) Act, 2019 defines “prompt”	OS 2 requires that displacement must not occur before all necessary	Implement prompt and effective compensation at full replacement

AfDB Operational Safeguards (OS 2)	Kenyan Context	Comparison	Recommendations
<p>before their actual move; before land and related assets are taken and if the project is implemented in phases, before project activities begin for each particular phase.</p>	<p>compensation as within a reasonable time of, and in any case not more than one year after, the taking of possession of the land by NLC.</p>	<p>measures for resettlement are in place, i.e., measures over and above simple compensation while the laws provide for NLC to carry out acquisition without payment but not take a period longer than 1year to compensate PAP.</p>	<p>cost for the losses of the assets prior to displacement. In unique and exceptional cases where NLC deems necessary to acquire land without payment this cannot exceed a period of 1 year in special cases (however no families can be left destitute or homeless thus need for alternative housing arrangements to be provided by KETRACO)</p>
<p>Valuation: With regard to land and structures, “replacement cost” is defined as follows:</p> <p>For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.</p> <p>For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any</p>	<p>Valuation is covered by the Land Act 2012 and stipulates, as already mentioned, that the affected person receive just compensation from NLC, as determined by National Land Commission.</p> <p>Land value (amendment) 2019 highlights “just compensation” in relation to compulsorily acquired land or creation of wayleaves, easements and public rights means a form of fair compensation that is assessed and determined through criteria set out under the Act;</p>	<p>A provision in the Kenyan context highlights just compensation as form of “fair compensation” that is assessed and determined through criteria set out under the Land value (amendment) 2019</p>	<p>Use AfDB OS2</p>



AfDB Operational Safeguards (OS 2)	Kenyan Context	Comparison	Recommendations
labor and contractors' fees, plus the cost of any registration and transfer taxes			
<b>Monitoring</b>			
<p>Adequate monitoring and evaluation of activities to be undertaken.</p> <p>An independent third party monitors the implementation of large-scale or complicated Resettlement Action Plans, with regular feedback from the affected people. Affected people are also given the opportunity to participate in such implementation monitoring.</p> <p>The borrower and the Bank carry out an independent ex-post evaluation—a Resettlement Action Plan completion audit or implementation completion report.</p>	<p>According to Land Act can be undertaken County Land Boards. IDP act requires the Government to ensure the presence of a Government official when the displacement and relocation is effected and the monitoring by an independent body</p>	<p>Both Kenyan Law and AfDB policy advocates for Monitoring and Evaluation</p>	<p>Implement as prescribed in the OS policy and Kenyan Law.</p>

### 3.7 Institutional Framework

There are various national institutions that are important in matters related to resettlement in Kenya. The relevancy of some of the key institutions is dependent on sector projects. Below is a highlight of the key institutions and their mandate in the energy sector resettlement process:

*Table 3-3:Key National Institutions on resettlement in Kenya*

Institutions / Departments	Key Mandate
The Ministry of Energy	<ul style="list-style-type: none"> <li>▪ The Ministry of Energy and Petroleum is responsible for energy policy and regulation of electricity and gas reticulation. The ministry's mission statement is to facilitate provision of clean, sustainable, affordable, reliable, and secure energy services for national development while protecting the environment. The mandate of the ministry is:               <ul style="list-style-type: none"> <li>□ Hydro power Development.</li> <li>□ Geothermal Exploration and Development.</li> <li>□ Thermal Power Development.</li> <li>□ Oil and Gas Exploration.</li> <li>□ Oil/Gas and Minerals sector capacity development.</li> <li>□ Rural Electrification Program.</li> <li>□ Petroleum products, import/export/marketing policy Management.</li> <li>□ Renewable Energy Promotion and Development</li> <li>□ Energy Regulation, Security and Conservation.</li> <li>□ Fossil Fuels Exploration and Development.</li> </ul> </li> </ul> <p><i>MOE will be the coordinating agency for the proposed project. MoE will provide adequate financing for RAP implementation through budgetary allocation. The ministry will ensure overall project coordination and oversight through regular meetings with KETRACO.. They also ensure consolidation of progress reports from KETRACO and reporting to the World Bank.</i></p>
Ministry of Lands and Physical Planning (MOLPP)	<ul style="list-style-type: none"> <li>▪ The Directorate of Land is charged with the responsibility of ensuring efficient administration and sustainable management of the land resource in the country.</li> </ul> <p><i>The MoLPP is responsible for, among others: land policy management, physical planning, land transactions, land adjudication, settlement matters, land registration, as well as land and property valuation services which are important in acquisition and resettlement issues for the proposed project, as well as urban planning.</i></p>
National Treasury	<ul style="list-style-type: none"> <li>▪ The National Treasury derives its mandate from the Constitution 2010, the Public Management Act 2012, and the Executive order No. 2/2013.</li> <li>▪ Role includes Managing the level and composition of national public debt, national guarantees, and other financial obligations of national government.</li> <li>▪ Formulate, evaluate, and promote economic and financial policies that facilitate social and economic development in conjunction with other national government entities.</li> </ul>

Institutions / Departments	Key Mandate
	<ul style="list-style-type: none"> <li>▪ Mobilize domestic and external resources for financing national and county government budgetary requirements</li> </ul> <p><i>Treasury will provide funding for the project through the Ministry of Energy. They are critical in ensuring budgetary allocation for the project and RAP implementation.</i></p>
Ministry of Environment and Natural Resource	<ul style="list-style-type: none"> <li>▪ This Ministry is responsible for policies and programs aimed at improving, maintaining, protecting, conserving, and managing the Country's natural resources (water, forestry, wildlife and environment).</li> </ul> <p><i>The proposed project RAP is expected to align with the policies and programs of this Ministry mainly in ensuring natural resources are conserved during the resettlement process.</i></p>
Kilifi County Government	<ul style="list-style-type: none"> <li>▪ The proposed project is within the jurisdiction of Kilifi County Government</li> <li>▪ The County government are expected to enact legislation as well as collaborate on physical planning hence liaison with Kilifi County government authorities will be required for functions that fall under their jurisdiction.</li> </ul> <p><i>The County Government will participate in the RAP Implementation process through the Social Services Department, Planning, Land and Housing Department, Sub-County Administration; and Ward Administration.</i></p>
Kenya Forest Service (KFS),	<ul style="list-style-type: none"> <li>▪ Kenya Forest Service is a corporate body established under the Forest Conservation and Management Act no 34 of 2016.</li> <li>▪ The Act, which was operationalized on 31st March 2017, gave the Service's mandate as "to provide for the development and sustainable management, including conservation and rational utilization of all forest resources for the socioeconomic development of the country and for connected purposes."</li> </ul> <p><i>KFS will hence play a critical role in providing access and RAP information on Madunguni Forest land that will be traversed by the proposed line. KFS is bound to Conserve, protect, and manage all public forests in accordance with the provisions of the Act; Mitigation measures to deal with trees are well expounded in the ESIA / ESMP for the proposed Malindi Kilifi project.</i></p>
Kenya Wildlife Services (KWS),	<ul style="list-style-type: none"> <li>▪ Kenya Wildlife Service is a state corporation that was established by an Act of Parliament (Cap 376), repealed by Wildlife Conservation and Management Act (WCMA 2013), with the following mandate of among others: conserve and manage national parks, wildlife conservation areas, and sanctuaries under its jurisdiction.</li> <li>▪ KWS undertakes conservation and management of wildlife resources across all protected areas systems in collaboration with stakeholders.</li> </ul> <p><i>KWS will be key on wildlife management found within the ROW of the proposed transmission line during RAP implementation. Mitigation to deal with wildlife is well expounded in the ESIA / ESMP for the proposed Malindi Kilifi project.</i></p>

Institutions / Departments	Key Mandate
The National Land Commission	<ul style="list-style-type: none"> <li>▪ The commission is legally mandated to undertake land acquisition on behalf of the government.</li> <li>▪ It will take up the issues of verification of ownership after the completion of the RAP Study. It will set out clear procedures for land acquisition if needed considering project impacts and land rights.</li> <li>▪ The exercise will be part of the verification of ownership of property before compensation is paid and relocation carried out.</li> <li>▪ KETRACO will share the Final RAP Report to NLC with a schedule of lands to be affected for ownership verification and gazettelement for “acquisition.” NLC has the responsibility of resolving land issues including land disputes arising from historical injustices. They will play a crucial role in the land issues triggered by wayleave acquisition.</li> </ul> <p><i>In brief NLC will:</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Facilitate the gazettelement of the line</li> <li><input type="checkbox"/> Ensure resolution of disputes in value of land per acre.</li> <li><input type="checkbox"/> Manage public land on behalf of the national and county governments</li> <li><input type="checkbox"/> Encourage the application of traditional dispute resolution mechanisms in land conflicts</li> <li><input type="checkbox"/> Ensure that public land/land under the management of designated state agencies is sustainably managed</li> <li><input type="checkbox"/> Develop and encourage alternative dispute resolution mechanisms in land dispute handling and management.</li> </ul>
National Museums of Kenya (NMK)	<ul style="list-style-type: none"> <li>▪ The National Museums of Kenya is a state corporation that manages museums, sites, and monuments in Kenya. It carries out heritage research, and has expertise in subjects ranging from paleontology, ethnography and biodiversity research and conservation.</li> </ul> <p><i>NMK will be a key institution to be engaged if the proposed project finds any important cultural heritage sites and/or archeological sites.</i></p>
Ministry of Interior and Coordination of National Government	<p>Ministry of Interior and Coordination of National Government is charged with the responsibility of public administration, internal security etc. It creates an enabling environment for Kenya's growth and prosperity through provision of security and safety to people and property.</p> <ul style="list-style-type: none"> <li>▪ Support and organize community sensitization meetings</li> <li>▪ Assist in dispute resolution</li> <li>▪ Ensure smooth implementation of the project</li> </ul>

### 3.7.1 Project implementation team

As part of the on-going progress reporting exercise, the PIT will be required to submit to the financier of the RAP implementation and compensation status as it relates to the resettlement aspects of the project. The committee will be composed of experts from KETRACO with various key professional disciplines that will oversee the RAP implementation process.



#### 4.1 Introduction

The Consultant undertook a detailed socioeconomic and cultural assessment/baseline survey of the potentially affected population. The survey was undertaken with the involvement of the project affected persons (PAPs) in 2019 and updated in December 2021 and included:

A description of the pre-project situation of the project affected persons (PAPs);

- Detailed household survey;
- Size and characteristics of affected population, social and economic patterns; property held and legal basis of ownership;
- A detailed description of the income streams of the PAPs that define their livelihood strategies.

A 100% census was done. However, the socio-economic survey was done on the 454 out of the 636 affected households along the entire stretch of the transmission line. The PAP questionnaire used for this exercise can be found in Annex 1. The table below presents PAPs distribution by location.

*Table 4-1:PAPs by Location*

Location	Male	Female	Total	Percentage
Goshi / Gedi	437	464	901	25%
Jilore	513	564	1,077	29%
Langobaya	31	45	76	2%
Sokoke / Dida / Mwahera	244	239	483	13%
Kilifi Township / Konjora/ takaungu	540	577	1,117	31%
<b>Grand Total</b>	<b>1,765</b>	<b>1889</b>	<b>3,654</b>	<b>100%</b>

#### 4.2 Ethnic Presentation and Gender distribution

The households interviewed are ethnically distributed as follows: 96.5% Mijikenda (Giriama, Chonyi, and Kauma). The other 3.5% belong to other ethnic communities, which are: Kamba 1.3%, Kikuyu 0.4%, Taita 0.6%, Arab 0.4%, Bajun 0.2%, Luhya 0.2%, and Meru, 0.4%. The respondents were 58% male and 42% female.

The socio-economic survey came across one (1) youthful respondent in Konjora 3 village – Kilifi Township location who was noted to be of Bajun origin. The respondent is polygamous with three children. The respondent has assimilated into the Giriama and practices business, rears livestock and undertakes subsistence farming.

According to Save Lamu (2018); The Bajuni live on the small coral islands off the coast of Lamu (Pate Island) as well as on the mainland. They are the largest ethnic group in Lamu East, numbering about 55,000 with their origin being islands between Kismayu (Somalia) in the north and the Lamu archipelago (Kenya) in the south. A few have migrated to mainland Lamu and neighboring Counties and towns in search of employment. They have assimilated into the Giriama culture and are currently farmers, livestock keepers, fisherfolk, mangrove cutters and tourism operators. The current livelihoods of the Bajuni are derived from

the natural resources based on their locality. Bajuni of Lamu, Kenya are said to have close connections with the Bajuni of Kismayo, Somalia.

The survey team did not come across any significant settlement occupied by the Indigenous people (IP), such as “the Bajuni”. As per the KETRACO’s final Vulnerable and Marginalized Groups Framework (VMGF) report of April 2019, the corridor does not have any community, which meets the definition of article 260 of the Constitution of Kenya (2010) of indigenous persons. Based on the census along the project corridor, no social assessment report or vulnerable and marginalized group plan (VMGP) will be prepared for this project since no indigenous communities are traversed. The project will therefore only implement targeted interventions to ensure vulnerable individuals and households are adequately and effectively engaged and equally access project benefits and opportunities.

### 4.3 Marital Status

Respondents’ (household heads) marital status are: monogamous 310 (68%), polygynous 13%, divorced or separated 4% widowed 7% are widowed and not married are 6%. Respondents’ marital status is as presented in table 4.2.

*Table 4-2: Marital Status of Respondents*

Marital Status	Count	Percent (%)
Divorced	10	2
Married Monogamous	310	68
Married Polygamous	60	13
Never married	26	6
Separated	17	4
Widowed	31	7
<b>Total</b>	<b>454</b>	<b>100%</b>

### 4.4 Religion

Most PAPs households are Christians of the protestant faith 49%, Catholic 7%, other Christians 31%, while Muslim 6%. Also, 7% indicated to be traditionalists/ no religion.

Although, religion along the transmission line area was noted to be largely cosmopolitan. The Mijikenda traditionally believed in a supreme god *Mulungu* and the community has sacred forests – *the Kaya* – which the elders use sites to pray and make sacrifices to *Mulungu*. However, no *Kayas* have been traversed by the project. The community is a patriarchal society with authority and property vesting with the male family head. The local African tradition, as well as the Islamic faith, permit men to engage in polygamous marriages (Gachie, 2019). Also, Agirima are embedded with a strong sense of community entitlement. A qualitative source noted that Jilore is one of the locations in the project area with residents that uphold strong sense of community entitlement.

Further, in relation to religion, there are three (3) religious institutions which include Word Celebration Centre Religious institutions in Jilore Location, Sokoke PEFA Religious institutions in Nyari sub-Location, and Barikiwani Religious institutions in Kilifi Township location that are along the right of way. The religious institutions are of religious value to the community and society at large. It is recommended that the project should avoid spotting towers on the three (3) religious institutions grounds.

#### 4.5 Education

A majority of the interviewed household heads (41%) have attained only primary education. Other educational levels are: secondary 17%, college 5%, pre-primary 2%. University education and vocational education are 1% respectively. However, a significant proportion of 32% have no formal education. Education distribution is shown in Figure 4-1.

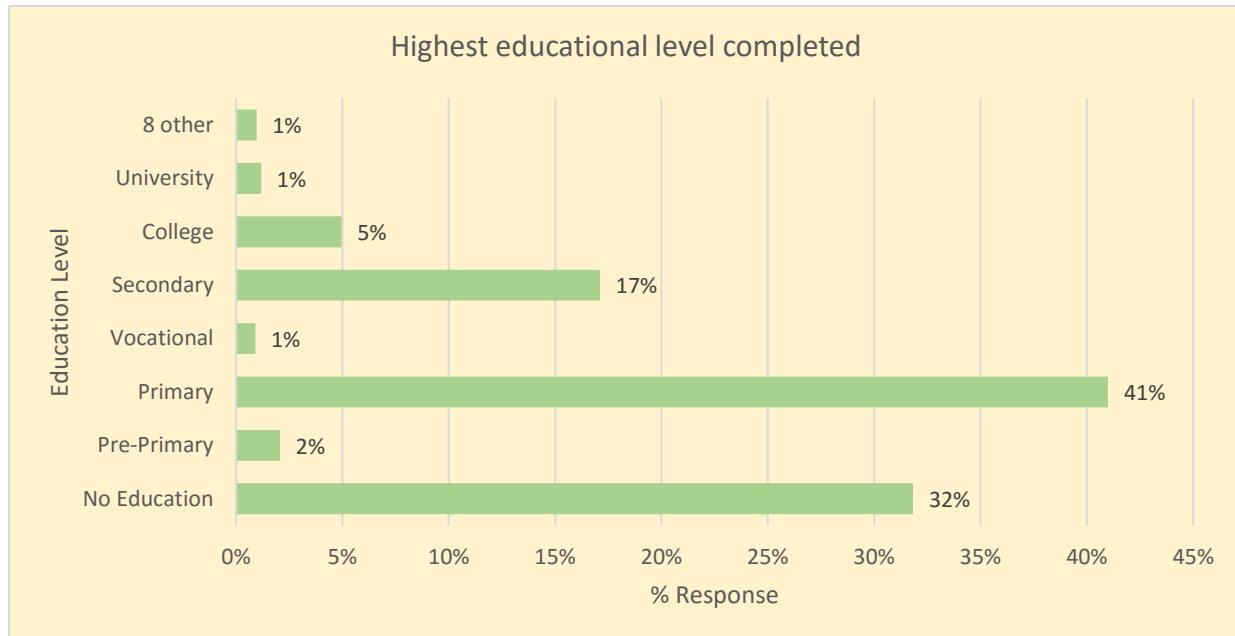


Figure 4-1: Education Level of Respondents

Education is an essential aspect; therefore, PAPs with limited ability to read and write might require special assistance from their representatives to uphold the process of free, prior and informed consent, (meaningfully informed and consulted) in a timely manner and based on a pre-agreed plan, especially during the process of compensation and resettlement. Further, the implication from the education statistics suggests that the PAPs might only be able to provide semi-skilled or unskilled labor force. In such cases, KETRACO will use translators to ensure the information is disseminated in a language they can understand.

#### 4.6 Household Composition

The total number of household members in the project affected households is 3,654 with some households having as many as 15 members in one homestead. Most PAHs, 76% have an average of 4 family members with most members, 46% being below the age of 18 years. Those aged between 19-35 years are 30%. A small proportion, 7% of the affected persons, are above 60 years, as shown in Table 4.3 below.

Table 4-3: PAPs Age

Age category	Number	Percent (%)	Average
--------------	--------	-------------	---------



0-18 Years	1,666	46%	4
19-35 Years	1,104	30%	3
36-59 Years	639	17%	1
60 and Above	245	7%	1
Total	3654		

The minimum and maximum age of a household head captured are 19 years and 70 years, respectively. No one below the age of 18 years was found to own property. PAPs between the age of 19-35 could be hired by the contractors during construction for hard and demanding work.

#### 4.7 Economic Conditions and Source of Livelihood

##### 4.7.1 Occupation

Only 26% of the household heads are employed. For those employed, main occupations are: casual laborers 52%, employed in the private sector 28%, self-employed/business 10%. Other household heads' occupations are paid employee (within the household) 8%, while volunteering/internship 2%

74% of household heads not employed suggests a high unemployment rate in the project area. Therefore, the resettlement activities should prioritize employment creation for the unemployed PAPs as well as enhancing livelihood activities such as business activities and opportunities during the project implementation.

##### 4.7.2 Monthly Income of the Household Head

Monthly income for most household heads 360 (79.3%) is estimated to be less than Kshs10,000 attributed to their main livelihood activities i.e., agriculture. Others estimated monthly incomes as follows; between Ksh10,000-20,000 are 38(8.4%), between Ksh20,000-30,000 are 20(4.4%). Between 30,000-40,000 are 18(4%), while between 40,000-50,000 are 2.2%. Only 8(1.8%) have their income above Kshs50,000. Income distributions are presented in Table 4.4.

*Table 4-4: Monthly Income of the Households*

Monthly income (Kshs)	Count	Percent (%)
0-10,000	360	79.3
10,001-20,000	38	8.4
20,001-30,000	20	4.4
30,001-40,000	18	4
40,001-50,000	10	2.2
50,001-100,000	8	1.8
<b>Total</b>	<b>454</b>	<b>100%</b>

### 4.7.3 Farming

Land is an essential factor of production, as such people utilize it for various socio-economic purposes including subsistence farming. In the project area, PAHs not only use land for settlement but also practice agriculture/farming (poultry, livestock farming and aquaculture). Agriculture is a significant source of livelihood for the PAPs along the transmission line. They mainly practice mixed farming. Common crops grown are maize, cashew nuts and beans, cassava, spinach locally referred to as “Mchicha”. Mango and coconut tree plantations are also common. The PAPs also rear livestock such cows and goats. Interviewed households practice diverse farming as presented in Table below

*Table 4-5:Types of farming*

Farming	Number	Percentage
Livestock Farming	213	47%
Mixed Farming	232	51%
Aquaculture	6	1.3%
Bee keeping	3	0.7%
Total	454	

For those that rear livestock: indigenous goat constituted 65.1%, indigenous cattle 30.2%, dairy goats 2.3%, Indigenous sheep and exotic cattle-diary 1.2% respectively. Conversely, poultry kept are indigenous chicken 66%, indigenous ducks 31%, chicken broiler 2% and turkey 1%. Only 3.37% of the farmers have an irrigation scheme. An assistant chief in the project area confirmed that a small proportion of residents, mainly those residing along Athi-Galana-Sabaki River, have minor irrigation schemes since most residents engage in subsistence-mixed farming.

Generally, natural pastures occupy almost half of County farmlands, woodlots 7%, improved pasture/forage production 8%, homesteads 9%, subsistence crop production 21%, commercial crop production 1.5% and unusable land (swampy, rocky, hilly) 8% (GoK, 2018).

Notably, the impact of the project on agriculture will vary as some households will no longer be able to utilize the parcel area in the wayleave for certain farming activities such as growing trees and fruits that grow over 12 feet (3.7m). However, some households will only be affected during construction, and afterward they will be able to continue utilizing the portion of land in the area as before, e.g., for crop farming and natural pasture / animal grazing. For households where transmission line towers will be constructed on their land, the affected portion of land will remain unutilized for the entire period of existence of the transmission line. In order to minimize impact on agriculture including loss of pasture, the RAP recommends that construction should be scheduled after crop harvesting (when farms are largely with no produce) and use of existing access roads or lanes. KETRACO should also ensure destroyed crops and beehives are recorded for compensation and where possible adequate spacing of pylons to avoid clearing the fields.

#### 4.8 Ownership of Bank Account

Only 36% of the household heads have a bank account, while the majority 64% did not have a bank account. Most of the household heads not having a bank account is a concern, mainly if compensation payments will be channeled into bank accounts. The nearest banks are in Malindi and Kilifi town, which are relatively far from most sections of the proposed project corridor. In the interim period, the PAPs without bank accounts will be sensitized by Ketraco and local administration to open accounts or the project proponent will partner with a local bank branch in Kilifi and/or Malindi to provide field account opening services in each location where RAP meetings were held. This will facilitate and ensure PAPs open bank accounts prior to compensation.

#### 4.9 Means of Communication and Transport

The primary mode of communication for the household heads according to responses received is the mobile phones 95%, while 5% would use other forms of communication such as letters. Mode of transport are Motorcycle/Bodaboda 49.9%, public bus/matatu 24.8%, Private car 1.6%, and on foot constituted 22.9%. Most of the household heads use motorcycle/bodaboda since they are usually common compared to other means of transport.

#### 4.10 Sources of Energy

##### 4.10.1 Access to Electricity

Most PAHs (84.3%) are not connected to electricity. Only 15.7% of the structures are connected to the power grid. A majority of project-affected households 74% mainly use the electricity to light up their homes, and 12% utilize it for business purposes, while 6% utilize the electricity for domestic cooking and 8% for water heating.

The respondents mentioned the following reasons for not being connected to electricity: high connection costs 62%, transformers far away from their homestead 16%, and applications pending 12%. However, 5% felt no need for electricity, while 4% cited that their dwellings are inappropriate for connection and those that have their power disconnected are 1%.

*Table 4-6: Reason for Non-Connectivity to Electricity*

Reasons	Count	Percent (%)
Line was disconnected	3	0.7
Dwelling Inappropriate for connection	23	5
No need for electricity	27	6
Application pending	64	14
Transformer too far	81	18
Connection/Wiring Fee Unaffordable	256	56
Total	454	

#### 4.10.2 Source of Lighting and Cooking

Most project affected households, 87% use firewood as their primary source of cooking energy. Charcoal at 9% while LPG is used by only 3%. Only 1% utilized electricity. In terms of lighting up homes, most households, 40%, use solar energy, while 35% use paraffin tin lamps. Only 16% use electricity. Others are: Paraffin Lantern 6%, Battery Lamp 2%, and firewood 1%, as shown in Figure 4-2.

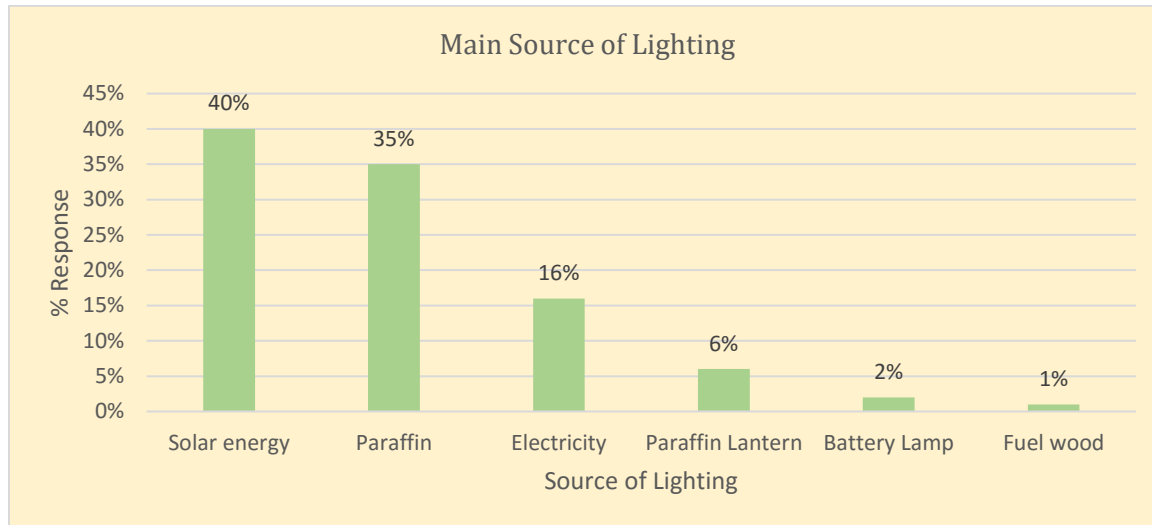


Figure 4-2: Source of Lighting

#### 4.11 Structures in the Land to be Acquired

The total number of structures in the 40 metres corridor is 1,060: Permanent 147 (13.8%), Semi-permanent 253 (29.9%), and Temporary 660 (62.2%). Temporary structures along the transmission line include access gates, perimeter fences, food kiosks, and groceries.

Table 4-7: Types of Structures in the Land to be Acquired

Type of Structures	Count	Percent (%)
Permanent	147	13.9
Semi-permanent	253	23.9
Temporary	660	62.2
<b>Total</b>	<b>1060</b>	<b>100%</b>

#### 4.12 Access to Health Services

In the one month preceding this survey 16.3% visited a government health facility. Other health facilities utilized by the PAPs are presented in table 4.8.

Table 4-8: Access to Health Services

Type of Health Facility	Count	Percent (%)
Government Hospital	71	16.3
Private Hospital/Clinic	51	11
Government Dispensary	37	8.1
Pharmacy/Chemist	20	4.4

Shop/Kiosk	19	4.2
Government Health center	7	1.5
Herbalist	4	0.9
Faith/Traditional Healer	3	0.7
Faith-based (Religious institutions, mission, Hospital/Clinic)	2	0.4
Not accessed health facility 1 month prior to census	240	53
<b>Total</b>	<b>454</b>	<b>100%</b>

All those who visited a health facility paid costs ranging from as low as Kshs 100 to above Kshs 2,000. The average distance to the nearest health facility is 3Kms for 45% of PAHs. Most of the affected persons, 55% access their nearest health facility beyond 4km. A majority of PAPs, 62% access health facilities that are outside their location of residence, while 24% utilize health facilities in their settlement. Only 14% seek medical services from health facilities within their village. Some of the health facilities utilized by the PAPs are: Malindi Sub-County Hospital, Tawfiq Hospital in Malindi town, and Kilifi County Hospital. Also, Jilore Dispensary, Kakoneni Dispensary, and Malanga (AIC) Dispensary. The RAP recommends that the project partners with health centres/facilities in the project area to provide health and emergency services during construction.

#### 4.13 Water and Sanitation

The primary sources of water are: Public taps 361(79.5%), piped water into plot yard 39(8.6%), piped water into dwelling 32(8.6%). Others are: river/dams 12(2.6%), protected wells and tanker trucks 0.7% and 0.2% respectively, as shown in Table 4-9.

*Table 4-9:Source of water*

Source of Water	Count	Percent (%)
Public Tap	361	79.5
Piped into Plot/Yard	39	8.6
Piped into dwelling	32	7
River/Stream/Pond/Dam/Lake/Canal/Ocean	12	2.6
Borehole	3	0.7
Unprotected Well	3	0.7
Protected Well	3	0.7
Tanker Truck	1	0.2
<b>Total</b>	<b>454</b>	<b>100%</b>

A total of 83.3% of the PAHs buy water at an average of Kshs 10 for a 20-litre Jerrican. A significant proportion, 66% of persons affected by the project cover more than 1km to fetch water. Most households rely on public taps installed by KIMAWASCO and River Sabaki (Baricho) Water Source Kilifi-Mariakani MAWASCO. However, in most cases, the taps have low pressure or broken pipes, which cause water

supply interruption forcing some households to walk for miles in search of the commodity. Therefore, the resettlement activities should prioritize water access to the PAPs.

In terms of sanitation, most project-affected households (73%) own toilet facilities, while (27%) do not have the facility. The PAHs toilet regime is as follows: Flush to pit latrine 43%, pit latrine without slabs 26%, pit latrine with slabs 17% ventilated improved pit latrine 4%, composting toilet 3%, and flush to the piped sewer system 2%. Other types of toilets owned are as shown in Figure 3.3.

Based on the survey analysis, the RAP recommends that human waste disposal during construction be handled as provided for in the ESMP for Malindi -Kilifi line.

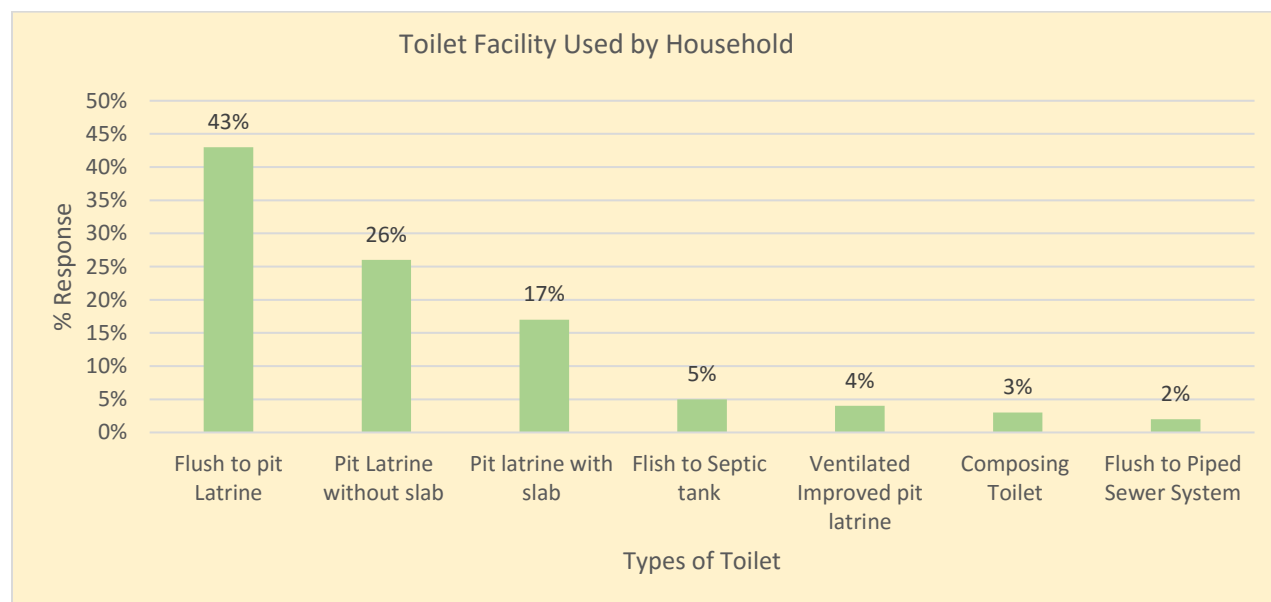


Figure 4-2: Toilet Facility Used by PAPs

#### 4.14 Land Ownership

Out of the 454 household heads majority, 249 (56%) have purchased their land, whereas 112 (25%) inherited. Those allocated are 77 (17%), and squatters or landowners with an unknown status are 16(4%).

Table 4-10: Land Tenure

Acquisition Mode	Percent (%)
Purchased	56
Inherited	25
Allocated	15
Squatter/Unknown Status	4

In terms of land ownership, most landowners 95(42%) have other documents such as purchase receipts and agreements. Though, a substantial proportion of 63(28%) have Title Deed. Those with Allotment Letter are 47(21%), Chiefs Letter 20(9%). Another 2 (1%) have no prove of land ownership.

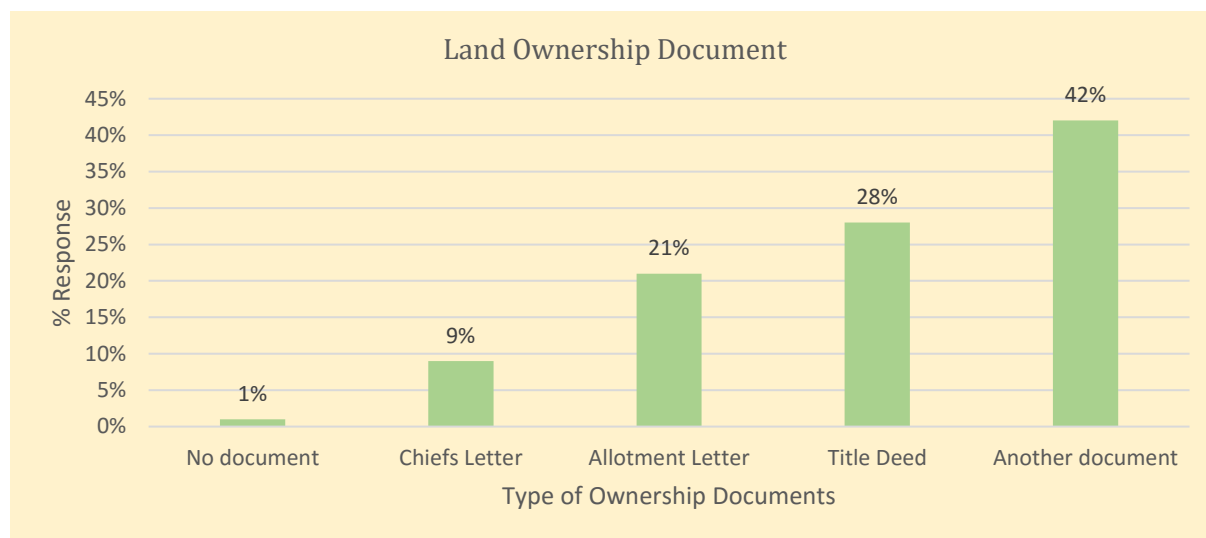


Figure 4-3: Land Ownership Document

Generally, the data shows that 73% of landowners affected did not have title deeds irrespective of whether they were purchasers, inheritors or illegal occupiers. The data further implies that there might be numerous issues of unregistered land as well as squatters, which might erupt land disputes during compensation and resettlement phases. However, land owners, especially those who had no land disputes or had not processed title deeds, were encouraged to formalize their ownership structures before project commencement. However, for avoidance of doubt, no community land has been affected by the project. The proposed transmission line only traverses two categories of land (private and public) with the most affected being privately owned land.

The RAP recommends that the land ownership issue being emotive should be addressed by the relevant stakeholders before project commences. It is also recommended that National Land Commission (NLC), County Government, local political leadership and owners of contested land converge to resolve the land disputes amicably.

#### 4.15 Socio-cultural Amenities Affected

There are some physical cultural resources such as the baobab tree in Konjora and an approximate total of 24 burial grounds or graves along the project wayleave. Also, 3 religious institutions are affected by the transmission line as well as 5 public meeting places, as shown in table 4.14. Two of religious institutions which include Word Celebration Centre in Jilore location and Sokoke PEFA Religious institutions in Nyari have the entire religious institutions structure within the right of way whereas Barikiwani Religious institutions in Kilifi Township location has its toilets along the right of way.

The RAP recommends that the ROW and towers / pylons be adjusted slightly to avoid sensitive cultural properties like baobab trees, graves, prayer sites and religious institutions where possible. This will significantly reduce interference with local's worship and avert opposition to the project. Worth noting, slight adjustment of the ROW and towers/pylons spotting to avoid sensitive cultural properties like graves was requested by ESIA from specifically the local community during stakeholders' engagement process. The locals were categorical that graves hold cultural values and social ties to the bereaved. As per the mitigation hierarchy – avoidance of the graves was reached as a viable measure in consultation with the

PAPs. Avoidance was also informed / confirmed from an engineering perspective and previous good & replicable practices by KETRACO. Therefore, no compensation has been provided for graves since none will be affected / exhumed.

*Table 4-11:Existence of Cultural Sites and Social Amenities*

<b>Cultural Resources on the RoW</b>	<b>No.</b>
Baobab Tree	1
Burial grounds, graves (public)	24
Prayer sites, mosques, religious institutions	3
Public meetings/Baraza/ Social hall	5

#### **4.16 Vulnerable individuals and households**

The vulnerable persons (Widowed, Disabled, Orphans, and Elderly) made up 131 (*Annex 6 – list of Vulnerable PAPs*) (5.7%) of the total PAPs population.

*Table 4-12:Vulnerable PAPs*

<b>Category</b>	<b>No.</b>
Differently abled Person	46
Widowed	41
Older persons 70+	44
Total	131

A total of 46 PAPs have a disability. Of them, 35 are property owners, and 11 are members of their households.

The nature of disability is: physical 31(67%), mental 9(20%), deaf are 4(9%), and visual are 2(4%). The gender of those with the disabilities are Female under 18 years, 11(24%), female above 35 years 10(22%), female youth between 18-35 years 7(15%). Males above 18 years are 13(28%) and male below 18 years 5(11%). Overall, most of the disabled are female PAPs, which makes them even more vulnerable. Further, of the 46 disabled PAPs, only 20(43%) have been registered with the National Council for Persons with Disability. A significant proportion of 26(57%) are not registered.

Along the project corridor, the category of the elderly has 44 of whom 26(59%) are not registered to receive cash transfer for the elderly from the government. Among them, 14(54%) are not aware of the need to register, and 11(42%) do not know where to register. Only 1(4%) have a source of income. The RAP recommends that the project partners with and facilitates county staff to register vulnerable peoples at location levels to enable them access existing facilities and services.

##### **4.16.1 Assistance for Women and Vulnerable individuals and households**

This RAP has been sensitive to the special needs of women and other vulnerable individuals and households in the planning and implementation of resettlement and livelihood restoration. This is since men and women have different needs and opportunities for access to land, resources, employment, and markets.



Gender discrimination limits women's access to resources, opportunities, and public services necessary to improve the standard of living for themselves and their families. As a result, women are often the first to suffer when resettlement is planned or poorly executed. Women tend to rely more heavily than men do on informal support networks, such as the help of friends, neighbors, or relatives for childcare. Women with children also have less physical mobility to travel to find ways of earning a livelihood.

For these reasons, the compensation package offered to them can ensure improved access to productive assets. Women were included in the administration of RAP committees to also participate in decision making. This allowed for special assistance to Vulnerable individuals and households in the form of separate and confidential consultation. It is expected to facilitate priority in access to all other mitigation and project development assistance.

### 5.1 Introduction

Public participation refers to the active participation of stakeholders in collective issues. It means opening policy, planning and development processes which include and affect citizens such as individuals, institutions, among others. Public participation should go beyond giving information such as being informative, to actual consultative and more so co-determination processes. The latter two referring to giving the stakeholders a deliberate opportunity to present their opinion on presented and suggested ideas, plans or decisions but the aim of influencing or being part of the decision making during the development of the plans, its execution and implementation such as having decision rights.

AFDB requires that throughout the project cycle, the borrower or client engages in meaningful and transparent consultation with affected communities, particularly with vulnerable groups, to ensure that they can participate in a free, prior, and informed manner in decisions about avoiding or managing environmental or social impacts. The national values and principles of governance enshrined in the Constitution 2010 include inclusiveness and participation of the people, while Article 35 guarantees the right to access information by citizens. Effective resettlement planning requires regular consultation with a wide range of project stakeholders. Stakeholders include any individual or group affected by, or that believes it is affected by the project and any individual or group that can play a significant role in shaping or affecting the project. It further notes public mobilization shall be an on-going activity throughout the project cycle. PAPs will be consulted individually and/or in groups, depending on the context.

Essentially stakeholder participation and consultations:

- Is a 2-way process, where project affected persons and other relevant stakeholders are provided full information on the project and its impacts, allowed to share their views and opinions, and most important of all offers project stakeholders influence and share control over development initiatives, and the decisions and resources that affect them;
- Ensures Project Affected Persons are not only informed, involved, consulted but also educated and empowered to enhance their opportunities to participate in crucial decision making;
- Is undertaken at various stages of the project, including design stage and planning Land easement signing, implementation and, monitoring and evaluation of the RAP;
- Can target the individual household owner or the community (PAPs) in general. For this RAP individual consultations involved the household survey questionnaire which sought opinions of for instance preferred mode of compensation and other detailed information that was used to devise mitigation for livelihood restoration, during asset inventory to ensure all affected assets are included, and in larger community meetings or *Barrazas* involving the PAPs;

It serves a number of objectives in the RAP process:

- Helps to bring the community up to date on the progress of the project as well as the next steps to be undertaken given time lapse since the design of the project started;

- Gathers support for the project hence acquiring the Social License to Operate (SLO);
- Helps to identify the owners and affected assets/property;
- Is key to the design of social-culturally sensitive mitigation and grievance redress mechanisms.
- Reduces conflict through the early identification of contentious issues. Relocation of several mosques and cemeteries also emerges as a critical point of conflict, while communities

## 5.2 Consultation Method and Approach in RAP Development

The approach required a stakeholder analysis, to determine the stakeholders (individuals, groups, institutions/organizations) who will be affected directly or indirectly, positively or negatively by the proposed project, who can contribute to, or hinder its success, and those with interest in the RAP, have mandate over various issues related to the RAP and general matters that link to the project area.

Overall, the critical guiding participation principles are outlined in the table below: -

*Table 5-1: Principles of Participation and how ensured in the RAP process*

Principle	How observed
Adaptive, Communicative, Meaningful and Pro-active Consultation	<ul style="list-style-type: none"> <li>▪ Information was shared in Swahili as the national language, and where necessary among the local people but in an about 2 cases translations were provided by the local chiefs or someone appointed by the community meeting. However, questions in most cases were asked in Swahili.</li> <li>▪ Information provided was extensive, providing as much detail as was possible but mainly revolving around dissemination of fundamental project background and objectives, description of final alignment and its provisions, potential impacts, entitlements, and valuation methodology, and relocation of cultural property, notice period and self-demolition, grievance redress mechanisms.</li> <li>▪ The effort was put towards simplification of technical processes such as valuation.</li> </ul>
Accessibility	<ul style="list-style-type: none"> <li>▪ The location for consultations was accessible to all who wanted to attend; with meetings held within the settlements, and preferably at sites/locations used for their community meetings, e.g. Chief's offices, social halls and schools.</li> </ul>
Inclusivity	<ul style="list-style-type: none"> <li>▪ All PAPs, male and female, youth, landowners, structure owners, tenants, vulnerable individuals and households etc. were notified of the meeting and involved in the meetings.</li> </ul>
Right to Questions and Response	<ul style="list-style-type: none"> <li>▪ In line with Article 33 of the Constitution, stating that public participation should respect the freedom of expression of all participants, the stakeholders were allowed to ask questions, share views or make comments about the planned project activities.</li> </ul>

	<ul style="list-style-type: none"> <li>▪ In all cases, the KETRACO officials sought to understand and respond to the PAPs concerns. All questions and queries were responded to and clarifications provided</li> </ul>
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### 5.2.1 Project Stakeholders categorization

Identification and analysis of the stakeholders was carried out during the RAP exercise for the Malindi-Kilifi transmission line project. For the purposes of effective and tailored engagement, stakeholders of the proposed project were divided into the following core categories:

- **Affected Parties** – persons, groups and other entities within the Project Area of Influence that are directly influenced (actually or potentially) by the project and/or have been identified as most susceptible to change associated with the proposed power transmission line project, and who need to be closely engaged in identifying impacts and their significance, as well as in decision-making on mitigation and management measures; Affected Parties include local communities, community members and other parties that may be subject to direct impacts from the Project – table 1-1.
- **Other Interested Parties** – individuals/groups/entities that may not experience direct impacts from the Project but who consider or perceive their interests as being affected by the project and/or who could affect the project and the process of its implementation in some way– table 1-1; and
- **Disadvantaged and Vulnerable groups and individuals**– persons who may be disproportionately impacted or further disadvantaged by the project(s) as compared with any other groups due to their vulnerable status, and that may require special engagement efforts to ensure their equal representation in the consultation and decision-making process associated with the project.

Within the project area of influence, the vulnerable groups and individuals may include and are not limited to the following: widowed, orphans, elderly, and people living with disabilities. These groups of people are disadvantaged or vulnerable due to their gender, age, ability, access to land and economic opportunities.

*Table 5-2:Stakeholders Analysis and Identification*

Stakeholder Type	Specific categories of stakeholders - Interest/cause in engagement
<b>Project Affected Persons</b> - <i>landowners, business owners, etc.</i>	All PAPs including male and female: <ul style="list-style-type: none"> <li>• Landowners,</li> <li>• Structure owners,</li> <li>• Tenants,</li> <li>• Vulnerable individuals and households,</li> <li>• Business owners,</li> </ul>

	<ul style="list-style-type: none"> <li>• Administrators for affected learning facilities</li> <li>• Affected households etc.</li> <li>• Religious Leaders for affected religious institutions</li> <li>• Affected Farmers,</li> <li>• Religious leaders for ritual sites and shrines.</li> <li>• Affected traders along the wayleave</li> </ul>
<p><b>Interested parties or other stakeholders and individuals/groups / entities-</b>  <i>those that may not be direct beneficiaries but who consider or perceive their interests in the project and the process of its implementation in some way, e.g., government entities, media, civil society.</i></p>	<p><b>a) National Government agencies</b></p> <ul style="list-style-type: none"> <li>• Kenya Electricity Transmission Company (KETRACO)</li> <li>• Kenya Civil Aviation Authority (KCAA) – Malindi</li> <li>• National Environment Management Authority (NEMA)</li> <li>• The National Land Commission (NLC)-Kilifi County</li> <li>• Ministry of Public Service Youth &amp; Gender Affairs – Kilifi County</li> <li>• Kilifi County Government – Office of the Governor</li> <li>• Kilifi County Commissioner</li> <li>• Kenya Wildlife Services (KWS) – Gede</li> <li>• Kenya Forest Service (KFS) – Gede</li> <li>• Kenya Forest Research Institute (KEFRI) - Gede</li> <li>• National Museums of Kenya (NMK) – Gede</li> <li>• Water Resources Authority</li> <li>• National Environment Management Authority (NEMA) Kilifi</li> <li>• Directorate of Occupational Safety &amp; Health Services</li> <li>• Kenya Civil Aviation Authority (KCAA) – Malindi</li> </ul> <p><b>b) County Government Agencies</b></p> <ul style="list-style-type: none"> <li>• Department of Water, Irrigation &amp; Natural Resources</li> <li>• Department of Health Services, Kilifi County</li> <li>• Department of Education &amp; ICT</li> <li>• Department of Lands, Energy, Housing &amp; Urban Development</li> <li>• Department of Energy &amp; Electrification</li> <li>• Department of Culture</li> <li>• Department of Social Development</li> <li>• Department of Agriculture</li> <li>• Department of Economic &amp; Planning</li> <li>• County Government of Kilifi - Office of the Governor</li> <li>• Kilifi County Commissioners</li> </ul> <p><b>c) Private Institutions and Community Based Organizations (CBOs) / Civil Society Organizations (CSOs)</b></p> <ul style="list-style-type: none"> <li>• Nature Kenya – Gede</li> <li>• Arabuko–Sokoke Forest Adjacent Dwellers Association</li> <li>• Community Forest Association – Jilore</li> </ul>

	<ul style="list-style-type: none"> <li>• Community Forest Association - Sokoke</li> <li>• Community Forest Association – Gede</li> <li>• Arabuko Sokoke Forest Management Team</li> <li>• Friends of Arabuko Sokoke</li> <li>• AROCHA Kenya</li> <li>• KOMAZA Forestry Ltd</li> <li>• Kipepeo Butterfly Project</li> </ul> <p><b>d) Learning Institutions / Academia, think tanks and opinion leaders</b></p> <ul style="list-style-type: none"> <li>• Jilore Vocational Training Centre</li> <li>• Weru Technical Vocational College</li> <li>• Godoma Technical Training Institute</li> <li>• Kilifi Diocese Teachers Training College</li> </ul> <p><b>e) Administrative / Religious leaders</b></p> <ul style="list-style-type: none"> <li>• Local community representatives (Local political and community leaders)</li> <li>• Local community Chiefs, Assistant Chiefs, Village Elders and Nyumba Kumi elders belonging to the following project affected locations in Kilifi County: <ul style="list-style-type: none"> <li><input type="checkbox"/> Goshi Location</li> <li><input type="checkbox"/> Jilore Location</li> <li><input type="checkbox"/> Lango Baya Location</li> <li><input type="checkbox"/> Mwahera sub-Location</li> <li><input type="checkbox"/> Sokoke Location</li> <li><input type="checkbox"/> Kilifi Township Location – Konjora Sub location</li> <li><input type="checkbox"/> Mavueni Takaungu Location</li> </ul> </li> </ul>
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### 5.2.2 Stakeholder Mapping - interest and influence

The main purpose of stakeholder mapping is to have initial understanding about the interest and influence of identified groups of stakeholders and categorize them based on their level of interest and influence. The stakeholders were mapped by group, based on the level of influence and level of interest.

*High influence low interest*

*High influence high interest*

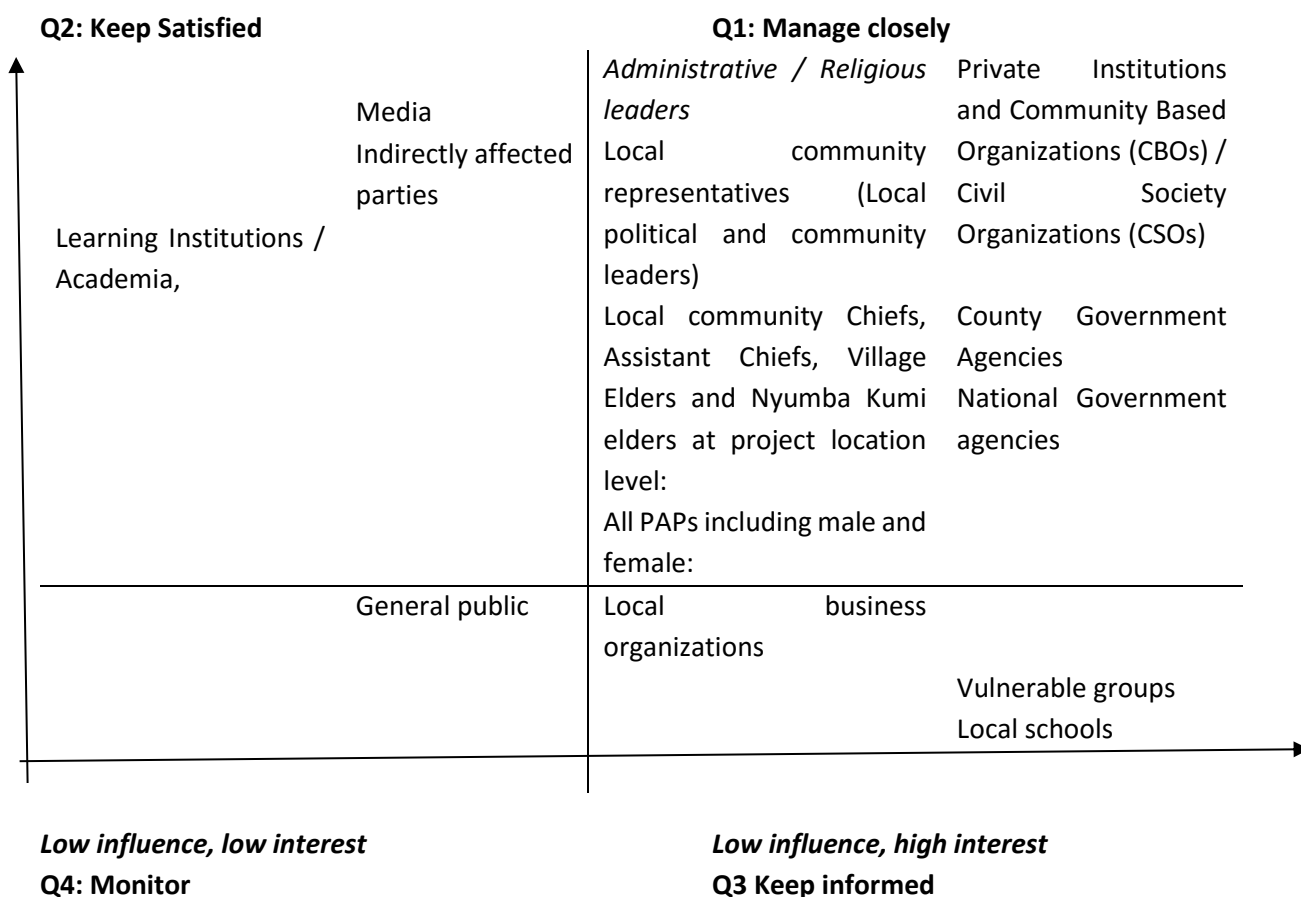


Figure 5-1: stakeholder mapping - interest and influence

High interest and high influence group: Stakeholders with high influence and high interest will be managed closely and with serious efforts to fully engage them

Maintain contact details of the individuals/institutions categorized in the group and update it regularly

- Maintain regular and close contacts
- Organize consultation meeting
- Provide updates about the project including the past and upcoming ones
- Organize quick and short exposure visits, if required

High influence and low interest group: For the stakeholders falling under the high influence and low interest stakeholder group, the project will put effective efforts to keep them informed. Major engagement strategy:

- Maintain regular contact with individuals/institutions categorized in this group
- Organize consultation meetings
- Provide updates about the project including the past and upcoming ones

High interest and low influence group: For the stakeholders falling under the high interest and low influence stakeholder group, the project will put efforts to keep them informed. T

Major Engagement strategy:

- Maintain contact with individuals/institutions categorized in the group
- Provide updates about the project including the past and upcoming ones
- Details of mobilization

Low interest and low influence group: For the stakeholders that have low interest and low influence stakeholder group, the project will monitor their activities.

- Monitor activities of the categorized in the group
- Share project-related information

### 5.2.3 Consultation Methods

Public participation was achieved through a variety of information and consultation methods. These were contextualized to the type of stakeholder and complexity of information to be shared or collected.

*Table 5-3: Consultation Methods*

Stakeholder Type	Details of stakeholders	Consultation Method
<b>Project Affected Persons</b> - <i>landowners, business owners, etc.</i>	All PAPs, male and female, youth, landowners, structure owners, tenants, vulnerable individuals (elders, PLWD, Orphans caregiver and widows and households business owners etc.	<ul style="list-style-type: none"> <li>● Household socio-economic survey, Census and Asset Inventory</li> <li>● Public meeting/Barraza – - meeting notices were delivered to the respective chiefs, assistant chiefs, village elders, local community members, organisations and/or institutions. Announcements were made at public places including Chief's offices, Assistant Chief's offices, trading centers, places of worship and water collection points</li> <li>● Meetings with Vulnerable PAPs (Elderly, PLWD, Orphans caregivers, widows) meeting notices were delivered to the respective chiefs, assistant chiefs, village elders, local community members, organizations and/or institutions. Announcements were made at public places including Chief's offices, Assistant Chief's offices, trading centers, places of worship and water collection points.</li> </ul>



<p><b>Interested parties or other stakeholders and individuals/groups / entities-</b> <i>those that may not be direct beneficiaries but who consider or perceive their interests in the project and the process of its implementation in some way, e.g., government entities, media, civil society.</i></p>	<p>National and County Government Relevant departments and Agencies such as: National Land Commission, Office of the County Commissioner, Institutions of higher learning, CSO/CBO/NGOS etc.</p>	<ul style="list-style-type: none"> <li>• Unstructured key informant interviews through visits / Courtesy calls to various government offices.</li> <li>• A few such as the local administrators, chiefs/ assistant chiefs also attended the public meetings.</li> <li>• Workshop / Meeting with key government (National and County) agencies / NGOs</li> </ul>
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### 5.3 Interested parties or other stakeholders and individuals/groups / entities / Institutional Consultations

#### 5.3.1 Key Informant Interviews / Institutional Consultations

Some key respondents were sampled in the project area to give more resourceful information on the social issues relating to resettlement action plan (RAP) for the proposed transmission line and associated facilities. The key informant interviews were held with National Government, County and Sub-county administrators of various departments such as Ministry of Labor, Social Security, And Services - Kilifi Office; Department of Children's Services, Ministry of Gender, Children and Social Development - Kilifi Office; Ministry of Education – Kilifi Office, Ministry of Health – Kilifi Office, Ministry of Water and Sanitation – Kilifi Office. Also, school heads, administrators of local NGOs/CBOs, and chiefs were consulted as well. The consultant sought opinions from these project area leaders regarding social aspects of the proposed transmission line and associated facilities.

#### 5.3.2 Interested parties or other stakeholders and individuals/groups / entities workshop

This engagement was conducted to incorporate Interested parties or other stakeholders and individuals/groups / entities' opinions to the RAP exercise as well as ensure full representation and awareness of the respective County players about the proposed project. Invitation letters were delivered to respective persons, organizations and/or institutions seven (7) days prior to the Interested parties or other stakeholders and individuals/groups / entities' workshop.

Interested parties or other stakeholders and individuals/groups / entities' meeting was convened on 8<sup>th</sup> August 2019 in Kilifi town at Hotel Mnarani Beach Club with a total of 38 attendees (Table 5-4). This was carried out in form of a workshop in order to engage the technocrats and professionals in a more exhaustive way as they have direct interest and contact with key issues identified on the ground. It also focused on those who have access to people and/or key resources needed for the Environmental and Social Impact (ESIA) and Resettlement Action Plan (RAP) exercise. The workshop was held to:

- Add more input to the ESIA and RAP analysis findings;
- Fill information gaps identified during the ESIA and RAP study;
- Better understand the proposed project area context; and
- Assist in prioritizing challenges that need to be addressed and communication channels;

The attendees mostly included representatives from: various government departments and parastatals; Non-governmental Organizations, Community Based Organizations, Private entities, Institutions of higher learning among others as indicated in table 5.4. Minutes of the Interested parties or other stakeholders and individuals/groups / entities' meeting and attendance sheets are attached in the appendices (*Annex 3i - Minutes of the Interested parties or other stakeholders and individuals/groups / entities' meeting and attendance sheets*).

*Table 5-4: Interested parties or other stakeholders and individuals/groups / entities' Meeting*

S/N	Meeting Venue	Date & Time	Targeted Group	Attendance		
				Male	Female	Total
1.	Hotel Mnarani Beach Club	Thursday 8 <sup>th</sup> August 2019  9:30AM	Interested parties or other stakeholders and individuals/groups / entities in Kilifi County	29	9	38



*Plate 1-1: Interested parties or other stakeholders and individuals/groups / entities' meeting held at Hotel Mnarani Beach Club on 8/8/2019*

Some of the RAP comments and suggestions given during the Interested parties or other stakeholders and individuals/groups / entities' meeting are as highlighted below:

- (a) NMK representatives stated the following: Creation of job opportunities to the local communities; Improved economic activities and business opportunities along the proposed project area and; Improved development along the proposed project line as positive impacts. Negative impacts include; Cultural erosion due to an influx and interaction with workers from different areas/regions.

*Suggestions proposed were: Employ the locals to benefit from the proposed project; Compensate the PAPs before the project kicks off; and; Provision of alternative livelihoods to PAPs who will have lost their businesses.*

- (b) A representative from Komaza was concerned on how compensation for trees will be done since they have been working in conjunction with farmers in affected areas to grow trees (mango, eucalyptus, cashew nuts etc.) which they own together with the local communities. *Tree compensation will be done to the rightful owner (owner of the land or the person who did the planting). Where ownership is of more than one person, for instance the land owner and a tree planting organization such as KOMAZA, compensation will be done based on the contractual agreement between the two parties.*
- (c) A KCAA representative opined that the proposed transmission line is located outside the existing Rabai-Malindi-Gongoni flight path thus aligns well with Malindi International Airport. The representative added that plans are underway to expand the primary runway towards the Malindi-Tsavo Road (1.5km) of which an assessment will be carried out to ascertain the impacts especially on safety issues.
- (d) A representative from KFS was concerned on who will be compensated as there are some squatters living on KFS land in Madunguni area. A member of Gede Community Forest Association (CFA) was concerned with land compensation for those living in part of Weru Group Ranch and do not have title deeds

*National Land Commission (NLC) representative informed the members present that land compensation applies to those in possession of land ownership documents. That those without ownership documents can only be compensated on structures, crops and trees. She also stated that no compensation applies on public land.*

*'The entire Weru Group Ranch (both Weru 19 and Weru 20) is titled as private land. At Weru Ranch those in Weru 19 which is a sub divided section with land ownership documents issued by the ranch management (Titles were still in process); they will receive compensation as*

*individual PAPs since they are bonafide landowners. Those in Weru 20 in the unsubdivided section and no evidence of subdivision was highlighted, it has a members register, and compensation should ideally be paid to the Group Ranch account and thereafter management distributes to individual members in the list according to shares held. However, Weru 20 members have internal disputes which will require to be settled before the payment is done. Despite the foregoing observations, it was also noted that a section (Weru 19) of the ranch is in advanced stages of adjudication. Community members claiming to be owners of part of the remaining part of the Ranch which is unadjudicated were urged to pursue formal registration of the Ranch as community land as provided for by the law. Where prolonged ownership disputes drag beyond project implementation period, the compensation amount will be kept in an escrow account to be disbursed upon resolution of the disputes by the landowners.*

## **5.4 Community / PAPs Consultations**

### **5.4.1 RAP Process Awareness / Commencement Meetings**

In 2019, the ESIA public meetings were used as sensitization avenues for the forthcoming RAP exercise. The participants at the meeting were briefly sensitized about the PAPs compensation procedures and encouraged to attend the scheduled RAP meetings for detailed information.

In 2019, a total of five (5) RAP awareness / commencement meeting were held at Mongotini Secondary School Ground's in Goshi Location, Chief's Office Grounds / Camp in Jilore Location, DO's/Chief's Office Grounds Bao Lala in Lango-Baya Location, Mgadini Football Grounds (near Fumbini Primary School) and Konjora Primary School Grounds both in Kilifi Township Location (Figure 5-1). These has a total attendance of 1130 ( 623M and 507 Female). Courtesy calls were made to the respective local administration leaders (Chiefs and Assistant chiefs) to advice on the most suitable venues for holding the RAP awareness meetings. The selection of the meeting venues was also done in consultation with the village elders. The venues' selection was based on ease of site accessibility, population, and renown venues for holding meetings in the respective project alignment. All the key locations and villages with high concentration of PAPs along proposed line were covered during the public consultation meetings. The meeting notices were then prepared in line with the agreed venues and delivered to the respective chiefs, assistant chiefs, village elders, local community members, organizations and/or institutions seven (7) days prior to the commencement of the RAP awareness meetings. The notices were also displayed and announced at public places including Chief's offices, Assistant Chief's offices, trading centers, places of worship and water collection points within the proposed transmission line area.

A summary of participants is shown in the Table 5-5 below. Recorded minutes with their attendance sheets for the meetings held are attached as appendices to this report. (*Annex 3ii - Minutes and List of Attendants for commencement of RAP*).

Table 5-5: Schedule of RAP Awareness / Commencement Meetings

S/N	Location	Meeting Venue	Date & Time	Targeted Groups/Villages	Attendance		
					Male	Female	Total
1.	Jilore Location	Chief's Office Grounds Jilore Location	Tuesday 6 <sup>th</sup> August 2019  9:00AM	<ul style="list-style-type: none"> <li>Jilore A Village</li> <li>Kabelengani Village</li> <li>Vitongoni A Village</li> <li>Vitongoni C Village</li> <li>Sosoni A Village</li> <li>Sosoni B Village</li> <li>Za Mkono Village</li> </ul>	205	169	374
2.	Lango Baya Location	DO's/Chief's Office Grounds Bao Lala in Lango Baya	Tuesday 6 <sup>th</sup> August 2019  2:30PM	<ul style="list-style-type: none"> <li>Majengo B Village</li> <li>Pishi Mwenga Village</li> <li>Bao lala centre</li> <li>Makobeni Sub-location</li> <li>Malanga Sub-Location</li> </ul>	75	32	107
3.	Kilifi Township Location	Mgadini Football Grounds (near Fumbini Primary School)	Wednesday 7 <sup>th</sup> August 2019  9:00AM	<ul style="list-style-type: none"> <li>Kibarani</li> <li>Fumbini Village</li> <li>Galilaya Village</li> </ul>	79	55	134
4.		Konjora Primary School Grounds	Wednesday 7 <sup>th</sup> August 2019  2:30PM	<ul style="list-style-type: none"> <li>Konjora 1 Village</li> <li>Konjora 3 Village</li> <li>Cassava Village</li> <li>Nyari Sub-Location</li> <li>Dida Sub-Location</li> </ul>	178	190	368



S/N	Location	Meeting Venue	Date & Time	Targeted Groups/Villages	Attendance		
					Male	Female	Total
5.	Goshi Location	Mongotini Secondary School Ground's	Friday 9 <sup>th</sup> August 2019 9:00AM	<ul style="list-style-type: none"> <li>▪ Kalia Papo A Village</li> <li>▪ Kalia Papo B Village</li> <li>▪ Mifundani Village</li> <li>▪ Kibao Kiche Village</li> </ul>	86	61	147



*Plate 5-1: RAP awareness / Commencement meeting at Jilore Location Chief's Office Grounds*



*Plate 5-2:RAP awareness / Commencement at Lango-Baya Location Chief's Office Grounds*





*Plate 5-3:RAP awareness / Commencement at Mgadini Football Grounds in Fumbini*



*Plate 5-4:RAP awareness / Commencement at Konjora Primary School*





*plate 5-5:RAP awareness / Commencement at Mongotini Secondary School Grounds in Goshi Location*

#### 1.4.2 RAP Update Meetings with PAPS

During the RAP update in 2021, more PAP meetings were held. Prior to the actualization of these meetings, the team made courtesy visits to the DCC of the locations that gave a green light the green light to proceed and communicated with the Senior Chiefs involved to fully support the initiative. The local administration (senior chiefs, Assistant chiefs and village elders) then organized for the meetings by mobilizing the community members affected. Thereafter, the meeting venue was agreed on based on the centrality for all community. 9 meetings were held in 9 different locations with the purposes of sensitizing the community members and creating awareness on the KETRACO Project, informing the community members on the RAP update process and the compensation procedures. The meetings attracted a total of 650 PAPS. The meetings were held in the following locations: Goshi, Jilore, Kakoneni, Langobaya, Mwachera, Nyari, Dida, Konjora, Mavuani/ Takaungu. The meeting had KETRACO team (socio-economists, Environmentalists, Land economists, surveyors, electrical engineer and a civil engineer), local administration (Chief, Assistant chief and village elders). Below is a summary of the meeting sessions:

Sr. No	Location	Date	Venue	Participants	Total Numbers Attended		
					Male	Female	Total
1	Goshi	1/12/2021	Mongotini Primary School	✓ Ketraco Officials ✓ Local Admin ✓ PAPS	83	23	106
2	Jilore	2/12/2021	Community Social Hall	✓ Ketraco Officials ✓ Local Admin	34	20	54

				✓ PAPS			
3	Kakonen i	2/10/20 21	Kakoneni Chiefs office compound	✓ Ketraco Officials ✓ Local Admin ✓ PAPS	44	38	82
4	Langoba ya	3/12/20 21	Chiefs Compound	✓ Ketraco Officials ✓ Local Admin ✓ PAPS	31	9	40
5	Mwaher a	7/12/20 21	Mwahera Chiefs Office	✓ Ketraco Officials ✓ Local Admin ✓ PAPS	46	26	72
6	Nyari	8/12/20 21	Nyari Assistant Chief Office compound	✓ Ketraco Officials ✓ Local Admin ✓ PAPS	83	40	123
7	Dida	8/12/20 21	Dida Asistant Chief Office Compound	✓ Ketraco Officials ✓ Local Admin ✓ PAPS	41	16	57
8	Konjora	9/12/20 21		✓ Ketraco Officials ✓ Local Admin ✓ PAPS	19	13	32
9	Mavueni /Takaun gu	10/12/2 021	Mavueni Takaungu Assitant chief office compound	✓ Ketraco Officials ✓ Local Admin ✓ PAPS	55	29	84
<b>TOTAL</b>					<b>436</b>	<b>214</b>	<b>650</b>

Below is pictorial attachment of the 9 RAP Update Sensitization meetings held that targeted the PAPS:



*Plate 5-6:PAPS Meeting held at Mongotini Primary school at Goshi location on 01/12/2021*



*Plate 5-7:PAPS Meeting Held at Jilore community Social Hall at Jilore location on 02/12/2021*





*Plate 5-8:PAPS Meeting held at Kakoneni Chiefs office compound at Kakoneni Sublocation on 02/12/2021*



*Plate 5-9:PAPS Meeting held at Langobaya Chiefs Office compound on 03/12/2021*





*Plate 5-10:PAPS Meeting held at Mwahera Chiefs office on 07/12/2021*



*Plate 5-11:PAPS Meeting held at Nyari Assistant Chiefs Office in Nyari Sublocation on 02/12/2021*





*Plate 5-12:PAPS Meeting held at Dida Sublocation at the Assistant Chiefs office on 08/12/2021*



*Plate 5-13:PAPS Meeting held at Konjora sublocation at the Assistant Chiefs office on 09/12/2021*

### Concerns raised during PAPS Meetings

In all the 9 meetings held, the PAPS raised several questions, concerns and proposals. Issues raised were given appropriate responses by the expert presents on the particular issues and concerns raised. Attached below is a summary of the concerns raised and how it they were handled.

Sr no.	Issues Raised	Brief Explanation	Response
1	Historical land Injustices	There exists land that was formerly owned by Ranches such as Weru Group Ranch and the Kagaa Ranch. Additionally, most community members have lands but do not have title deeds. Some the government surveyor has already come while some not yet. How will compensation happen when they do not have title deeds or still having conflict with the Ranches?	Where there are land ownership disputes or incomplete ownership documents, KETRACO will withhold payment in escrow accounts until the rightful owner(s) of the land are determined. The community members were urged to take initiative and follow the process at the county land registries and get their titles.
2	Land Purchase.	Individuals have bought land but do not have the title deeds yet but their parcels still on the owner's name. Will they be compensated for the land?	landowners were urged to complete the transfer of ownership process with the help of the local administration and the relevant land offices. They were also assured that KETRACO will compensate the rightful owners and that they should notify the PIT on time if there are land transactions pending.
3	Succession issues	The parent, husband, land seller or organization officials have died. How will they be compensated?	KETRACO officials encouraged the community members to initiate the succession process at the Chefs' office. If they are several individuals, they can choose an administrator to represent them in compensation or create a joint account. Community members were encouraged to begin the process as early as possible.



4	Gender Issues	Concerns were raised on gender biases affecting the ability of women to access and utilize compensation amounts especially in polygamous and female headed households due to harassment and exclusion by some family members	Assurance was given that compensation will be just and fair. Each PAP will be compensated as per their entitlement. They were also urged to notify the local administration and KETRACO PIT where there are injustices for appropriate action to be taken. Sensitization of PAPs will also advice on joint bank accounts.
5	Compensation of trees and crops	If someone does not have a title deed, will they be compensated for the trees and crops?	Yes. Structures, trees and crops are compensated to the known owner, and they don't have to own a title deed for the same. They were urged to work closely with the local administration and relevant KETRACO PIT members during enumeration of damaged trees/crops to ensure correct identification of the owners.
6	Graves	The wayleave corridor passes where graves exist. They were concerned if KETRACO will destroy them and if they will have to move them?	The community members were urged to help the KETRACO staff and the contractor to identify the graves. KETRACO is considerate of the socio-cultural importance of the graves and will not destroy nor move them. Where impacts on graves will be inevitable, The PAPs will be compensated for relocation of the grave.
7	Environmental issues.	Since the transmission lines have a higher voltage, are the community members safe? What if they touch it by mistake, can they farm beneath it? Is it safe when it rains? What if the wires fall?	Community members were assured that that appropriate safety measures were in place to mitigate potential environmental and safety concerns and that they are safe to undertake allowed activities such as farming under the wayleave corridor.
8	Reconstruction of structures and farming.	How far can they build from the corridor? Can they continue to plant crops under the transmission line?	According to research already done, even 1 meter from the transmission is safe. It is a choice on how far from the transmission they wish to go. A meter is safe. Yes, they can continue with farming of crops. Only tall trees are not allowed to exist under the transmission line.

9	Land fully consumed by the corridor.	Some community members raised their concerns that their land is almost or close to fully consumed by the way leave corridor to the extent they do not have space left to rebuild.	KETRACO has a protocol for assisting PDPS' (project displaced persons). the PDPs, an amount commensurate to the affected land to facilitate the acquisition of alternative relocation land
10	Komaza trees	Komaza organization has been supporting the farmers by supplying them with seedlings or seeds to plant trees with the aim of empowering them. In the case they get destroyed, who will be compensated?	Depending on the agreement between the farmer and Komaza, if the trees belong to the farmer, then the farmer will be rightfully compensated.
11	Improvement or rectification of their houses.	Some community members had their houses assessed in the former valuation and the pictures taken. However, their houses are falling apart, and needs have arisen such as more children that necessitate them to extend their houses. Is it in order?	Community members were deterred from undertaking further developments with the deliberate aim of fetching compensation as that would constitute encroachment. However genuine improvements will be considered by the PIT on a case-by-case basis.
12	utilization of the electricity.	Will the community members get electricity in their homes?	KETRACOS' mandate is transmission. However, the substation reduces the voltage to be able to get consumed at homes, schools, hospitals, businesses and so on. The distribution mandate is obligated to KPLC and REREC. The local administration can follow up with the local MP and MCA to ensure the community members get electricity to their homes.
13	Absent Landowner	The landowner is abroad. How will compensation happen? Similarly, someone bought the land, but no one has their contact nor knows where they are. How will compensation in such a case be done?	land ownership details will be published both in print media and the official Kenya Gazette to notify all affected landowners of the intention to acquire RoW on their parcels. For those whose owners are abroad, there are legal protocols to grant power of attorney to beneficiaries and such cases will receive appropriate advice from KETRACO's legal department.
14	Children's structures	who will be compensated for structures built for children by their parents?	If the children are above 18 years old, the compensation can be deposited in their individual bank accounts. For children under 18 years, the money will be paid to the parent/guardian who built the structure to facilitate relocation

15	Wrangles and conflict	Some land has issues and conflict at a family level. How will compensation happen?	KETRACO will withhold payment until all conflict is resolved.
16	Use of title deeds as security	Some members have used their title deeds as security in lending institutions. Ultimately the title deed was taken but they have copies of the title deed. Can they use this to get compensation?	For land compensation, they must have original title deeds. They were encouraged to repay the loan so that they can get their title deed back. However, in case the title will still have encumbrances as at the time of compensation, the legal department will advise accordingly on how to facilitate easement signing.
17	CSR	The community members requested for KETRACO to do an empowerment project for them.	KETRACO informed the community members to come up with a proposal based on need prioritization. Similarly, KETRACO will submit it for an assessment. If there exists possible funding, then the project will be funded.
18	Project Implementation	When will the project begin?	At the moment a definite timeline cannot be given. it is dependent on availability of funds.

#### 5.4.2 Vulnerable Persons meetings

A total of six (6) meetings targeting vulnerable persons were held along the proposed transmission alignment in 2019 (*Annex 7i - Minutes and attendance sheets for Vulnerable individuals and households' meetings*). The meetings were held at; Chief's Office Grounds in Jilore Location, Chief's Office/DO's Grounds in Longobaya Location, Mgandini Football Grounds (Fumbini Primary School) in Kilifi Township Location, Malanga sub-chiefs' Grounds - Malanga sublocation -Lango Baya Location, Dida Primary School – Dida Location and in Sub Chiefs' Camp in Mongotini Sublocation – Goshi Location.

A schedule of Vulnerable individuals and households' meetings (*Annex 7ii – Schedule of Vulnerable groups meetings*) was prepared with basic project information and dispatched to the project alignment prior to the meetings targeting vulnerable persons. Local chiefs, village managers were used to inform the vulnerable groups of the planned meetings as well as the venues. In addition, ESIA Public meetings and RAP PAPs meetings had been used to communicate information to the target Vulnerable individuals and households. Amongst those in attendance were various Vulnerable individuals and households such as people living with disabilities, elderly, and widows. A number of key informants were also interviewed to provide information on Vulnerable individuals and households in the region (*Annex 7iii -List of Interested parties or other stakeholders and individuals/groups / entities Consulted on Vulnerable individuals and households*). This approach helped galvanize clarify and capture the sentiments, opinions, priorities and recommendations for each category. A summary of participants is shown in the Table 5-6 below and attendance sheets and recorded minutes for meetings held are attached as appendices to this report (Annex 4).

*Table 5-6: Schedule of meetings with Vulnerable Persons*

No.	Location/Venue	Date	PWD	Widowed	Elderly	Orphan (caregiver)	Total
1	Chief's Office Grounds Jilore Location	7-Aug-2019	10	46	80	4	140
2	Chief's Office/DO's Grounds Longobaya Location	7-Aug-2019	2	7	7	-	16
3	Mgandini Football Grounds (Fumbini Primary School) - Kilifi Township Location	8-Aug-2019	3	14	5	-	22
4	Malanga sub-chiefs' Grounds - Malanga sublocation – Lango Baya Location	9-Aug-2019	4	11	3	-	18
5	Dida Primary School – Dida Location	9-Aug-2019	2	12	11	2	27
6	Sub Chiefs' Camp- Mungotini Sublocation in Goshi Location	10-Aug-2019	3	29	5	-	37

Plates below show the six (6) meetings held with Vulnerable individuals and households;



*Plate 5-14: Vulnerable individuals and households meeting at Chief's Office Grounds -Jilore Location on 7/Aug/2019*



*Plate 5-15:Vulnerable individuals and households meeting Held at chiefs office grounds- Langobaya Location on 7/Aug/2019*



*Plate 5-16:Vulnerable individuals and households meeting held at Mgandini football Groups near Fumbini primary school grounds-Kilifi Township Location on 8-Aug-2019*





*Plate 5-17:Vulnerable individuals and households meeting held at Ass Chiefs Office Malanga in Lango Baya Location 9/Aug/2019*



*Plate 5-18:Vulnerable individuals and households meeting held at Dida Primary School in Dida Location on 9/Aug/2019*



*Plate 5-19: Vulnerable individuals and households meeting held at Mongotini primary school-Jilore Location on 10/Aug/2019*

#### 5.4.2.1 Concerns Raised by Vulnerable Persons

Vulnerable persons felt that the project was long overdue, and its implementation would expose the region to development. During consultations, these groups raised array of issues; of particular concern were; how they would benefit from the project; whether they would be considered for job opportunities; plans for future community consultations; if the project would consider CSR initiatives that could benefit them; and the adverse impacts of the project (displacements, weakened family ties, disputes). Views, comments, concerns, and suggestions are captured in the annex (*Annex 7i - Minutes and attendance sheets for Vulnerable individuals and households' meetings*). Table 5-4 below gives a highlight of the key concerns raised by Vulnerable individuals and households during the respective sessions.

*Table 5-7: Concerns raised during Vulnerable individuals and households' discussions*

SN.	Issues/concern	Response
1.	Destruction of food crops which will set them back in terms of food security	<ul style="list-style-type: none"> <li>Compensation will be done according to the full replacement value of the affected crops and in accordance with the RPF developed for the project. Gross market value makes full provision for owners' crops or users input already expended (labor, seeds, fertilizer, etc.).</li> </ul>
2.	Wary of effects on health of the power line. Possible deaths of humans and animals in case of powerline accidents.	<ul style="list-style-type: none"> <li>It was explained that this is the reason why the distance between the line and the nearest dwelling should be 20 meters on either side of the line.</li> <li>They were also assured that incase of any accident on the transmission line, it is set to automatically cut off the power to avoid possible casualties.</li> </ul>

SN.	Issues/concern	Response
3.	Displacement of families that has Vulnerable members	<ul style="list-style-type: none"> <li>Valuation will be done and 15% disturbance allowance paid in addition to the full replacement value of the affected properties as required by law and in line with the KETRACO RPF</li> <li>Vulnerable persons will be assisted by KETRACO to relocate/salvage their properties.</li> </ul>
4.	HIV/AIDS transmission and Illicit behavior	<ul style="list-style-type: none"> <li>KETRACO will liaise with relevant health agencies and NGOs both at national and County level on awareness sessions for communities including workers on HIV/AIDs and other STDs, as well as GBV-SEA and sexual harassment at workplaces. KETRACO will also be required to ensure an adequate and accessible provision of condoms to workers both male and female</li> <li>KETRACO will introduce a worker code of conduct as part of the employment contract, and including sanctions for non-compliance (e.g., termination)</li> <li>There will also be sensitization and awareness programs to create awareness among the locals on HIV/AIDs &amp; STDs</li> </ul>
5.	Importation of labor instead of employing locals	<ul style="list-style-type: none"> <li>Locals will be considered for non-skilled jobs</li> <li>Further, the contractor will be advised to consider the locals for semi-skilled jobs if the works force is locally available.</li> </ul>
6.	Killing of the elderly under the pretext that they are witches	<ul style="list-style-type: none"> <li>This is a criminal offense that will be referred to the Kenya Police and relevant national authorities for action.</li> </ul>
7.	Disagreements between the project implementers and the locals	<ul style="list-style-type: none"> <li>There will be a dispute or grievance resolution mechanisms (GRM) to handle community and vulnerable persons concerns</li> </ul>
8.	Discriminatory treatment of PLWDs and Widows	<ul style="list-style-type: none"> <li>The project contractor will give equal treatment to both men and women</li> <li>The Transmission line contractors will also be encouraged to uphold equal treatment of men and women during recruitment. In this regard, a local recruitment plan and gender mainstreaming plan will be prepared for implementation</li> </ul>

#### 5.4.2.2 Suggestions highlighted during the Vulnerable individuals and households Discussions and key informant Interviews

- i. The Vulnerable individuals and households suggested that they should not be discriminated on any form of work arising during construction. For instance, the widows were specific that they can do all categories of work (semi-skilled or unskilled jobs). However, they suggested that vegetables supply jobs to the campsites



should be left for women. The elderly suggested that the youth should be given priority in trainings and scholarships if available.

- ii. Vulnerable persons and specifically the elderly requested to be given special considerations regarding the relocation in order to restore and improve their livelihood after the project.
- iii. The Ministry of Labour and Social Protection (MLSP) Kilifi office has Vulnerable individuals and households Representatives from the project area who can be incorporated to; enforce social protection policies and support improvement of social protection systems during the project.
- iv. The MLSP office could also facilitate development of social protection stakeholder networks. Further, enhance awareness and capacity for increased uptake of social protection services among the vulnerable members of the community during the project activities.
- v. A key respondent familiar with children matters stated that most OVCs in the project area would be exposed to child victimisations such as forced early marriages, child labour as well as child neglect. The informant observed that
- vi. proper and continuous consultations with vulnerable groups and the entire community to sensitise the public on respecting the rights and welfare of children and refrain from violating them.

### 5.5 Summary of Views and Consideration in Preparation of this RAP

Overall, some of the main consultation findings include:

- Depth of knowledge on land acquisition processes and relevant land legislation, particularly on community land acquisition, compensation processes, and procedures. Communities were often shocked that there exists a Community Land Act and other laws which require community land to be registered, relevant committees formed and, in their absence, the County acts as a trustee receiving compensation for community land, until a time when the registration of community land is undertaken for the respective county government to release to the community all such monies payable for compulsory acquisition; However for avoidance of doubt, no community land has been affected by the project. The proposed transmission line only traverses two categories of land (private and public) with the most affected being privately owned land.
- Contested land tenure: indications that although they live on the land by history, they do not have formal land ownership documents.
- A reluctance towards the relocation of cultural property such as graves with a preference for way leave re-alignment to avoid impact;
- Concern over the possible impact on mature trees that served as community meeting places and for fruits.
- Compensation concerns; with a number of prominent issues:
- Timing: PAPs indicated fear that the acquisition would take place before the compensation, and in several cases, questioned if there would be any compensation at all. They often asked the consultant to assure them of compensation, showing very little faith and belief in matters related to compensation.
- Mistrust in the Weru Group Ranch Committee as a trustee of ranch land and thus custodian of compensation funds.
- Payment of compensation over property whose ownership is disputed/in conflict
- Compensation over undeveloped land due to the believe that baren land won't be valued for compensation
- Compensation of assets owned by disputing or separated household members
- View on the need to maintain the current width of the right of way

- Lack of legal documents to show ownership of land, as well as lack of formal land transfer documents in case of informal sales between community members;
- Overall fatigue with the number of meetings related to the project, with indications of little to no feedback from KETRACO over previous discussions;
- Concern that some PAPs may have been missed out.
- Concern that the current land occupiers are Bonafide for all compensation
- The views raised in this process have been incorporated in the preparation of this RAP. For instance,
- Sensitization on land reform and acquisition process is recommended in the RAP implementation chapter.
  - The Chapter on GRM shows how the proposed mechanisms are shaped by public consultation, including the incorporation of traditional institutions (Wazee Wa Chief).
  - Elements of eligibility, and livelihood restoration that recognize proposals by the community.

### 5.6 Future Consultation with Project Affected Persons

RAPs public participation is a continuous process. The conclusion of this RAP study does not preclude the need for future engagement and continued consultation and involvement of those affected by the project. A *stakeholders engagement plan (SEP) – Annex 10* – has been prepared to support future engagements. It is expected that KETRACO will continue with this process, ensuring all future consultations are meaningful, conducted in good faith, and treated as a 2-way process with feedback on issues previously discussed provided. Several areas are considered for further consultations:

- Possibility for realignment to avoid cultural property, especially graves before, during and after the life of the project; Community preference on this is clear, but feedback is required.
- The preference for KETRACO to support community projects and assurance of the same.
- Assurance that the current land occupiers will be compensated.

### 5.7 Disclosure of the RAP

The disclosure of the RAP should be done in line with KETRACO RPF and in line with AfDB. -

- The RAP report will also be disclosed in the website of KETRACO and AFDB external affairs website
- Final Report shall be submitted at the County, Sub County Headquarters, Chief's office and each GRM Committee will also have a copy of the RAP report for perusal.
- Summarized version shall be prepared and presented in both English and Swahili languages and shared in the community, education institutions and other public places without disclosing personal compensation entitlements contained in compensation schedules.
- The executive summary will be translated into Kiswahili language and distributed to PAHs.
- Public meetings will be held at Location level to share the finding of the report, in an organized manner to ensure meaningful consultations, considering mobility, disability and literacy challenges.

Disclosure of information will be done by KETRACO in collaboration with the local administration

### 5.8 The Process of Free Prior and Informed Consultation

Stakeholder consultations to ensure Free, Prior and Informed Consultations (FPIC) were undertaken (meaningfully informed and consulted) in a timely manner and based on a pre-agreed plan, to inform the communities about the proposed transmission line project fully. The following was achieved:

- i. The process established a participatory process for identifying potential impacts and benefits of the project through affected communities' consultation meetings, focus groups discussions, valuation and census process.

- ii. The locals were accorded a chance to be engaged in a fair and culturally appropriate way and determined how they would wish to be involved throughout the project phase.
- iii. The support of the communities from the proposed project area was solicited and evidence of the consultations documented.
- iv. The consultant engaged with the local leadership (chiefs, assistant chiefs and village elders / managers) to determine the nature of the local power structure and document the procedures for the entry and access into the community.
- v. The consultant obtained accurate and detailed data on local livelihoods, customs, and historical traditions for adequate information to KETRACO, project partners and other interested agencies.
- vi. Through community participation and consultations; the consultant was able to determine the preferred mechanisms for information provision and consultations. Key representatives in decision making were also identified and their details documented.

Table below summarizes approach used to obtain the process of free, prior, and informed consultations.

*Table 5-8:Free, Prior and Informed Consultations*

<b>Free, Prior and Informed Consultations</b>	
Free	<ul style="list-style-type: none"> <li>● No incentives: there was no use of carrot and stick to pressure the PAPs into supporting the project and promise to support future project activities.</li> <li>● No threats: The PAPs were not subjects of coercion by the consultant or other local leaders.</li> <li>● No manipulation: The PAPs were not manipulated in any way by the consultant or other influential people to participate in the meetings or give information.</li> <li>● No intimidation: The PAPs willingly attended the meetings without any fear or undue pressure.</li> <li>● No false promises: No promises whatsoever were given to the PAPs as a result of their participation.</li> </ul>
Prior	<ul style="list-style-type: none"> <li>▪ The PAPs were consulted at the earliest opportunity with other community members. Their concerns were captured and will be incorporated into the project activities at the appropriate time.</li> </ul>
Informed	<ul style="list-style-type: none"> <li>● Accurate information about the project was provided.</li> <li>● No information was withheld.</li> <li>● The objective of the proposed was shared, the envisaged project activities, including envisaged benefits of the project.</li> <li>● Information about the project was delivered through written notices, announcements in public places, places of worship, and face to face interaction.</li> </ul>
Consent	<p>The consultation was both in written and oral and broadly consultative and participatory to seek PAPs support on the project. It was a two-way process. Information was provided, and PAPs made own contributions, sought clarifications, asked questions. They raised issues which were responded to.</p> <ul style="list-style-type: none"> <li>● All categories of people based on gender, age, ethnicity, disability, social status were consulted, and their views recorded.</li> <li>● All PAPs were in support of the project</li> </ul>

## 6 CHAPTER SIX: PROJECT DISPLACEMENT IMPACTS

### 6.1 Introduction

This section summarizes project impacts on land, structures, and businesses for the PAPs.

### 6.2 Summary of Overall Impacts

*Table 6-1: Summary of Overall Impacts*

Type of Loss	No. of PAHs
<b>Total number of PAHs</b>	<b>636</b>
PAHs losing Land and Residential Structures	<b>336</b>
PAHs losing primary residential structures on another people's land (Squatters on KFS land)	<b>71</b>
<b>Total physically displaced PAHs losing residential structures</b>	<b>407</b>
PAHs losing Land only	<b>183</b>
PAHs Losing Business Structure & Loss of Business Income (business structure owners) only	<b>9</b>
PAHs losing business structure and loss of business income on other people's land (squatters) only	<b>16</b>
PAHs who are Tenants	<b>21</b>
<b>Total Number of PAHs affected</b>	<b>636</b>
<b>Public Entities affected</b>	
Kenya Forest Service	<b>1</b>
<b>Total Public Institutions</b>	<b>1</b>
<b>Companies/ Associations/Churches Affected</b>	
Word Celebration Centre	<b>1</b>
Sokoke PEFA Religious institutions	<b>1</b>
Barikiwani Religious institutions	<b>1</b>
African Plantation Capital Limited	<b>1</b>
Weru Group Ranch 20	<b>1</b>
<b>Total Companies/ Associations/Churches Affected</b>	<b>5</b>
<b>Total Number of PAPs</b>	<b>3654</b>

### 6.3 Impact on Land

The total area of affected land parcels is 330 Ha or 815.448 acres. Parcels of land traversed by the proposed RoW range in size from one Ha to hundreds of Ha tracts of private land or land owned by group ranches or land owned by public institutions and/or owned by local or foreign investment companies or multinational companies. A total of 592 land parcels are affected with 519 PAH landowners (Table 6-1).

Table 6-2: Number of Affected Land Parcels

Location	No. of land parcels	No. of Landowners (PAHS)
Goshi / Kakuyuni	38	66
Jilore	96	76
Langobaya	180	146
Sokoke/Nyari	139	140
Tezo-Kilifi Township/Takaungu	139	91
<b>Total</b>	<b>592</b>	<b>519</b>

Every affected landowner will be compensated for the loss of use depending on the area of land taken up by the wayleave across their land which falls into two categories of-;

- i. Full impact- land parcels affected more than 70% of the total parcel area.
- ii. Partial impact - land parcels affected less than 70% of the total parcel area.

7% of land parcels are fully affected (full impact) whereas 93% of land parcels have partial impact. Table below presents the nature of impact on land parcels.

In both cases after signing wayleaves agreements for the affected parcels of land, households, communities, investment companies and forested areas (registered owners) will continue to own the affected parcels of land but will utilize the RoW area in activities that would not interfere with the operation of the proposed transmission line.

Table 6-3: Nature of impact on land parcels

Nature of Impact	No. of Land parcels	Percentage (%)
Partial impact	549	93
Full impact	43	7
<b>Total</b>	<b>592</b>	<b>100</b>

The RoW has 43 Permanently displaced persons (PDPs) of which 31 have structures and 12 without structures) A PDP (Permanently Displaced Persons) is a PAP living on a Parcel of land which is  $\leq 1$  Acre and  $\geq 50\%$  affected, is narrow and the remaining parcel is uneconomical, is uneconomical because of the gradient of the land is inhabitable to due environmental issues including marshy or swampy land and Commercial plots whose impact is such that they are rendered commercially unviable.

Table 6-4: Types of land tenure

Type of Owner	Number of Acres	Percentage
Private individuals	720.148	88%
Public institutions (Kenya Forest Service)	42	5%
Religious Institutions	0.7	0%
Local Companies (African Plantation Limited)	12.9	2%
Ranch (Weru 20)	39.7	5%

Total	815.448	100%
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## 6.4 Impact on Physical Assets

### 6.4.1 Physically Displacement Impacts

A total of 407 PAHs will be physically displaced in terms of losing residential structures within the land they own or on other people's land.

### 6.4.2 PAPs Structures Affected

Table below shows that the total number of structures affected-;

Table 6-5: Total number of structures affected

Location	Permanent Structures	Semi-permanent Structures	Temporary Structures	Services (watering points	Dug Open pits for Pit Latrines	Total
Goshi	8	11	178	1		198
Jilore	65	137	155	5	5	367
Langobaya	5	10	58	43	1	117
Sokoce/Nyari	8	61	91		3	163
Konjora	53	23	57	1	2	136
Takaungu	8	11	56	1	3	79
Total	147	253	595	51	14	1060

NB: *Permanent Structures:* - These have concrete foundations and walls of Concrete, Natural stones, Coral stone walls, burnt bricks and high end treated timber with roofs.

*Semi-Permanent structures:* - These have walls made of sawn timber, sun dried bricks, timber offcuts and GCI sheet. Mud walls that are either plastered or rendered also fall in this group. They need to have roofs.

*Temporary structures:* - These have Mud walls, GCI roof, Timber offcuts; Mud walls, thatched roof/Manyattas. Other units in the category include Domestic Animal Units, Zero grazing units (concrete floor). and domestic animals housing.

### 6.4.3 Socio-cultural impacts

The project area is largely dominated by the Agiriama tribe from the Mijikenda community who are also from the larger Bantu people. They have centralized homesteads with strong ancestral, and family ties with a strong sense of community entitlement.

An assistant chief familiar with cultural issues within the project area confirmed no existence of active community cultural sites. However, he clarified that there might be sacred sites being used at an individual or family level. He noted that the Agiriama's, long ago used to worship their demigods "Mulungu" and perform cleansing ceremonies.

The ceremonies were done in “Kaya”, sacred forest prayer places of the Mijikenda people, if there was a prolonged drought and famine. Nonetheless, discussions with elders in the project area established that there used to be cultural sites used by the ancestors to perform diverse cultural functions. The discussants mentioned “*Kwa Saleh*” and the “*kaya forests*” as one of the sites. These cultural sites had traditional monuments which they considered as ancestral heritage. One of the key informants indicated that the alleged cultural site is in Kwa-Swaleh village in Mongotini a few Kilometres from Kakuyuni substation which is off the RoW. Notably apart from burial sites / graves there are no areas of cultural significance expected along the Malindi – Kilifi RoW.

One of the local administrators in the project area claimed that the Giriama community is rapidly abandoning retrogressive traditions and cultural practices. However, noted that a section of community members still safeguards the Giriama traditions; for instance, valuing traditional trees such as **baobab tree** in Konjora, locally referred to as “Mbuyu”, with a pretext that the tree symbolises peace and harmony and is also used to host cleansing ceremonies. Overall, discussions from various informants and locals established that the Agiriama community highly value burial sites, which they use to perform various burial ceremonies and rites.

**Graveyards:** An approximate of 24 graveyards were observed to be within the proposed RoW (Table 6-3). Fourteen (14) graves were observed in Jilore location, seven (7) in Sokoke/Nyari location and three (3) noted in Tezo-Kilifi township location. No burial sites were noted along RoW in Goshi and Langobaya locations. The elderly proposed that the proposed project should avoid any interference with the existing graves either during construction works or clearing access routes, since the graves hold cultural values and social ties to the bereaved.

*Table 6-6: Burial Sites*

Location	Burial sites
Goshi	-
Jilore	14
Langobaya	
Sokoke/Nyari	7
Tezo-Kilifi township	3
<b>Total</b>	<b>24</b>

Slight adjustment of the ROW and towers/pylons to avoid sensitive cultural properties like graves was informed by the ESIA from specifically the local community during stakeholders’ engagement process. The locals were categorical that graves hold cultural values and social ties to the bereaved. As per the mitigation hierarchy – avoidance of the graves was reached as a viable measure in consultation with the PAPs. Avoidance was also informed / confirmed from an engineering perspective and previous good & replicable practices by KETRACO. Therefore, no compensation has been provided for graves since none will be affected / exhumed.

Therefore, there is less need of conducting further cultural analysis in the project area apart from ensuring that graves and burial sites are not interfered with throughout the project cycle.

**Religious institutions:** Though under private ownership, there are three (3) religious institutions which include Word Celebration Centre Religious institutions in Jilore Location, Sokoke PEFA Religious institutions in Nyari Location, and Barikiwani Religious institutions in Kilifi Township location that are along the right of way. The religious institutions are of religious value to the community and society at large.

## 6.5 Impact on Enterprises/Business structures

There are diverse business enterprises within the proposed line RoW. The most affected are small-scale businesses which vary from retail shops, food kiosks, local eateries owned by the PAPs who have been considered for compensation. The affected businesses are existent in various types of structures mainly: Permanent, Semi-permanent and Temporary as shown in the table below.

- Permanent Structures: - These have concrete foundations and walls of Concrete, Natural stones, Coral stone walls, burnt bricks and high end treated timber with roofs.
- Semi-Permanent structures: - These have walls made of sawn timber, sun dried bricks, timber offcuts and GCI sheet. Mud walls that are either plastered on rendered also fall in this group. They need to have roofs.
- Temporary structures: - These have Mud walls, GCI roof, Timber offcuts; Mud walls, thatched roof/Manyattas.

*Table 6-7: Summary of business structures affected*

Location	Permanent	Semi-Permanent	Temporary
Goshi	-	-	-
Jilore	3	2	8
Langobaya	-	-	1
Sokoke/Nyari	1	1	1
Tezo-Kilifi township	-	1	4
<b>TOTAL</b>	<b>4</b>	<b>4</b>	<b>14</b>

16 PAHs will lose business structure and loss of business income on other people's land (squatters) while PAHs losing business structure and loss of business income on other people's land (squatters) are 13.

## 6.6 Impact on Public facilities and Associations / Groups

Table below indicates public facilities assets affected by the project-;

*Table 6-8: Impacts on Public Facilities*

Type of Public Facility	Location	Total Area Affected (Acres)	Nature of Impact and Description
<b>Public Institutions</b>			
Kenya Forest Service	Goshi	42.00	Minimal Impact. Only a small section of land and trees are affected
<b>Structures within Religious institutions</b>			
Word Celebration Centre	Jilore	0.20	Full Impact- Entire religious institutions structures are affected (Semi-Permanent Structure).
Sokoke PEFA Religious institutions	Nyari	0.25	Full Impact- Entire structures in the religious institution's premises are affected. These include



Type of Public Facility	Location	Total Area Affected (Acres)	Nature of Impact and Description
<b>Public Institutions</b>			
			Main religious institution's structure, Toilet, and Kitchen
Barikiwani Religious institutions	Konjora	0.25	Minimal Impact. Areas affected include: Two Pit Latrine
<b>Companies</b>			
African Plantation Capital Limited	Langobaya	12.9	Minimal Impact, areas affected is only one temporary structure and the company's fence. A section of crops/Bamboo trees will be affected Minimal Impact- Not to affect its operations
<b>Associations</b>			
Weru Group Ranch 20	Langobaya	39.70	Minimal Impact, only a small section of land is affected

The entire Weru Group Ranch is titled as private land. Notably, PAPs engagement revealed that Weru Group Ranch is at two levels – Weru 19 and Weru 20. Those in the subdivided section who hold individual land parcels are referred to as Weru 19 members. The respective members attended PAPs meeting and agreed they should receive compensation as individual PAPs since they are bonafide landowners. Weru 20 is the unsubdivided section and no evidence of subdivision was highlighted, it has a members register, and compensation should ideally be paid to the Group Ranch Account and thereafter management distributes to individual members in the list according to shares held. However, the members – Weru 20 -noted that there are internal disputes which will require to be settled before the compensation is done. The members and officials attended the PAPs meetings and were satisfied with this form of resolution.

### 6.7 Impact on Trees and Crops

The proposed project traverses largely agricultural land with various farming activities being undertaken as described in previous sections. A number of tree varieties and perennial crops are likely to be damaged during construction. An estimated 17,270 tree crops will be damaged and compensated. All damaged trees and crops will be enumerated upon damage and compensated as guided by KETRACO's RPF at full replacement cost. In this case, at least 566 PAHs are losing trees and crops.

### 6.8 Impact on Squatters

There are squatters resident on KFS land in Madunguni area. 71 of these are losing residential structures while 16 will be losing business structures and income.

### 6.9 Impact on vulnerable PAHHs

The RAP recognizes that there are vulnerable project affected household heads. There are a total of 270 vulnerable PAHHs that have been identified along the project corridor. In this regard, the RAP proposes that this group be identified be considered to AfDB ISS receive the entitlements as AfDB ISS prescribed in this RAP report

Category	No.
Differently abled Person	35
Female Household heads (including 41 Widowed)	191
Older persons 70+	44
Total	270

#### 6.10 Impact on Project Affected Households (PAHs)

The impact of the project on households will vary as some households will no longer be able to utilize the parcel area in the wayleave for certain farming activities such as growing trees and fruits that grow over 12ft (approximately 3.7 m) tall. Some households will only be affected during construction, and afterward they will be able to continue utilizing the portion of land in the area as before, e.g., for crop farming and animal grazing. For households where transmission line towers will be constructed on their land, the affected portion of land will remain unutilized for the entire period of existence of the transmission line. Other households will suffer loss of secondary assets such as water tanks, gates, animal sheds, lavatories, fences, etc. while others will lose their dwellings, businesses or loss of income. Summary of Project impacts in terms of the number of PAHs affected by zone/area is presented in table overleaf -:

*Table 6-9: Summary of PAHs Affected by Settlement*

Location	Landowners	Structure owners	Large scale Business operators	Small scale business operators	Tenants
Goshi/Kakuyuni	76	71	-	-	9
Jilore	87	118	-	10	7
Langobaya	174	69	-	1	-
Sokoke/ Nyari	175	44	1	4	-
Tezo/ Kilifi Township	124	105		6	5
<b>TOTAL</b>	<b>636</b>	<b>407</b>	<b>1</b>	<b>21</b>	<b>21</b>



### 7.1 Introduction

This chapter defines valuation methodology and approach, project impacts on land, structures, and businesses for the PAPs. Also, criteria for determining their legal suitability for compensation; including relevant cut-off dates, and different entitlements and resettlement assistance to different types of PAPs identified.

### 7.2 Eligibility Criteria

This section provides an overview of the criteria for eligibility for a compensation and livelihood restoration support for the different groups of affected stakeholders taking into account Kenyan law and AFDB'S OS2 .Where there is a deviation between the two, the more stringent eligibility criteria will be adopted by KETRACO on behalf of the Project.

#### 7.2.1 *Kenyan Eligibility Criteria*

National legislation defines two primary forms of land rights applicable to the Project: (i) legal/formal property rights; and (ii) customary rights. Both types of rights are legally recognized, but individuals or households with customary land rights are entitled to compensation for the loss of access to the land they occupy in accordance with Community Land Act (2016).

All PAHs losing crops or trees due to the Project are eligible for compensation for the loss of crops and trees. Similarly, owners of structures are also eligible for the provision of compensation in cash, equivalent to the replacement cost and in addition 15% of the replacement cost, disturbance allowance. In addition to customary right holders and formal/legal property right holders, individuals or households residing on and/or cultivating land for which they do not hold any customary rights or legal property rights, are not formally recognized as right holders under Kenyan law and they are compensated in cash for the loss of assets and not land.

#### 7.2.2 *AFDB Integrated safeguards systems (ISS) and OS2*

Criteria for Eligibility, as advocated for by AfDBs OS 2 is applied in this RAP. The following categories of displaced persons are eligible for compensation:



Figure 7-1: Eligibility Criteria

Affected persons include persons facing direct economic and social impacts that result from the proposed project, and are caused by the involuntary taking of land (which includes anything growing on or permanently affixed to land, such as buildings and crops) resulting in (i) relocation or loss of shelter; (ii) loss of assets or access to assets; or (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location.

### 7.2.3 Eligible Groups

Eligibility can be claimed by individuals or collectively as a group.

Table 7-1: Eligible Categories of Individual and Groups under this RAP

Type of Loss	Definition of Entitled Person (EP) or Group
Loss of Land	The owner (s) of land as per land record at the cut-off date
	Groups/community with customary right of occupancy and use
Loss of living quarters and other physical structures	The legal owner of the structure
	Tenants occupying the structures
Loss of Commercial structures	The legal owner of the structure
Loss of religious/cultural structures/assets	Individual owner or next of kin; for instance, of a grave
	Community or Households dependent on communally held services/assets e.g. mosques
Loss of income	Owner of Business
	Employee
Displacement from rented, occupied or commercial premise	Business persons occupying the premise
Loss of Shelter	Those losing shelter including tenants
Loss of tree crops or standing crops	The owner (s) of tree

The squatters on KFS land fall under Those who have no recognizable legal right or claim to the land they are occupying in the project area of influence. These groups are entitled to resettlement assistance other than compensation for land to improve their former living standards (compensation for loss of livelihood activities, common property resources). They will be compensated for losses on structures (residential and commercial) and income from these only.

#### 7.2.4 Exclusion for Eligibility

As described in earlier section of this RAP report, all involuntary displacement is eligible for compensation with the exception of four main categories of loss, which are explicitly classified as ineligible for compensation and include:

- 48) Losses arising from structures or activities in the way leave corridor, or in any of the sub-project areas impacted by the Project, that post-date the cut-off date;
- 49) Losses claimed on the basis of intention to use the land for a particular purpose (actual prior investment in plans and permissions may be compensated, but expected future value arising from proposed future investments is excluded);
- 50) Losses arising from structures or activities outside the way leave corridor [fully justified exceptions could be considered by the Grievance Redress Mechanism (GRM)];
- 51) Losses claimed on a fraudulent basis or by material misrepresentation of facts e.g., of identity, ownership, employment, or nature of asset or use of land.

#### 7.2.5 Cut-Off Date

The cut-off date was set by KETRACO to be 18<sup>th</sup> December 2021 after completion of RAP update exercise in which members of the communities along the project area were urged in meetings not to undertake further developments as that would amount to deliberate encroachment (*Annex 3iii – Minutes of PAPs Meetings and List of Attendants*). Further, the cutoff date was announced in each PAPs community meeting as the date when the census began, thereafter chiefs emphasized the need to respect the date. The chiefs also announced they would enforce the date in future during public baraza meetings. Any developments after the cut-off date are not eligible for compensation. The cutoff date helps in curbing opportunistic behavior among the project affected, preventing an influx of developments within a project's footprint in anticipation of compensation, as is familiar with speculators.

According to Kenyan law, the cut-off date for eligibility is established after gazettelement of intention to create wayleave – which is yet to happen. After the cut-off date any circumstance initiated by the affected person is not taken into consideration and therefore not eligible for compensation. To align with AfDB ISS policy on resettlement the KETRACO RAP team ensured that the cut-off date was documented and communicated to all the Project Affected Households through the project area during the RAP update.

If there is a significant time lag between the cut-off date and actual implementation (i.e., more than two years), it becomes the responsibility of any proponent to update the inventory list and include any policy changes that may have changed in the duration of time. All new crops or trees that may have been planted and are not ready for harvest before the start of construction will also be taken into account. An updated valuation as per the time of doing census will also be undertaken to ensure the RAP captures the current replacement value of the affected properties after census.

### 7.3 Valuation methodology

In practice in Kenya, cash compensation is paid for land, crops and trees and physical structures. In addition, compensation for loss of land rights is also paid to the private (and communal) landowners with a title deed. In

cases where the land owner of the parcel in question is deceased and the value of the affected parcel is less or equal to KES 500,000, then a chief's letter can suffice to assist the beneficiaries in claiming for the compensation.

### **7.3.1 Land Value (Amendment) Act 2019**

The Act provides that valuation of land for purposes of compensation shall be based on the Land Value Index. This is an analytical representation showing the spatial distribution of land values in a given geographical area at a specific time. It is to be developed jointly by the national government and county government. 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 in addition to other factors provided in the Act such as the increase in the value of the land due to improvements made on it. However, an increase in value will be disregarded if the improvements are carried out after the publication of a gazette notice that sets out the government's intention to acquire the land compulsorily. Different criteria apply for freehold and community land on one hand and leasehold land on the other. Note that this Land Value Index is yet to be developed thus not applicable in this RAP.

### **7.3.2 Valuers Act Cap. 532**

Property valuation in Kenya is carried out by valuation professionals registered under the Valuers Act Cap. 532 of the laws of Kenya. A registered Valuer (with Valuers Registration Board) is a trained professional who has a thorough knowledge and understanding of the factors that create, maintain, or diminish values of real estate or assets. Valuation of assets is done in accordance with the Practice Statements and Guidance Notes published by the International Valuation Standards Committee (IVSC), adopted and recognized by international accounting standards and risk management professionals.

### **7.3.3 Types of Valuation Methods**

Valuation methods applied included: comparison approach, investment approach, and contractors (cost) approach respectively.

#### **7.3.3.1 Comparable Approach**

Comparison method compares similar properties. It is the most reliable and requires an active market, while adjustments are made to fit specific properties. The method considers the sales of similar substitute properties and related market data and establishes a value estimate by processes involving comparison. Property prices need to be analysed and interpreted in order to obtain the actual values utilized in the comparison analysis. This method is the preferred approach in an active market where a trend of prices can be established.

#### **7.3.3.2 Investment Approach**

The investment method is based on the expected future returns and its applicable where an active investment market is available. This method is applied when income generating capabilities is present and is considered by the market as forming the primary basis for value. The capital value arrived at is the value attributed to the right to an annual income stream.

#### **7.3.3.3 Contractors Test (Cost) approach method**

Cost approach method is where the property value is assessed based on the cost of buying the site and constructing the building. It is based on the reproduction/ replacement value. The approach entails the measuring of the improvements (buildings, site works) to which the appropriate construction costs are applied, resulting in the new replacement (or reproduction) cost.

Generally, this RAP has adopted the three methods of valuation as follows;

- Land valuation is based on the Market approach where comparable sales of similar parcels of land are adjusted from location to location to arrive at a value.
- Investment approach is applied where the property is revenue earning such as businesses and rental houses.
- Cost approach is used for structures owned by the project affected persons whereby the cost of the construction is estimated at rates provided by the KETRACO's Resettlement Policy Framework multiplied with the area to come up with a value of the structure.

#### **7.3.4 Choice of Valuation Methodology For this RAP**

Measurements and geo-referenced photographs of the affected properties was taken for ease of identification and correct data entry.

The data collected during field survey was as follows,

- iv. Land size was established by the surveyor noting the size of the whole land and also the land affected (The challenge was in cases where the land is not adjudicated. The land is held informally by individuals through inheritance or purchase. Under such cases, the affected land and whole land per individual could not be established.) The estimate is reached by using the land size established by the surveyor. Informal subdivisions are dealt with before offer letters are given to the PAPs.
- v. Affected structures were measured and the structures characteristic noted. They include the materials used in the construction of walls, roof, floor and the status of the structure. Trees were counted, noting the types of the trees, and the level of maturity.
- vi. On crops, it was a planting season, hence not many crops were captured in the farm. Those captured; the area affected was measured, noting the type of crop, level of maturity and crop harvest per season.

The type and extent of the assets impacted, along with the principle that no PAH should be left worse off than they were prior to project implementation, determined the method of valuation for assets. Generally, this RAP has adopted the three methods of valuation as follows.

1. Land valuation is based on the Market approach where comparable sales of similar parcels of land are adjusted from location to location to arrive at a value.
2. Investment approach is applied where the property is revenue earning such as businesses.
3. Cost approach is used for structures owned by the project affected persons whereby the cost of the construction is estimated at rates provided by the KETRACO's Resettlement Policy Framework multiplied with the area to come up with a value of the structure.
4. Compensation of affected crops was valued according to the gross market value of the affected crops. Gross market value makes full provision for owners' crops or users input already expended (labor, seeds, fertilizer, etc.). To calculate the compensation for losses of production from annual crops, the market value is multiplied with the area of the affected crops. For affected plots with mixed crops, an average was considered.
5. The trees affected by the transmission line corridor were recorded according to the size (Young, Medium, or Mature) and valued at the current market value based on replacement costs of similar or comparable trees depending on age and its future potential.

Where applicable, the values are then adjusted to reach full replacement value in line with AfDB policy.

#### **7.4 Valuation Approach Applied in this RAP**

The above valuation techniques rely on the collection and analysis of data such as social, economic, government, and environmental attributes. Approaches adopted for valuation of assets affected include:



#### 7.4.1 Project Compensation For land

In accordance with AfDB ISS and considering the importance of land for subsistence and income generation, the preferred option is to provide for fit-for-purpose alternative land “that has a combination of productive potential, locational advantages, and other factors at least equivalent to that being lost”. However, should there be any cases where fit-for-purpose alternative land is not available, compensation in cash to PAHs is the preferred option. In this case, compensation in cash for the permanent loss of land will be provided which will be a one off compensation payment.

PAPs engagement revealed that Weru Group Ranch is at two levels – Weru 19 and Weru 20. Those in the subdivided section who hold individual land parcels are referred to as Weru 19 members. The respective members attended PAPs meeting and agreed they should receive compensation as individual PAPs since they are bonafide landowners. Weru 20 is the unsubdivided section and no evidence of subdivision was highlighted, it has a members register, and compensation should ideally be paid to the Group Ranch Account and thereafter management distributes to individual members in the list according to shares held. However, the members – Weru 20 -noted that there are internal disputes which will require to be settled before the compensation is done. The members and officials attended the PAPs meetings and were satisfied with this form of resolution.

To minimize displacement impacts as much as possible KETRACO will expropriate and replace any non-economic viable land. The term “non-economically viable land” refers to (usually small) portions of properties that are not to be expropriated because they are not located within the Project corridor, but become uneconomically viable because: (i) other, larger parts of the same plot are being expropriated; or (ii) an adjacent plot, with which it was aggregated, is being expropriated.

*Figure 7-2:Non Economic Viable Land*



This project will provide compensation for land for PAHs with recognized formal and/or customary land rights based on gross replacement cost. KETRACO will compensate for limited loss of use of land affected by the wayleave trace (this refers to land under wayleave that is severely affected by the TL). For wayleave, where the affected parcel of land is too small making it uneconomically viable and/or where existing residence (s) and structures are unable to be relocated within the unaffected area of the parcel, KETRACO will offer full replacement cost compensation to such a PAH, for loss of productive use of the affected land, plus all transaction costs as stipulated by ISS, to enable the PAHs to purchase alternative land of a similar size and productive value. The PAHs will retain ownership and use of the affected parcel and a wayleave easement will be registered against the affected plot.

Where an encumbrance is placed on the land, i.e. for the wayleave trace, and the area of land unaffected is still economically viable then compensation will take the form of cash per centum figure as per KETRACOS RPF. KETRACO will not purchase the land but compensate for loss of use, encumbrance registered on the title including

the restrictions on access and the prohibitions associated with structures, crops and agriculture. This is regardless of it being agricultural, residential, institutional or business land.

The advantages of land-to land compensation with equal or higher productive potential and locational advantages were disclosed to the PAHs who all the same preferred cash for land and indicated in chapter 5.

KETRACO will pay for limited loss of use of land within the wayleave corridor at rate of between 30% and 100% of the Market Value depending on impact.

Land will be compensated as guided by the bands in the table below:

*Figure 7-3: Land will be compensated as guided by the bands*

Category	Total Area (approximate) In acres	Percentage Affected	Rate of Compensation
	Above 1.0 acre	Above 30%	@ per centum % of Trace Value
	Above 1.0 acre	1-30%	30% of Trace Value
	0.75 –1 Acres	1-30%	50% of Trace Value
5.	0.75 –1 Acres	31-49%	50% of Site Value
6.	0.75 –1 Acres	≥50%	Full Market Value
	≤0.5Acre	1-20%	50% of Trace Value
7.	>0.5Acre	>20%	Full Market Value/site value
8.	≤0.25 Acres	1-10%	50% of Trace Value
	>0.25 Acres	≥10%	Full Market Value /Site value

*(Source: KETRACO's RPF)*

In the case of KFS land and trees, KETRACO will apply for a 'special use licence meaning authorization issued to a person to undertake an activity whose primary purpose is to yield public benefit in transportation, communication, energy, research or education as per the The Forest Conservation And Management Act No. 34 Of 2016. A Joint Verification of the number and type of trees affected in Madunguni Forest Reserve will be undertaken and compensation provided to KFS for replacement of the trees elsewhere.

#### 7.4.2 Valuation and compensation of Structures

The recommended option for this Project, and in line with integrated safeguards system AfDB ISS, is compensation in kind through support to provide PAPs (including institutions) with fit-for-purpose replacement housing and structures/assets including community and public facilities, but the preferred mode of compensation option by the PAHs is cash.

Compensation for non-residential structures in cash will be provided as an option. However, based on the consultations with the PAHs, the preference is cash compensation for residential structures for which they consider as more appropriate. As such, KETRACO will aim to "offer the choice of replacement property of equal or higher value, with equivalent or better characteristics and advantages of location, or cash compensation at full replacement value where appropriate".

In the event that affected households still opt for the compensation in cash, KETRACO will provide compensation for both residential and non-residential structures at full replacement cost (without taking depreciation into account). The affected developments and housing structures will be compensated at full replacement value; this will be the cost of building a new house of similar nature at the current market value. A number of factors was considered while valuing structures:

52) Type of structure: House, Kitchen, Pit Latrine

- i. Size
- ii. Type of construction materials
- iii. Stage of construction/level of completion - if it's a construction site,
- iv. Accommodation details

53) Quality of finishes

There is an additional disturbance allowance paid to the affected house owners which is 15% of the cost of the affected structures.

#### **7.4.3 Valuation and compensation of Crops and Trees**

Trees/crops with a height of over 12ft are prohibited within the wayleave corridor and must be removed prior to construction.

To comply with AfDB ISS, the compensation rates for crops and economic trees are required to reflect full replacement cost, which corresponds to market value plus transaction costs without subtraction of depreciation value. To meet this requirement, KETRACO will supplement, where necessary, the Government-provided compensation rates with a top-up to ensure that the total amount of cash received is equivalent to the full replacement value of the affected standing crops/trees, at the date of the enumeration.

(i) The cash amount will factor in the lost value of any standing crops, but also the time taken for new crops/tree products to be able to be harvested in the new location (and potentially to a comparable volume of harvest as in the old location) and the associated income lost in the interim period compensated.

##### **i. Crops**

Compensation of affected crops was valued according to the gross market value of the affected crops. Gross market value makes full provision for owners' crops or users input already expended (labour, seeds, fertilizer, etc.). To calculate the compensation for losses of production from annual crops, the market value is multiplied with the area of the affected crops. For affected plots with mixed crops, an average was considered. The rates for crops are provided by the Ministry of Agriculture.

##### **ii. Trees**

The trees affected by the transmission line corridor were recorded according to the size (Young, Medium, or Mature) and valued at the current market value based on rates for trees are provided by the Kenya Forest Services (KFS) for non fruit trees and Ministry of agriculture for fruit trees.

#### **7.4.4 Valuation and compensation for business loss of income**

Loss of income due to demolished structures can have detrimental impact on households. Therefore, compensation to business owners and landlords as well as tenants, employees alike was taken into account. This is because it will take some time to re-establish the business and for rental properties compensation was made depending on the duration it will take to construct/replace the structure/ building

Tenants will be compensated to take care of the time (three months) they will be looking for alternative accommodation for their businesses.

Since formal business records could not be ascertained, loss of income for businesses was arrived at through vigorous interviews to ascertain the amount of income one earns taking into account general assessment of the business factoring the expenses to get the net profit. Rental income was determined through interviewing tenants. Landlords therefore received a 3 months' allowance per tenant rent payment. In addition, the employees in the businesses affected have received 3 months' payment for loss of wages.

### 7.5 Compensation Principles

The compensation principles to be followed are derived from the national legislation and the AfDB ISS procedures on involuntary resettlement more so OS 2. These principles, including the valuation procedures, were all explained to the PAHs and other community members during the community dialogues and stakeholder consultations.

- Resettlement and compensation of PAHs will be carried out in compliance with relevant Kenyan laws and AfDB safeguard standards.
- All PAHs physically or economically displaced shall be adequately, promptly and equitably compensated before the commencement of works at the project-affected sites. All efforts will be taken to provide necessary assistance for PAHs to restore their livelihoods.
- Special consideration will be given to especially disadvantaged and/or vulnerable people such as women, children, the very old and the unemployed. Provision will be made to enhance their rights to resettlement and compensation payments. For example, the consent of spouses and children where it applies shall be a sought prerequisite for compensation payment, as provided by the Land Act (2012).
- The project will promote and provide in-kind compensation as an option for especially vulnerable groups and project affected community resources and facilities. This will ensure that the vulnerable are not disadvantaged in sharing development benefits and opportunities.
- The project will apply a 15 per cent disturbance allowance in addition to the assessed compensation values for affected structures
- In consideration of the differences between national legislation and the AfDB integrated Safeguard systems on Involuntary Resettlement, the higher of the two standards will be followed, where it best applies in this RAP, since this approach also satisfies the requirements of the lesser standard.

### 7.6 Strategy for Property and Loss Compensation

The resettlement measures or strategies have been developed in close consultations with community members, PAHs, institutional stakeholders in reference to national legal regimes and the AfDB ISS. All PAHs are aware of these options including those who requested for further consultations with other households and family members. These forms of strategies include:

#### 7.5.1 Strategic Option One: Cash compensation

This is the main strategy for property and income restoration because of the fact that the project will require RoW and not full acquisition. This strategy will be through adequate and prompt monetary compensation and will apply to all the PAHs. This strategy will include cash compensation for property, land and other resettlement assistance including disturbance allowance to enable all category of PAHs to restore their livelihoods as described in the entitlement matrix. This strategy was arrived at after consideration of the following factors:

- 54) Most PAHs expressed the preference for cash compensation as opposed to in-kind compensation.
- 55) No significant economic displacement is envisaged; and

- 56) Limited institutional displacement (only religious institutions) is anticipated. Cash compensation is justified in view of the fact that while part of the livelihoods of the PAHs is land based (agriculture, farming) etc., the project will enable continuation of this activity as it only requires a way leave and not outright acquisition. The land still belongs to the PAH to utilize albeit with some restrictions on usage. This being a linear project, the required land for the ROW is a small fraction of the land owned by majority of the PAHs.

### **7.5.2 Strategic Option Two: In-Kind Compensation and Resettlement Measures**

This compensation strategy will promote in-kind compensation as an option especially to vulnerable groups and project affected community resources and facilities. In-kind compensation will be offered for community assets, hard to-value assets, or to mitigate risk in cases of PAHs who have been identified as vulnerable.

#### **7.5.2 Disturbance allowance**

The valuation considered 15% disturbance allowance paid in addition to the full replacement value of the affected properties as required by law.

After compensation, it is anticipated that communities will re-establish themselves in the economic activities they were performing before the project. Accordingly, compensation must be paid upfront before project activities begin at the respective project-affected sites/areas, as provided for in the Land Act (2012), to allow PAHs to plan for the restoration of their livelihood and other necessary adjustments. Affected households are entitled to participate in and to benefit from the targeted set of livelihood restoration programs, which were developed for this RAP, including among others:

- 57) Financial training for the sustainable use of cash compensation (including training on the maintenance of a bank account, on small household investments, saving strategy and financial planning on the household level);
- 58) Provision of seeds and fertilisers to re-establish farms

### **7.7 Absentee Land/Property owners and Escrow Account**

Some of the parcels along the transmission corridor are owned by persons who might be living far away from the project area. The term given to this people is absentee land owners. The strategy employed here was first to identify affected parcels, get details of their owners from the local administration and neighbours. The second step will be gazetting the names of all absentee land owners in the most popular local newspapers and radio announcements in vernacular languages of the areas affected, requesting those affected to contact the nearest local administration office or KETRACO for guidance. Lastly an escrow account will be opened to ensure all the compensation packages for the absentee land owners is set aside to ensure they are promptly compensated once they come calling. The escrow account will also be used where PAPs are unable to solve grievances to allow for compensation of some parcels/properties.

### **7.8 Associated Obligations, Special Considerations and Entitlements**

Vulnerable PAPs are defined as individuals, groups, households, or communities who by virtue of gender, locality, age, physical or mental disability, economic disadvantage, or social and cultural status who may require additional support or assistance and will need help adjusting to changes introduced by the Project. According to AfDB policy, Vulnerable groups might include, landless people, people without legal title to assets, ethnic, religious or linguistic minorities, orphans, marginalized socio groups and people who are sometimes referred to as indigenous people. Assistance will take the following forms, depending on vulnerable people's requests and needs:

- Assistance and prioritisation in the compensation payment procedures;
- Assistance in the post payment period to secure the compensation money;

- Priority in processing disbursement of compensation packages
- Moving and transition support or allowance during the relocation period.

In the context of the Project, vulnerable people identified included:

- a) Widows/Windowers
- b) Elderly PAPs living alone
- c) Women house hold heads

The RAP also recognizes that vulnerability is a socio-economic dynamic situation and people can stream into a situation of vulnerability as well as stream out. The RAP implementation team will, therefore, need to screen, review and update the vulnerable PAP households; identify and update special assistance packages for such vulnerable PAPs; and develop strategies to deliver such assistance. This responsibility has been re-emphasized in the role of the RAP implementation team. The RAP implementation team will ensure that vulnerable PAP households understand the RAP implementation process and that their specific needs and concerns at that time are taken into consideration, through targeted consultations with them.

In addition, to what is discussed in earlier sections of this chapter, the following intervention areas have been considered as possible areas of in-kind resettlement assistance to vulnerable PAP households during the RAP implementation:

- Targeted and localized house-to-house or group sensitization for the vulnerable PAP households during pre-payment consultations.
- Priority consideration in processing resettlement compensation payments and specialized assistance in explaining and filling out compensation payment forms.
- Livelihoods capacity development for selected members of vulnerable PAP households, in line with local livelihood opportunities and economy.
- Counselling and guidance for members of vulnerable PAP households.
- Consideration for employment in project activities for some of the members of the vulnerable PAP households.

## **7.9 Resettlement and Livelihood Restoration**

Where possible, large scale resettlement should be avoided. This is due to its possible impacts such as production systems may be disrupted, and people may be impoverished when their productive assets are lost and/or disrupted. Community networks may be weakened, loss of social capital, loss of status, kin members may be dispersed and loss of cultural identity where people may be required to cover longer and costlier distances. Therefore, involuntary resettlement should be avoided where possible or minimized and possible alternatives explored.

### **7.9.1 Resettlement and Relocation**

The location of the Transmission line is 99.9% in a rural setting, which is a major advantage in terms of resettlement. This largely means that although communities have settled along the route, the prospects of getting resettlement land (where compensation is provided) in the vicinity (cost allowing) will not be a major challenge. This means social support systems and networks will not be greatly disrupted, affected persons can still consider themselves as part of their current communities and still access the same services and advantages from the original areas. Since the project is rural, coupled with its inherent nature that only requires wayleave (land easement) instead of land acquisition to pave the way for the transmission line, no significant resettlement is envisaged.

The AFDB'S OS. 2 advocates for the need for compensation to be undertaken at full replacement cost and that resettlement activities should seek to improve the living standards of affected persons by paying attention to project impacts on the overall means of livelihoods. Similarly, relocation must be sensitive to social considerations so as not to disenfranchise any affected person. As obtained during the census, 100% of the PAPs preferred cash compensation instead of in-kind replacement. No PAP was willing to be physically resettled outside his/her sublocation/village since they could still find land in their locality, further 100% of the PAPs preferred cash compensation instead of in-kind replacement. Relocation choices will therefore be exclusively made by the project affected persons.

### 7.9.2 Livelihood Restoration Plan

Even where temporary loss of business or another form of livelihood is involved, it has the potential to impact on or result in long term impoverishment of the PAPs. Besides, resettlement should be pursued as a development option, seeking to improve the lives of those affected. This requires specific and deliberate strategies in investment in the lives of those affected.

The chapter on socio-economic baseline shows that the project affected are engaged in two main affected activities such as peasant crop farming and various entrepreneurial activities, with the most prominent being retail trading. Besides, only a few small businesses are affected.

Transitions to new livelihoods can be fraught with challenges and should be avoided to the extent possible. Thus, additional little livelihood support should mostly be geared towards what is existing rather than introducing new activities. In the few cases such as damaged farmland, crops, shops, residential houses, public buildings where restoration of livelihoods will require support, the following principles should guide the process:

- Be careful not to create dependency on the project.
- Be realistic about what is possible.
- Focus on what is sustainable.
- Match PAPs to opportunities – build on existing knowledge/ expertise where possible and provide early capacity building.
- Consider limitations to full or reasonable participation in livelihood restoration for some groups that may require affirmative action to benefit from livelihood programs.
- Support the existing enterprises to re-establish.

After compensation, it is anticipated that communities will re-establish themselves in the economic activities they were performing before the project. Accordingly, compensation must be paid upfront before project activities begin at the respective project-affected sites/areas, as provided for in the Land Act (2012), to allow PAHs to plan for the restoration of their livelihood enterprises and other necessary adjustments. Affected households are entitled to participate in and to benefit from the targeted set of livelihood restoration programs, which were developed for this RAP:

- 59) Pre-Compensation financial training for the sustainable use of cash compensation (including training on the maintenance of a bank account, on small household investments, saving strategy and financial planning on the household level);
- 60) Business skills training: facilitation of access to alternative income generating activities.
- 61) Provision of hybrid seeds for improved production to PAHs.

A detailed livelihood restoration matrix including the budget, timelines, responsibility, and measures for each identified livelihood during the study is outlined in table 7-2



As agriculture is the primary livelihood activity for affected households, and agriculture is a source of food security for affected households, the focus of the livelihood restoration plan is to support households to quickly re-establish improved agricultural activities. The general program of livelihood restoration and potential additional measures that may be required for specific households are described in the following sections.

### **7.9.3 General Agricultural Support Program**

The general agricultural support program will be based on an “input and supply” programme, which provides all affected households with basic agricultural supplies to help them restore their crops on their new land or enhance yields on their existing land if they cannot identify new land. Each household will be provided with a choice of improved seeds during individual household sign-off. These improved seed varieties will be distributed to all affected households. Land affected households will be able to choose provision of seeds for a staple crop, seeds for a supporting vegetable crop rich in protein, and a choice of sapling from trees commonly found in the Project area. The types of crops are mainly crops grown in the project area as identified during the census. Households will be able to choose their options during the individual household sign-off process. All seeds provided will be improved seed and will be agreed with the Ministry of Agriculture along with other support such as fertiliser or extension support to enable households to utilise them effectively.

### **7.9.4 Livestock support programs**

The Livestock support programs are designed to address livestock productivity enhancement, and provide drought management actions through the active participation of the targeted beneficiaries for increased livestock offtake which focus on poverty reduction in general and ensuring food security in particular. This program is designed to impact positively on food security and nutrition practices thereby promoting human and economic development in the Region. The most important positive impact of the program within the project area should be to sustain and build the capacities of farmers in practicing the demand-driven approach. The program comprises of four main components, namely:

- (i) Livestock Productivity Improvement;
- (ii) Animal Health Improvement;
- (iii) Livestock Marketing; and
- (iv) Drought Management and Food Security Initiatives.

The overall sector goal is to contribute to poverty reduction at the national and household levels and improve sustainable rural livelihoods and food security through improved livestock productivity, marketing and support for drought management and food security initiatives for all the PAHs in the project area. The main beneficiaries will include agro-pastoralists, beekeepers, flayers of hides and skins, traders, butchers, private sector service providers, honey processors, transporters, consumers, etc, especially the poor and vulnerable in the project area. Women are particularly targeted with a number of activities including beekeeping, small stock and camel rearing, and other income generating and food security activities.

### **7.9.5 Local employment opportunities**

As discussed in the Project ESIA, the Project intends to fill the majority of positions with locals (for unskilled positions such as vegetation clearance, security guards, cooks, cleaning/housekeeping. Although local employment during construction is expected to deliver temporary localised benefits it will not provide the basis for sustainable livelihood restoration. In this case, priority will be given to vulnerable households as earlier indicated.

### **7.9.6 Enterprise Based Livelihoods**

In the case of enterprise-based livelihoods such as those practiced by the PAPs, this should necessarily start from maximizing the possible and available project-based opportunities. This RAP recommends:



- A Local Buying Program during the construction period to assist in building capability and capacity in the local supply chain. Local businesses in the region of the project are prioritized as suppliers of various materials, goods, and services. Local communities can provide locally available goods and services to the contractors such as ballast, water, sand, manual labor, catering services etc.
- Provision of employment in the project: semi and unskilled jobs should be reserved for project affected persons and the community in general through working with local committees to identify those to work in the project. This would, however, require a mention in the contracts with project contractors to ensure and preserve temporary or longer-term employment for local workers.
- Enhanced social investment by KETRACO in the community as proposed by the PAPs in terms of community investments. These investments could lead to increased access to quality services. The requests by community members for KETRACO to undertake CSR projects were made during community sensitization meetings. Availability of funds determines if CSR projects will be undertaken to meet PAPs proposals/expectations.
- Entrepreneurial training for existing small businesses and support with small grants for the identified Vulnerable individuals and households.
- Support the Ministry of Gender and Social Services to register more marginalized people to access Special cash Attention to Vulnerable individuals and households. The RAP recommends that the project brings to the attention of Vulnerable individuals and households the existence/availability of programs/projects, their cycles and application process and requirements. Further, the RAP also recommends that the project facilitates the respective relevant county departments/ministries of Social Services to come to project Location levels to register the Vulnerable individuals and households into the existing government support programs such as the cash transfer programs for the elderly.

#### **7.9.6.1 Local Employment Opportunities**

As discussed in the Project ESIA, the Project intends to fill the majority of positions with locals (for unskilled positions such as vegetation clearance, security guards, cooks, cleaning/housekeeping. Although local employment during construction is expected to deliver temporary localised benefits it will not provide the basis for sustainable livelihood restoration. In this case, priority will be given to vulnerable households as earlier indicated.

### **7.10 Entitlement Matrix**

Entitlement Matrix was developed for the proposed project with regards to the following principals:

- All categories of affected people: including property owners and land right holders, tenants, squatters, sharecroppers, grazers, and other natural resource users, shopkeepers, vendors, and other service providers, communities, and Vulnerable individuals and households;
- All types of loss associated with each category: including loss of physical assets; loss of access to physical assets; loss of wages, rent, or sales earnings; loss of public infrastructure; and,
- All types of compensation and assistance to which each category is entitled: including compensation for or replacement of land and natural resources; compensation for structures, assets, wages, rent, or sales earnings; moving assistance and post-resettlement support such as technical assistance, extension and skills training, and access to credit.

Table 7-2: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><b>Option 1:</b> 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><b>Option 1:</b> 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 KETRACO</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>
		Rightful owners of the affected houses and structures who choose to have replacement houses/ structures replaced in kind (built by the Project)	<p><b>Option 2:</b> Constructed in kind replacement house of size (measured floor area or number of rooms) at least equivalent to the PAH's pre-resettlement housing, with consideration of functional spatial use, at location of owner's own choice.</p> <p>For PAHs who choose to have project build their houses, an agreement will be signed with the PAHs describing the house to be built, the location and the expected time of final relocation (in principle should not exceed 6 months)</p> <p>Materials from the affected structure may be salvaged at the owner's expense within the notice period given to vacate defined by the project schedule and prior to demolition.</p>	<p>Vulnerable PAHs who choose in kind replacement house and if the affected structure was present within the project area by the cut-off date and identified and verified through final asset and valuation.</p> <p>All PAHs in this category must prove that the affected structure is their primary residence.</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>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
2.	Loss of business income/wages	Persons earning livelihoods (income or wages) from affected assets	<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.</p> <p>Any other transitional costs such as extended storage, lost wages, etc.</p>	<p>PAH must provide proof of business income or wages generated from the affected resource and affected business.</p> <p>In the absence of business records to prove business income, the value of the affected business will be determined through observations and interviews among other methodologies done by Registered Valuers.</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>
3.	Sanitation facilities (Pit latrines & bath shelters).	Rightful owners of the affected structures (residential, commercial and other)	<p>Cash compensation for all structures at full 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 to vacate defined by the project schedule and prior to demolition.</p>	<p>Cash option is available to owners of affected structures that are either complete or incomplete</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 KETRACO.</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Monitoring mechanism at main stages of resettlement.</p>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
				NB: Vulnerable Owners already given a replacement house that already includes these facilities will not receive additional cash compensation.	
4.	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 full replacement cost, based on professional valuation.</p> <p>Statutory Disturbance Allowance of 15% of the total compensation amount for structures.</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>	Cash compensation to owners of affected structures that are either complete or incomplete. 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.	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Monitoring mechanism at main stages of resettlement.</p>
5.	Land for Primary Residential land/ plot – permanent OR partial loss	Registered owner or claimants of communal/ranch and privately held land on which complete immovable housing structure is established for primary residence.	<p><b>Option 1:</b> Self-managed relocation (Cash compensation with relocation plans overseen)</p> <p>Legally established interests, including user rights, on community land will be compensated in accordance with Kenyan Law.</p> <p>Assistance in fasttracking Succession (where needed)</p>	All PAHs in this category must prove that the affected 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	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Easements will be registered on the affected property by the project.</p> <p>Provision of support registration cost and required formalities to ensure security of</p>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
				<p>through formal or traditional verification processes).</p> <p>PAHs may be required to 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 (especially for PAHs who do not have sufficient land to rebuild their structures on and are required to replace land for dwellings).</p>	<p>tenure for vulnerable PAHs where needed. Monitoring mechanism at main stages of resettlement</p>
			<p><b>Option 2:</b> Assisted relocation (Cash compensation held by project and land and structures identified and acquired by the project) mainly directed at Vulnerable PAHs</p> <p>PAHs to identify suitable resettlement land whose value does not exceed compensation value of affected land and to negotiate and conclude the sale agreements with sellers, transfer of cash to the sellers and successfully transfer of land ownership to the PAHs.</p> <p>Assistance in fastracking Succession (where needed)</p>	<p>All PAHs in this category must prove that the affected land is their primary residence (either through formal or traditional verification processes) – Largely targeted at vulnerable PAHs</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>The local administration will assist in identification of relocation land and coordinate related</p>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
			<p>Assistance in conveyancing and transferring title (for vulnerable PAHs) where needed.</p> <p>Legally established interests, including user rights, on community land will be compensated in accordance with Kenyan Law</p>	<p>All listed vulnerable PAHs and all PAHs who neither own other resettlement land nor have identified suitable resettlement land.</p> <p>This is the risky category of land PAHs who will require direct project intervention during RAP Implementation</p>	<p>activities in liaison with KETRACO.</p> <p>Provision of support registration cost and required formalities to ensure security of tenure for vulnerable PAHs where needed.</p> <p>Monitoring mechanism at main stages of resettlement</p>
		Squatters	<p>Cash compensation for all structures at full replacement cost, based on professional valuation.</p> <p>Statutory Disturbance Allowance of 15% of the total compensation amount for structures.</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>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 KETRACO</p>	<p>Monitoring mechanism at main stages of construction of dwelling units.</p>
6.	Permanent OR partial loss of agricultural farming land	Registered owners or claimants of communal and privately held lands	<p><b>Option 1:</b> Self-managed relocation (Cash compensation with relocation plans overseen)</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Assistance in fasttracking Succession cases (where needed)</p>	<p>PAPs must prove ownership (either through formal or traditional verification processes) at the time of verification</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Agriculture and livestock development</p>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
			<p>Assistance in conveyancing and transferring title (for vulnerable PAHs) where needed.</p> <p>Legally established interests, including user rights, on community land will be compensated in accordance with Kenyan Law</p>	<p>Payment of compensation for lost assets and land made before displacement. 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 Sale Agreements 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</p>	<p>projects and support programs targeting the PAHs and host communities</p> <p>Provision of support registration cost and required formalities to ensure security of tenure for vulnerable PAHs where needed.</p> <p>Monitoring mechanism at main stages of resettlement</p>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
				other methodologies done by Registered Valuers.	
			<p><b>Option 2:</b> PAHs to identify suitable resettlement land whose value does not exceed the total compensation and is within the defined project area and to negotiate and conclude the sale agreements with sellers, transfer of cash to the sellers and successfully transfer of land ownership to the PAHs (Mainly directed at vulnerable PAHs).</p> <p>Assistance in fasttracking Succession cases (where needed)</p> <p>Assistance in conveyancing and transferring title (for vulnerable PAHs) where needed.</p> <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.</p>	<p>PAHs must prove ownership (either through formal or traditional verification processes) at the time of final asset surveys.</p> <p>Payment of compensation for lost assets and land made before displacement.</p> <p>All listed vulnerable PAHs and all PAHs who neither own other resettlement land nor have identified suitable resettlement land. This is the is also a risky category of land PAHs who will require direct project intervention during RAP Implementation</p>	<p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Assistance to identify suitable land and negotiate with the potential land sellers. This will be achieved the use the local administration chain of command within their areas of jurisdiction in liaison with KETRACO</p> <p>Provision of support registration cost and required formalities to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of resettlement by KETRACO PIT</p>
7.	Permanent loss of grazing land	Registered owners or claimants of	<p>Registered owners or claimants:</p> <p>Cash compensation of the value of the land at replacement cost.</p>	For cash compensation, persons must prove	Financial training for the sustainable and



#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
		communal and privately held lands	<p>Provision of support registration and required formalities to ensure security of tenure (for vulnerable PAHs) where needed.</p> <p>Assistance in fasttracking Succession cases (where needed)</p> <p>Assistance in conveyancing and transferring title (for vulnerable PAHs) where needed.</p>	ownership and interest (either through formal or traditional verification processes) at the time of final asset surveys. NLC will require to confirm the bona fide person(s) who have determined interest on the affected land as provided in the Land Act	<p>prudent use of cash compensation</p> <p>Agriculture and livestock development projects and support programs targeting the PAHs and host communities</p> <p>Monitoring mechanism at main stages of resettlement</p>
8.	Public Assets i.e. Affected properties, Structures, crops and trees excluding land.	Public Institutions National/County Government	<p>Cash compensation is done upon identification of affected properties (excluding land) of the government institutions affected.</p> <p>Special use license to grant wayleave through the KFS land.</p> <p>Land for Government institutions are not compensated for by another government institutions but only other properties are for purposes of replacement.</p>	Existing prior to cut off date	N/A
9.	Annual Crops	Owners of crops on farm land	<p>The project will make every effort to ensure land is taken after annual crops have been harvested. In such circumstances, no compensation for annual crops will be paid.</p> <p>Where crops are planted as part of the regular farming cycle in the project area and land is required, prior to harvesting, Crop Owners receive:</p> <p>Cash: Damaged crops will be compensated in cash as mature crops at agreed rates determined annually based on full replacement cost determined by Ministry of Agriculture based on market prices plus transaction costs</p>	Crop owners identified through final asset surveys by KETRACO and or its agent	<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>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
					Business skills training and enlightenment on alternative income generating activities.  Monitoring mechanism at main stages of resettlement
10.	Perennial Crops (Including fruit and economically valuable trees)	Owners of crops on farm land	Cash compensation based on replacement cost determined by Ministry of Agriculture and Kenya Forest Service for crops/ fruit trees and trees of economic/ medicinal value respectively based on market prices plus transaction costs Compensation according to defined growth stage or size categories.	Crops or trees in place (rooted) at cut-off date and identified through final surveyors by KETRACO and or its agent..	Financial training for the sustainable and prudent use of cash compensation
11.	Loss of shelter/commercial space	Tenants	Tenants will be compensated to take care of the time (three months) they will be looking for alternative accommodation for their businesses/families.	Identified through final census survey based on agreed criteria relevant to the project as documented in this RAP.	Financial training for the sustainable and prudent use of cash compensation
12.	Vulnerable Support Program (Tailored)	All PAPs in the project area considered vulnerable due physical challenges, sick or at a certain old age bracket require livelihood restoration support. This category refers to	Transitional hardship assistance program appropriate to specific cases and based on Project assessment, including: - <ul style="list-style-type: none"> <li>• Priority in physical mobilization and transfer to resettlement plot;</li> <li>• A preference for in-kind compensation</li> <li>• Assistance in the compensation payment procedure</li> <li>• Resettlement near to kin and former neighbors to maintain informal support networks where feasible</li> </ul>	Identified through final census survey based on agreed Vulnerability criteria relevant to the project as documented in this RAP.	Special assisted transit to new land  Additional moving, loading and unloading assistance, if necessary;  Other specific support related to moving process (e.g., medical assistance for

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
		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 60 years old), physically challenged, those suffering from chronic illness; widows and children who are under 18 years	<ul style="list-style-type: none"> <li>Moving assistance to physically displaced vulnerable PAHs for their properties and salvages during resettlement.</li> </ul>		<p>vulnerable PAPs who may be sick) identified by support case workers.</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 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>

#	Type of Loss/Impact	Category of Affected Person	Description of Entitlements	Eligibility	Livelihood Restorative Entitlement
					<p>Assist and monitor orphans to make sure that these children get back to school in 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 with APDK office.</p>

Table 7-3:Livelihood restoration Matrix

Key Livelihoods Interventions	Livelihood Activities /Programs	Timelines	Responsibility	Basis of Computation	Budget
Forestry	<ul style="list-style-type: none"> <li>Facilitate KFS to train farmers on sustainable tree planting and management in all the 5 Locations / Settlements. One training per location</li> <li>Costs for supply of tree seedlings by KFS to all farmers (for replanting) in the 5 Locations</li> <li>Costs for mobilization of farmers in all the 8 Locations / Settlements. Chiefs to be facilitated to undertake mobilization (5 Chiefs)</li> <li>Costs for hire of venue for training and refreshments</li> </ul>	During project construction	KETRACO	Kshs 100,000 for the 5 Locations	Kshs 500,000
			KFS/Ministry of Environment and Forestry	A lump sum cost for the supply of tree seedlings at Kshs 1,500,000 for each of the 5 Locations	Kshs 17,500,000
				Kshs 100,000 per chief in the 5 Locations / Settlements.	Kshs 500,000
				Kshs 150,000 for the 5 Locations	Kshs 750,000
Agriculture	<ul style="list-style-type: none"> <li>Facilitate Ministry of Agriculture to train farmers on sustainable agriculture in all the 5 Locations / Settlements</li> <li>Costs for supply of seeds to farmers in the 5 Locations including Vulnerable PAPs identified</li> </ul>		Ministry of Agriculture	Kshs 100,000 for the 5 Locations / Settlements.	Kshs 500,000
				A lump sum of cost of supply of seeds at Kshs 1,500,000 for each of the 5 Locations	Kshs7,500,000

Key Livelihoods Interventions	Livelihood Activities /Programs	Timelines	Responsibility	Basis of Computation	Budget
	<ul style="list-style-type: none"> <li>Costs for mobilization of farmers in the 5 Locations / Settlements (* chiefs to be facilitated to mobilize farmers)</li> <li>Costs for training venue and refreshments</li> </ul>			<p>Kshs 100,000 per chief in the 5 Locations</p> <p>Kshs 150,000 for the 5 Locations / Settlements</p>	<p>500,000</p> <p>Kshs 750,000</p>
Financial Literacy Training	<p>Liaise with County Ministry of Trade/CSO Trainers/ Or Hire Consultants to:</p> <ul style="list-style-type: none"> <li>Undertake financial literacy training to enable effective management of any cash compensation to all PAPs and Vulnerable PAPs in all 5 Locations / Settlements</li> <li>Financial training for the sustainable use of cash compensation (including training on the maintenance opening a bank account, on small household investments, saving strategy and financial planning on the household level</li> <li>Undertake entrepreneurial training targeting small and medium enterprise start-up such as grocery in all 5 Locations / Settlements</li> <li>Vocational training for youth unskilled labor for employment in the project such masonry, plumbers etc. in all the 5 Locations / Settlements</li> </ul>	Before Compensation (for financial literacy. Other can be During project construction	KETRACO Financial institutions	A lump sum of cost of Kshs 200,000 for each of the 5 Locations	Kshs 1,000,000

Key Livelihoods Interventions	Livelihood Activities /Programs	Timelines	Responsibility	Basis of Computation	Budget
	<ul style="list-style-type: none"> <li>• Offer Off-farm Business skills such as food making, groceries etc. in the 8 Locations / Settlements</li> <li>• Business skills training: facilitation of access to alternative income generating activities. In the 8 Locations / Settlements</li> <li>• Costs for 5 training Venues and Refreshments for training</li> <li>• Costs for Hire of Trainers/Consultants</li> </ul>			Kshs 150,000 for hiring venues and refreshments for training in the 5 Locations	Kshs 750,000
Micro Loans/Small Business Grants	<ul style="list-style-type: none"> <li>• Costs for Awareness creation on availability and criteria for applying for small grants and low interest loans from financial institutions and NGO.</li> <li>• Sensitize groups to local cooperative formation such as SACCO for savings and investments.</li> </ul>	During project construction	KETRACO  Financial institutions  County Department of Trade	Kshs 100,000 to be used for each 5 Locations to create awareness and sensitization.	Kshs 500,000
Employment	<ul style="list-style-type: none"> <li>• Priorities employment of local youth/people as much as possible</li> <li>• Reserve certain opportunities for <b>Vulnerable PAPs</b>, PLWDs and vulnerable households</li> <li>• Priorities semi and unskilled jobs employment targeting vulnerable persons such as PLWD, and Widows including women and youth.</li> </ul>	During project construction	KETRACO Contractor	Along the 5 locations	nil

Key Livelihoods Interventions	Livelihood Activities /Programs	Timelines	Responsibility	Basis of Computation	Budget
	<ul style="list-style-type: none"> <li>Community Resettlement Committee in each Location to identify those to be prioritized for employment.</li> <li>Certain positions to be reserved for female only.</li> <li>The Gender requirement be observed as much as possible.</li> </ul>				
National Safety Net programs for Vulnerable persons / Government support programs	<ul style="list-style-type: none"> <li>Facilitate the Ministry of Social Services to create awareness on the Programs and requirements in the 5 Locations / Settlements.</li> <li>Costs for the Ministry of Culture and Social Services staff to Register the qualifying Vulnerable PAPs in each Location for 3 days per Location (15 days)</li> </ul> <p><b>Orphans</b></p> <ul style="list-style-type: none"> <li>Link up orphans with government scholarship opportunities by liaising with County Government</li> <li>Link up orphans with the county government for registration under Cash Transfer for Orphans and Vulnerable Children</li> </ul> <p><b>PLWD</b></p>	During project construction	KETRACO Ministry of Labor and Social Protection	<p>Kshs 100,000 for the 5 Locations / Settlements</p> <p>Kshs 20,000 for an average of 15 days to cover the registration process and transport fuel in addition an allowance of Kshs 10,000 has been awarded to an average of 5 staff to carry out the process in the 15 days.</p> <p>Along the 5 Locations</p> <p>Along the 5 Locations</p>	<p>Kshs 500,000</p> <p>Kshs 1,050,000</p> <p>nil</p> <p>nil</p>



Key Livelihoods Interventions	Livelihood Activities /Programs	Timelines	Responsibility	Basis of Computation	Budget
	<ul style="list-style-type: none"> <li>● Liaise with County Government Social protection department to register PLWD with Cash Transfer for Persons With Severe Disabilities (PWSD-CT)</li> </ul> <p><b>Elderly</b></p> <ul style="list-style-type: none"> <li>● Link up the elderly (65 years and above) with Social protection department a County level for registration with Older Persons Cash Transfer (OPCT) program</li> </ul> <p><b>Others</b></p> <ul style="list-style-type: none"> <li>● Link up the extremely impoverished households with Hunger Safety Net Program (HSNP) via social protection department</li> <li>● Link up the vulnerable households children to County / constituency scholarships program.</li> </ul>			Along the 5 Locations	nil
				Along the 5 Locations	nil
TOTAL COST					Kshs 32,300,000 0

### 8.1 Introduction

A fundamental principle of any project implementation is to prevent or minimize grievances rather than going through a redress process. This can be achieved through commitment to a human rights-based approach towards displacement and resettlement, thoughtful project design, ensuring full participation and consultation of the PAPs and establishing extensive communication and coordination between the affected communities, and the project. However, and despite proactive stakeholder engagement, this does not always preclude grievances from arising, given the involuntariness of displacement and the inconvenience that accompanies it.

Involuntary displacement and resettlement are therefore prone to grievances, which if not handled swiftly can significantly delay the successful completion of the project.

The RAP implementation process, therefore, provides opportunities for the PAPs to air and articulate their queries, concerns, issues, complaints, dissatisfaction or sense of injustice or unfairness, and seek to have these resolved amicably, and in the shortest time possible. Any landowner, structure owner, tenant, or other PAPs should be able to file a grievance for any difficult decision, practice or activity, arising from signing of easement, relocation, compensation, or any other topic related to the project. Therefore, a Grievance Redress Mechanism (GRM) as a mechanism, or set of procedures and processes, or organizational systems and resources, to be used as a means to hear, address and resolve issues and complaints related to project implementation (which can include to entitlements, mitigation measures and other arising issues), in a timely manner is critical for project success. The stakeholder input handled through these systems and procedures may be called grievances, complaints, feedback, or any other functionally relevant terminology or concept.

Some of the possible grievances that can be anticipated or are most likely to occur during the implementation of this RAP may include:

- Misidentification and/or omission of genuine assets and PAPs from the PAP and Asset register;
- Errors are committed in the recording of PAPs details concerning property and valuation;
- Disputes or contestations over the ownership of valued assets/property; Two or more people claiming an asset or business (owner and the operator are different persons);
- Disputes over parcels limits, either between the affected person and the Project or between two neighbors;
- Disputes over valuation of affected assets, including disagreement over the proposed entitlements, unit applied;
- Conflicts and disputes over plot/parcel boundaries, or even inter-county boundary competing claims, the first being between the PAP and the project, or PAP and their neighbor;
- Infighting between families due to succession, divorce, fights over right to inheritance, lack of spousal consultation in the disposal of assets or compensation funds;
- Disagreements over ownership shares of joint property or assets;
- Disagreements on modes of payment e.g., whether cash or in-kind;
- Disagreement over resettlement measures or sites, for instance on the citing of the site, type of assistance offered, loss/decrease of business or income due to relocation, etc.;
- Interruption of community social or other services and infrastructure e.g. water, access to pastures
- Damage to un-expropriated assets such as land, crops, and trees during acquisition.

## 8.2 The objective of a Grievances Redress Mechanism

Primarily, GRMs are designed as a conduit for soliciting inquiries, inviting suggestions, and increasing community participation in a project. To the extent that projects can achieve success on these dimensions, mainly, an effective GRM mechanism can be useful in various ways:

- Generating public and stakeholder awareness about the project and its objectives;
- Increasing stakeholder involvement in the project;
- Improving project outcomes: through timely resolution of issues and problems, GRMs can contribute to timely achievement of project objectives such as timely acquisition and resettlement to enable project completion on time;
- Providing feedback to different levels of the project-on-project performance such as providing project staff with practical suggestions/feedback;
- Acting as an early warning mechanism, GRMs can identify and resolve implementation problems in a timely and cost-effective manner: They help teams catch problems before they become more severe and/or widespread, before they escalate, thereby preserving project funds and its reputation, and avoiding time-consuming disputes. Therefore, acting as a useful risk management tool;
- Building community-project relations, through creating and maintaining trust with affected persons and community stakeholders, thus enhancing the project's legitimacy among stakeholders;
- Allowing staff involved in project implementation to be more accountable, transparent and responsive to PAPs;
- Deterring or curbing fraud and corruption; and,
- Assessing the effectiveness of internal organizational processes but also improving the operational processes and performance of an organization.

## 8.3 Guiding Principles for an effective Grievance Redress Mechanism

Several guiding principles should drive the design of an effective GRM. GRMs that involve these principles are more likely to provide effective resolution of grievances.

*Table 8-1: Principles of GRM Formation*

Principles	How adhered in the Malindi-Kilifi Line
<b>Start early in the project cycle:</b> GRM (or at least the lowest level institution at PAP level should be put in place as early as possible, and later modified as the need arises.	<ul style="list-style-type: none"> <li>● CRCs already formed in 5 Locations. The PAPs elected/confirmed the members.</li> </ul>
<b>Accessible and straightforward:</b> should be accessible to diverse members of the community, with multiple points of entry and access. Should be known to all intended to use it.	<ul style="list-style-type: none"> <li>● The procedures and mechanisms are simple and easily understandable.</li> <li>● CRCs (lowest level) established at location level thus within reach of the PAPs, including the vulnerable.</li> <li>● Multiple points of complaints provided.</li> <li>● Elimination of barriers such as cost in the project-based mechanism</li> <li>● Sensitization of communities in the area of influence on the grievance procedure and how to access it recommended in this RAP</li> </ul>
<b>Legitimate:</b> Enabling trust from the stakeholders intended to use it	<ul style="list-style-type: none"> <li>● CRCs Elected by the community/PAPs in a public meeting, to enable trust and acceptance.</li> </ul>
<b>Participatory and Inclusive:</b> developed in a participatory manner and includes representatives from the main actors/categories relevant to the project/area	<ul style="list-style-type: none"> <li>● Membership of CRCs drawn from main groups among the PAPs relevant in a specific case, including gender consideration.</li> <li>● All key categories of PAPs, local leadership and Government will be involved.</li> </ul>

Principles	How adhered in the Malindi-Kilifi Line
<b>Contextualization and appropriateness (e.g., Cultural and Context-Sensitive):</b> need to be localized to ensure it is appropriate to the local context, keeping in line with local structures; incorporating context-specific cultural attributes as well as traditional mechanisms for raising and resolving issues.	<ul style="list-style-type: none"> <li>● No insistence on a single number to be met but the community advised that a committee of sizable number (not too large or small using 10 as example) is vital to the functioning of the committee.</li> <li>● An effort to incorporate context-specific factors e.g., clans, traditional institutions such as the Council of Elders (Wazee wa Chief/Nyumba Kumi).</li> <li>● Government administration e.g., chief or assistant chief incorporated in all CRCs.</li> <li>● other institutions with authority and function as dispute resolution centres incorporated e.g., Imams, pastors</li> </ul>
<b>Responsive, Timely, and Efficient:</b> Should be responsive to the needs of all complainants, and resolutions should be reached in the soonest time possible to discourage lengthy suits that are time-wasting.	<ul style="list-style-type: none"> <li>● Short response periods recommended to the GRM.</li> <li>● Regular feedback to all who raise grievances is recommended.</li> <li>● Training of the committees is recommended to ensure effective action.</li> <li>● Lengthy administrative and legal procedures should be avoided and resorted to as the last option.</li> </ul>
<b>Transparency/ Confidentiality:</b> Users must be informed how they can access the mechanism. All complaints should be handled fairly and impartially, confidential (on sensitive issues / where complainant prefers anonymity and the committee members should act independently of any external influence while concerned parties can air their views and complaints without fear of reprimand;	<ul style="list-style-type: none"> <li>● General sensitization on the GRM needed (some minimal level of sensitization achieved during the public meetings).</li> <li>● Clear and known procedures with an indicative timeframe for each stage and clarity on the types of process and outcome incorporated.</li> <li>● Confidentiality of the dialogue between parties and of individuals' identities should be provided where necessary. Use of a representative / unique serialization can be adopted for grievance tracking purposes.</li> </ul>
<b>Formalized:</b> the mechanism needs to be formally established, predictable and well known, and not ad hoc. It needs rules for addressing grievances, holds regular meetings/deliberations on specific and well-known days to discuss the issues. Laid out and expected timetable for key process milestones is essential.	<ul style="list-style-type: none"> <li>● Official activation of the CRC recommended and community already informed of the same.</li> <li>● Set timelines and procedures established and will be adhered to.</li> <li>● Documentation, e.g., through minutes integrated into the proposed mechanism procedures.</li> </ul>
<b>Appropriate Protection:</b> The mechanism should prevent retribution and should not impede access to other remedies.	<ul style="list-style-type: none"> <li>● Sensitization to include that complainants will not be targeted with reprisal.</li> <li>● Legal recourse provided for in the GRM as a valid grievance redress option course.</li> </ul>

The grievance process should seek to rebuild and maintain relationships between the affected parties and the project thus been beneficial not only to the PAPs but also the project since it will avoid delays that can derail the project implementation for an extended period. It should not negate the rights of any PAP, thus consistent with international best practices and standards, and should not restrict access to other redress mechanisms. Legal means for dispute resolution, therefore, remain open and available to the PAPs, when the need arises. Finally, it is vital that it enables continuous learning and is flexible enough to allow modifications and improvements from emerging lessons. Therefore, regularly reviewing and acting upon grievances data and trends is essential.

#### 8.4 The Grievance Structure

This RAP proposes a three (3) – tier grievance redress mechanism at the:

- Community level
- KETRACO level
- Legal redress level.

The table matrix below shows GRM composition and functions.

Table 8-2: GRM composition and Functions

Institution	Membership	Functions
<b>Community Resettlement Committee</b>	<ul style="list-style-type: none"> <li>● Established at the community level in each location.</li> <li>● Varies from a 7 to 15-member committee (to ensure there are no ties in case they need to vote on a case) depending on the settlement's uniqueness</li> <li>● Membership is drawn from a variety of factors including project affected persons (male, female, structure/land owners, affected institutions where needed, persons living with disabilities, council of elders' representatives, Youth, religious groupings etc.), and cognizance of local dynamics.</li> <li>● A representative of the local government administration such as chief or assistant chief is a default member.</li> <li>● (if needed) A community liaison person representing the firm that implements the RAP or hired by KETRACO if need be can be included. Community Liaison Officer (CLO) will be the link between the CRC and KETRACO.</li> <li>● For authority, the local chief or assistant chief representation in the committee will be the convener.</li> <li>● At activation, the groups will select a chairperson, vice chairperson and secretary. The secretary must be someone who can read and write in English.</li> </ul>	<ul style="list-style-type: none"> <li>● Assist PAPs to file a complaint.</li> <li>● To address PAPs grievances as 1<sup>st</sup> point of contact, within 1 month and at no cost to PAP.</li> <li>● Publicize the grievance management procedures.</li> <li>● Receive, review, investigate and keep track of grievances through the grievance logs/registers.</li> <li>● Adjudicate and develop redress options for the raised grievances.</li> <li>● Monitor fulfillment of agreements achieved through the committee.</li> <li>● Provide inputs into the monitoring and evaluation process such as monthly reports on grievances.</li> </ul>
<b><i>If no amicable solution or settlement is reached, the aggrieved person is not satisfied or does not hear from the CRC within the required time limits, they can escalate the grievance to the next level</i></b>		
<b>Project Implementation Team (PIT)</b>	<ul style="list-style-type: none"> <li>● Largely, KETRACO based Project Implementation Team (PIT) who will consider grievance reports forwarded to it and make a determination. Membership consists of Department of Environment and Social Safeguards (with a minimum of social safeguards/RAP Expert/Sociologist, a surveyor, valuer), and other representatives from KETRACO's other departments (including a finance officer, a legal counsel/advisor, a community liaison person, communications officer). Team to be headed by a Project Coordinator or Manager, preferably a senior staff from Environment and Social Safeguards.</li> </ul>	<ul style="list-style-type: none"> <li>● Escalation Mechanism to determine grievances unresolved by CRC – within 2 months and at no cost to PAP.</li> <li>● KETRACO will acknowledge receipt of complaints within two weeks and will strive to resolve each complaint within two months.</li> <li>● Responsible for monitoring the complaints – handling performance at lower levels.</li> <li>● Providing inputs into the monitoring and evaluation process, such as quarterly reports on grievances handled.</li> </ul>

The aggrieved person can go Court as a last resort. Given the above mechanism, it is not foreseen that many disputes will end up in court.

Institution	Membership	Functions
<b>Court of Law</b>	<ul style="list-style-type: none"> <li>●The Land and Environment court deals specifically with land and environment-related disputes of which displacement and valuation are part.</li> </ul>	<ul style="list-style-type: none"> <li>●PAPs not happy with the project process free to seek legal redress and at their own cost. The legal option will only act as an avenue of last resort and will be sought after all other redress mediums have been exploited and exhausted.</li> </ul>

At NLC, the complaints and grievance address system also remains open to the PAPs who will not be happy with the awards given. Note that NLC can also choose to work with these committees to address and resolve some issues. Notably, the community level committee would be useful for the verification of claims raised to NLC in public inquiries.

#### 8.4.1 Community Level /Community Resettlement Committees

Following the sensitization, the PAPs on the need for grievances redress, the RAP team leader during the meetings with PAPs explained the criteria of selection and representation of various Community Resettlement Committees (CRC) members. Thereafter, the members were given 30 minutes to elect their CRC representatives. The Community Resettlement Committees (CRC) were unveiled in every administrative location and chaired by the Chief assisted by the sub location Assistant Chief. However, in Kilifi Township location and Langobaya Location, two CRCs were formed at Sublocation level traversed by the RoW, due to the huge number of PAPs in these locations. This decision was reached in liaison with the local administrative leaders due to the number of PAPs in the area and distance covered. Participants were guided on the criteria and procedure for electing the Community Resettlement Committee (CRC) members. The criteria included members:

- Be primarily affected by the transmission line i.e. project affected members (PAPs),
- Must be over 18 years
- Be of sound mind and character according to Chapter Six of Kenyan Constitution 2010
- Be a fulltime resident in the location area
- Must include: representatives for PAPs, Village Managers / community leaders, men, women, youth, religious institutions and People Living with Disability, CBO / NGO and Elderly
- Be willing and available to serve as members of the CRC

The list of names of PAPs from the census was shared with each group. The elections were presided over by either the location or the Sub location Chief. The CRC election procedure was decided on by the participants with each of the villages being represented. The election procedures included consensus by all member and voting through a show of hands. The CRC members were elected as per criteria shared and based on the respective community's methods of selecting people who sit in their governance structures guided by cultural norms and values. Government representatives were members by virtue of positions held in the community. After the elections the names were loudly read to the meeting for confirmation and endorsement by the participants. The details including names, ID, contacts and representatives of various groups were then recorded in the minutes.

The committee will support in resolving grievances as soon as they arise, through the agreed/strengthened socio-cultural approach. Some of the anticipated roles will include confirming identities of PAPs and lands with incomplete documentation for purposes of compensation, dispute resolution as well project monitoring and liaison with KETRACO to mitigate against and assist to resolve any unforeseen negative project impacts. Those elected (Table 8.3) were presented to the participants in plenary and their terms of service (TORs) affirmed to be circulated when

the project is officially launched. A detailed list containing the names, ID numbers and contacts of the CRC members is appended, *Annex 11 – List of CRC members*.

*Table 8-3: CRC Status and Composition in 8 Areas*

Location Name	No. of CRC members		Groups represented
	Male	Female	
Goshi Location	9	2	Youth, Persons Living with Disabilities (PLWD), Women/ Vulnerable, Elders, Administration, Religious/Institutions
Jilore Location	8	3	Youth, Elders, PLWD, Women/ Vulnerable, Administration, Religious
Lango Baya location (Makombe Sublocation)	6	3	Youth, Elders, Women/ Vulnerable, Men Religious, Administration.
Lango Baya location (Malanga Sublocation)	8	2	Administration, PAPs Women, Elders, Youth, Women
Sokoke Location	7	3	Youth, Elders, Women, Land Owners, Structure Owners, Administration, Elders, PLWDs,
Kilifi Township Location (Konjora Sublocation)	6	3	Administration, Elders, Women/Vulnerable, Youth PLWD, CBOs/Women Groups, PLWDS

**Note:** There were 5 Locations as captured in Table 2-3. Nonetheless there are 7 CRC's since two locations i.e. Kilifi Township and Lango Baya Location have 2 CRC's each (formed at the affected sublocation level). This was done in liaison with the location administration due to the high number of PAPs and distance covered.

In order to ensure efficiency in running of the CRCs, and as per KETRACO RPF, the RAP recommends that CRC members be paid a facilitation fee of Kshs. 1,000 per sitting by KETRACO.

#### 8.4.2 KETRACO level

The second level grievance redress will be the KETRACO level. KETRACO will seek to resolve complaints through its internal processes or seek arbitration/mediated resolution before informing the complainant to seek judicial resolution if they are still not satisfied. KETRACO's internal project grievance redress process will include redress by the PIT, or the institution of an arbitration/mediation process by the Company Secretary where appropriate. At the KETRACO level, grievances will be received through email, letters, verbal, suggestion box or from the CLO or the CRC (grievances unresolved at the CRC level). Once grievances are received, they will be logged into the grievance log in the office. Some grievances may be resolved immediately, especially those that need KETRACO's project staff to provide information to the complainant. If not, they will be escalated to KETRACO's PIT. KETRACO will acknowledge receipt of complaints within two weeks and will strive to resolve each complaint within two months.

#### 8.4.3 Third Level: Legal & Judicial Redress Mechanisms in Kenya

In the event that the complainants are dissatisfied with the outcome of the second level of grievance resolution, they shall be advised to seek recourse through the following dispute resolution bodies at their own cost and as a last resort. For land acquisition related matters, this is mainly directed to the Land and Environment Court. Particularly, the Land Value (Amendment) Act 2019 and constitution establishes the Land Acquisition Tribunal (The Tribunal) and Environment and Land Court (high court) and empowers this court to determine disputes relating to the amount of compensation to be paid for land acquired compulsorily in the public interest.

For other matters, and depending on the nature of the issue, this can also include:

- i. The Commission on Administrative Justice for matters on Administrative Justice
- ii. The Energy Tribunal for matters on Energy



#### 8.4.4 National Land Commission Grievance and Appeals System

The Land Act 2012 empowers NLC to manage public land and carry out compulsory acquisitions of land for specified public purposes. NLC has been constituted and thus legally, NLC is supposed to provide approval to the request made by KETRACO to acquire land. NLC is also expected to notify landholders in writing of the intention to acquire land; assist in resolving disputes related to compensation; undertake public consultation on intended acquisition.

#### 8.4.5 AfDB Grievances Redress Mechanism

The African development bank provides for grievance redress mechanisms that provide avenues for individuals and communities to submit complaints directly if there is belief that they have been, or are likely to be, adversely affected by AfDB-funded project. This Can be done in 2 ways:

62) Registering a grievance with the AfDB in county (Kenya Team): Ideally PAPs are encouraged to reach out to the Kenya country team if they feel aggrieved.

63) The Independent Review Mechanism

The Independent Review Mechanism (IRM) administered by Compliance Review and Mediation Unit (BCRM)) provides people adversely affected by projects financed by the African Development Bank Group (AfDB) with an independent mechanism through which they can request the Bank Group to comply with its own policies and procedures.

For recourse, BCRM receives requests presented by two or more persons (such as community of persons, an organisation, association, society or other grouping of individuals) and/or by a qualified representative of the affected persons who demonstrate that their rights or interests have been or are likely to be adversely affected by the non-compliance of the relevant Bank Group policies. The requestor(s) and any other interested persons may ask that their identities be kept confidential, and if so, the reasons for such confidentiality.

Requests must be sent to the Director of the Compliance Review and Mediation Unit (BCRM), African Development Bank Group (AfDB)

Compliance Review and Mediation Unit (CRMU) – AfDB

BP 1387 Abidjan 01, Cote d'Ivoire

Immeuble du Centre de Commerce International d'Abidjan (CCIA) - Avenue Jean Paul II |, 14th Floor  
[BCRM info@afdb.org \(link sends e-mail\)](mailto:info@afdb.org)

Tel: +225 27 20 26 20 56 (CRMU Front Office)

The BCRM handles requests through;

64) Compliance Review (investigation)

The compliance review function is handled by the IRM Roster of Experts comprising three external professionals, appointed by the Board of Directors for a five-year non-renewable term. The Experts together with the Director of BCRM determine eligibility of request(s) for compliance review, and submit their eligibility report, recommending whether or not to undertake the compliance review, to the Board of Directors or to the President, as the case may be for project's status of approval.

65) Problem-Solving (mediation).



In a request for problem-solving, BCRM will restore an effective dialogue between the requestors and any interested persons with an aim to resolving underlying issues without seeking to attribute blame or fault to any such party

BCRM is not authorized to register requests relating to:

- Procurement complaints from bidders and suppliers;
- Fraud and corruption since they are handled by another unit within the Bank Group (IACD);
- Matters before the Administrative Tribunal of the Bank;
- Matters before other judicial review or similar bodies;
- Frivolous or malicious complaints;
- Complaints motivated by an intention to gain competitive advantage;
- Matters already considered by the IRM, except where there is material new evidence;
- Actions that are the sole responsibility of other parties;
- Adequacy or unsuitability of AfDB's policies and procedures; and Alleged Human Rights violations, other than those involving social and economic rights alleging any action or omission on the part of the Bank Group.

### **8.5 Grievance Redress: Process, Procedures and Timelines**

Grievance procedures may be invoked at any time, depending on the complaint. No person or community should experience any further impact until any complaints he/she has are satisfactorily resolved, following the procedures below:

#### **8.5.1 Grievance uptake: Receipt and Lodge/Register**

The community level grievance redress procedure will start with registration of the grievances with KETRACO's Community Liaison Officer (CLO) on site or with the CRC. The CLO will convene a meeting with CRC, invite the aggrieved party to the meeting and present the grievance to the committee for hearing. It is envisaged that the CRC will acknowledge receipt of the complaints and grievances within 5 working days, and strive to resolve the matter within one month. The CRC will ensure that grievances reported to it are dealt with in a fair, consistent and timely manner, in accordance with the agreed timelines and resolution modes. Each CRC will be encouraged to resolve matters objectively and to escalate to KETRACO any disputes that they are not able to resolve within established timelines. In this regard, the CRC will seek to eliminate unreasonable or illegitimate claims which may be driven by other factors that are not genuine, or project related, and satisfy legitimate claimants by reconciling the aggrieved PAP(s) either with one another, or with KETRACO as the case may be.

KETRACO's Community Liaison Officer (CLO) will be the link between the CRC and KETRACO. If the CRC is unable to satisfy the claimant, then the matter will be escalated to KETRACO through the CLO. Being a support to the CRC, the CLO in agreement with the CRC will escalate the unresolved complaints to the PIT, with documentation about the issue, how it has been dealt with by the CRC as well as the reason for the stalemate.

A number of avenues should be made available to the PAPs for communication of grievances, e.g. through e-mail, text messaging, telephone calls, face to face interactions with members of the committees, by post e.g. to KETRACO.

Ideally, at the settlement / location method, and despite the use of the variety of channels, Community Liaison Officer (CLO) is responsible for receiving, referencing, registering, and filing all grievances. The person will listen to

the complainant and where necessary. For instance, if complainant does not speak or write Swahili/English) assist in filling the grievance form (*Annex 9i– Grievance Registration form*). Both the complainant and CLO will sign the form, after the complainant verifies the accuracy. Ideally, a grievance should be lodged orally or in written form and in the language the complainant is comfortable in. The CLO then translates this into an English form. A sample Grievance Registration Form can be found in the Annex (*Annex 9i -Grievance Registration Form*).

The CLO then logs the grievance into the grievance log or register (*Annex 9ii – Grievance Log or Register*), giving each case a unique number, date complaint was lodged, complainant (if not a sensitive issue), nature of complaint, and in later stages action taken, or not taken, with reasons for the latter. As per the grievance register the CLO should ensure confidential reporting while handling sensitive cases such as GBV and anonymous reporting for those who choose to report anonymously. The use of unique assigned number should guide in tracking the grievances. Ideally, the use of the CLO ensures a centralized logging and tracking system – very essential for accountability.

### 8.5.2 Sorting and Processing: Acknowledge, Assess and Assign

A written acknowledgment of receipt of the grievance is sent to the aggrieved person within 5 working days, having been signed by the chairperson of the committee, and showing that the grievance has been received, will be logged and reviewed for eligibility, and if eligible, and will generate an investigation. This is key for accountability and shows the complainant the committee takes him/her and the grievance seriously.

The committee sits, and since various types of grievances will be lodged, and not all will be handled by the CRC, this sitting will first assess the eligibility of the issue for the GRM mechanism while those not related to project eliciting an immediate response and referral to the right process or organisation. Such may include complaints constituting criminal activity and violence.

For eligible complaints, these are categorized as (a) comments, suggestions, or queries; (b) complaints to be handled by CRC; (c) complaints to be referred directly to KETRACO and other parties. Some, e.g. (a) above may only require an immediate clarification or a simple explanation, while for (b) type of complaints, these will be assigned priority for investigation.

In each, the action required is written down in the grievance registry.

**Collaborative:** Not all complaints should be handled through a GRM. For example, grievances that allege corruption, coercion, or significant and systematic violations of rights and/ or policies are typically referred to organizational accountability mechanisms or administrative or judicial bodies for formal investigation, rather than to GRMs for collaborative problem-solving.

### 8.5.3 Verification and Investigation

The CRC will then hold a meeting on the grievance and may work in consultation with the aggrieved person. In this step, they will also gather information on the grievance and decide on the corrective action within 2 weeks. The proposed action will be lodged in the register.

#### 8.5.4 Develop and Communicate Response

The CRC will inform the complainant within 7 days of the finalization of investigation and committee resolution – through a meeting, followed by a summarized written communication of the decision and resolution – of the results of investigations and the actions proposed, seeking to seek agreement on the response. The actions can be:

- Direct action to resolve the complaint;
- Further assessment and engagement with the complainant and/or involving other actors to jointly determine the best way to resolve the complaint.

Two possible scenarios can result from this meeting:

- The aggrieved party accepts the proposed corrective action: A written agreement is developed, detailing the time frame for implementing the corrective action as well as responsible party. This is signed by the CLO and CRC chairperson (KETRACO in the case of the second level GRC) and the aggrieved party, and the corrective action commences. The acceptance is also lodged in the log, and later the completion date will be lodged after verification that recommended action was undertaken by the CRC, or concerned party. Ideally, Parties should be given 5 working days within which to provide a response of agreement or rejection of the resolution.
- The aggrieved party rejects the proposed corrective action: The default position is that case/matter is referred to KETRACO level, following procedures outlined earlier. If the project-based GRM does not result in an action acceptable to the aggrieved party, he/she can resort to the judicial recourse

If the project-based GRM does not result in an action acceptable to the aggrieved party, he/she can resort to the judicial recourse.

#### 8.5.5 Action: Implement Response and Review if Successful

When there is agreement between a complainant and the CRC such as acceptance of a proposed action, thus enabling the process to move forward with the proposed action or stakeholder process, then the response should be implemented as soon as possible and without undue delays but within a month of the acceptance of the resolution..

#### 8.5.6 Closeout or refer the grievance

Where the response has been successful, the secretary of the committee and CLO should document the satisfactory resolution in the grievance resolution form (*Annex 9iii – Grievance Resolution Form*). It is best to have the complaint countersign to show their satisfaction with the response. The grievance is then indicated as closed.

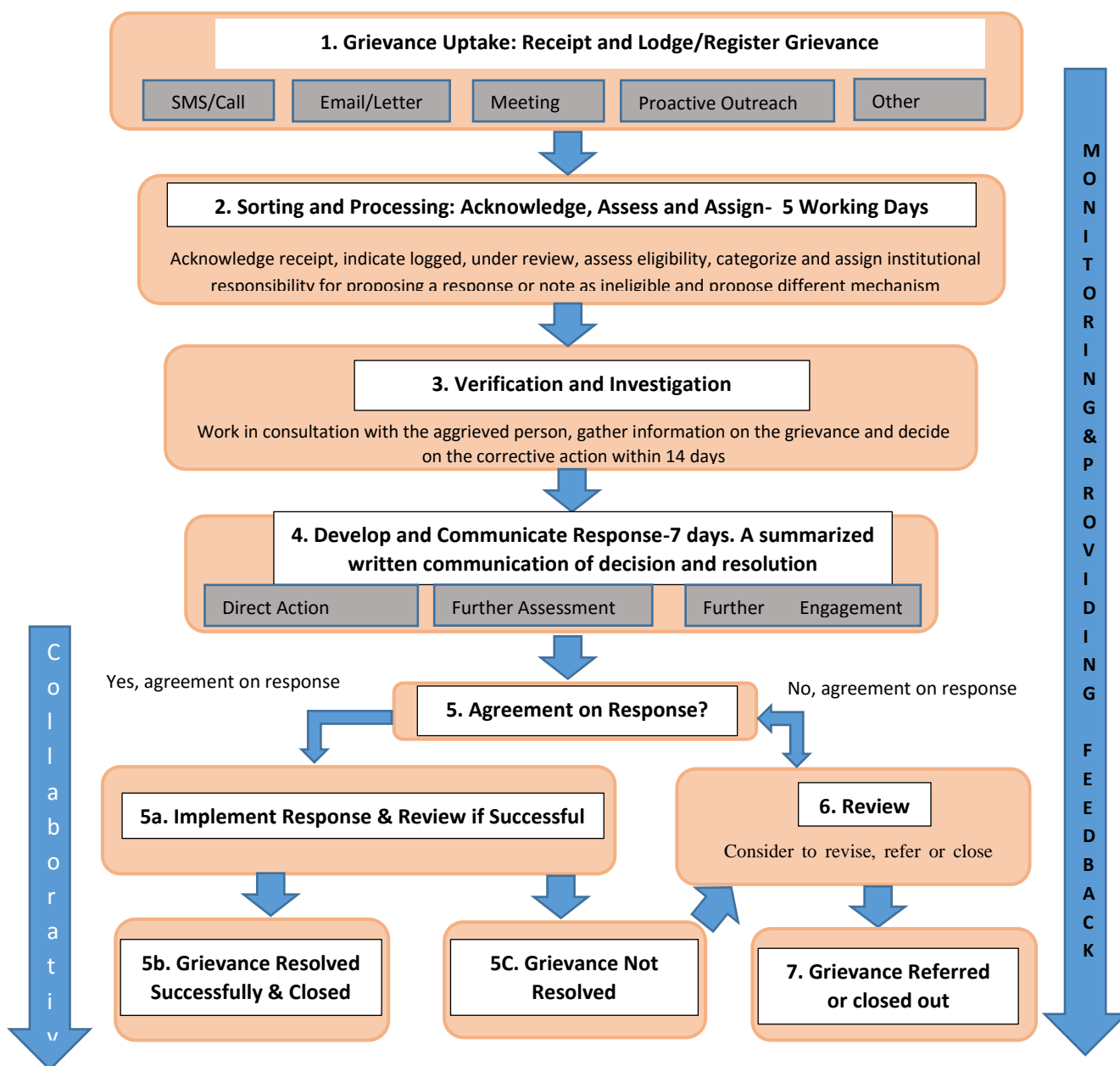


Figure 8-1: Summarized Project-Based GRM Process

## 8.6 Other Key Considerations

### 8.6.1 Remuneration of the committee members

All the members of the various committees established at the different levels will perform their duties on a voluntary basis. There will be no remuneration other than costs associated with transport, communication, meals and sitting allowance. The amount can be reviewed from time depending on logistics involved in bringing the members together for admission of justice to PAHs

### 8.6.2 Monitoring, Evaluation, and Providing Feedback

At all levels, regular progress monitoring of grievances filed, their status and actions taken and recommendations/resolution will be constantly undertaken. The PIT is individually responsible for monitoring and tracking grievances, assessing the extent to which progress is being made to resolve them, and generating quarterly reports. These reports and data/lessons generated should be used to make policy and/or process changes to minimize similar grievances in the future or to adapt the GRM to correct or remove inefficiencies.

### 8.6.3 Documentation

At all levels, keeping of documentation should be ensured, including the grievance registers, grievance forms. Every meeting should have written minutes and approved by the relevant parties.

### 8.6.4 Sensitization and Capacity Building

To create demand for the GRM mechanism, thus avoiding escalation of issues to court, KETRACO will undertake the following.

#### i. Sensitization of the PAPs on the grievance mechanism and its procedures

The effective working and use of the CRC depend on the awareness of its existence. Therefore, PAPs need to understand and support the purpose of the project GRM. Although the consultant undertook some level of sensitization, comprehensive exercise is required to publicize the existence of the GRM, its procedures, the levels, and other relevant information. The communications strategy should also reach out to disadvantaged and marginalized groups, which often cannot access GRMs.

Communication methods and materials should include meetings, project website, bulletin boards in strategic sites (for instance at the chief's office) brochures summarizing the GRM process, and where possible be translated into the local languages as resources permit. Particular messages which need to be reinforced continually may include:

- The project-based GRM is cost-free: there are no financial charges for PAPs to access or have the committees hear a dispute; however, PAPs not happy with the project-based GRM process will be free to seek legal redress. This means they will be expected to bear the costs associated with legal redress through courts.
- The GRM is open to all;
- There exist mechanisms to escalate an issue if one committee is not able to address it satisfactorily;
- There is no retribution for complainants such as they are not punished;
- The types of grievances that can be submitted;
- The procedures to lodge a complaint and timeframes;
- Confidentiality can be assured where needed; and
- The project welcomes suggestions, recommendations, and grievances as they help improve the project's policies and systems.
- Further, KETRACO and contractor (where applicable) staff working on the project will be sensitized to the SEP and GRM.

#### ii. Capacity building of the CLO and CRC

It will be important for the CLO/Wayleave officer to be appointed based on his/her experience and training in conflict resolution through mediation and reconciliation. It will also be important for the CLO to have sufficient skills in data management, including data entry, data analysis and storage. This notwithstanding, it will be important that steps are taken to orient and build the capacity of the officer as part of the project implementation team in

conflict resolution procedures, such as mediation and reconciliation, and other management areas such as record-keeping, report-writing and ICT equipment management.

The eight (8) CRCs will undergo training, e.g. on best practices in resettlement, grievance redress, monitoring, and evaluation to enable them to be more effective in their work. The Committee members will also need to be oriented to the grievance management system outlined in this RAP. The capacities of the Grievance Committee members will also need to be built around issues of conflict identification, conflict information analysis, and conflict resolution. This exercise should include detailed terms of reference for the committees.

#### **8.6.5 Phasing out of Committees After Project Completion**

Often, development programmes form various committees and tend not to phase them out after completion of the project. Committees such as the CRC can easily metamorphosize, increasingly undertaking activities not within their mandate, and causing conflict with other institutions. Therefore, after completion of the RAP implementation (and more ideally, the transmission line construction), KETRACO will hold official phasing out ceremonies to acknowledge the committees and indicate the end of their terms of reference. Part of the appreciation, in this case, can include certificates of recognition.

#### **8.6.6 Client Commitment to Grievance Redress: Process, Procedures, and Timelines**

The success of procedures and activities in the previous sections much depend on KETRACO commitment towards ensuring the effectiveness and efficiency of the system, thus requiring:

- Regular monitoring,
- Commitment to learning and adapting systems; and
- Provision of sufficient budgets and tools (e.g., grievance registers, forms, files, facilitation fees) to cover their operation and implementation of functions.
- Continuous capacity building of the committees.

### **8.7 GRM Budget**

Grievance redress mechanisms (GRMs) is an effective tool for early identification, assessment, and resolution of complaints on the proposed project. Like any other activity, allocation of adequate resources is needed to enhance the effectiveness of the process. This RAP therefore recommends 4% of total valuation and compensation budget inclusive administrative costs be GRM Implementation Budget. The budget should ensure efficiency in setting up suggestion/anonymous boxes, a dedicated hotline for receiving grievances, running of the CRCs amongst other issues deemed necessary for effective implementation of GRM. Notably, as per KETRACO RPF, the RAP recommends that CRC members be paid a facilitation fee of Kshs. 1,000 per sitting.

### 9.1 Introduction

This section describes the process that will be followed to complete the resettlement planning and, thereafter, to realize resettlement and livelihood restoration in line with national requirements and AfDB. Whilst the national process forms the basis of the approach for land acquisition, resettlement, and compensation, additional activities and process improvements will be needed to meet AfDB OS2. This section describes the approach to delivering the resettlement process, taking into account the construction modality and timings being proposed by KETRACO. To meet international standards, it will be necessary for KETRACO to own and drive the process working in close collaboration with national and county authorities and locally with area administration.

The transmission line project has some positive and negative effects especially to those who may be displaced from their lands to pave the way for wayleave hence incumbent upon KETRACO to compensate them for the loss of use of their land and developments therein.

### 9.2 RAP Implementation Principles

The main objective of resettlement and compensation is to ensure that the PAHs get fair and prompt compensation. In this way it is expected that their income, production capacity and standard of living will be improved, or at least restored to their former levels. The guiding principles for the implementation of the RAP will be as follows:

- Resettlement or relocation has been minimised by taking into consideration all possible alternative measures;
- Compensation will be paid before project works start in a specific project area and in a manner that does not curtail the livelihoods of the PAHs in terms of access and utilisation of such compensation;
- The compensation values-awarded will be fair enough to restore the livelihoods of PAHs;
- The compensation awards will be paid out according to the preference of the PAHs;
- A statutory disturbance allowance of 15 per cent of the compensation value will also be included;
- All other activities related to the RAP will be communicated in advance to the PAHs using the preferred channels of communication;
- Where grievances arise, the respective PAHs will be given an opportunity to be heard, fairly and promptly;
- Measures will be taken to ensure that vulnerable groups get special assistance and support; and where spousal and children consent is needed, the provision will be enforced.

66)

### 9.3 Institutional arrangements

The implementation of the RAP requires collaboration from all the stakeholders. This would require adequately constituted structure for the administration of the same. A Stakeholders Engagement Plan (SEP) has been developed – *Refer to Annex 10 SEP* – to support and guide PAPs consultations during RAP implementation. The Institutional Framework clarifies the role of various stakeholders in the implementation and administration of the RAP. It further clarifies the role of PAPs and their responsibility in the entire exercise. The procedures to be followed along with the support facilities available and a timeframe for implementation of each of the activities.

The key institutions with a role in this RAP include:

### 9.3.1 National Government

The National Government will be involved through the provincial administration including the County Commissioner, Deputy County Commissioner, Assistant County Commissioner, and Chief / assistant chiefs. The respective officials are critical in maintaining order in the area in respect of which they are appointed. They are also important in ensuring peace, security and conflict management. In specific, chiefs and assistant chiefs are critical in enhancing communications at the grassroots level and ensuring communities receive key project information that is timely, accurate and credible.

### 9.3.2 Kenya Electricity Transmission Company (KETRACO)

The overall responsibility of compensation and resettlement rests with the implementing agency- KETRACO. KETRACO will nominate a team composed of experts with diverse key disciplines that oversee the RAP implementation process herein referred to as by the Project Implementation Team.

KETRACO being the project proponent will work together with National Land Commission (NLC) and essential departments in the County and National Government. KETRACO has the responsibility of securing the compensation and resettlement funds and paying the PAPs as per the required policies.

### 9.3.3 The National Land Commission (NLC)

The commission is legally mandated to undertake land acquisition on behalf of the government. It will take up the issues of verification of ownership after the completion of the RAP Study. It will set out clear procedures for any possible land acquisition considering project impacts and land rights.

KETRACO will share the Final RAP Report to NLC with a schedule of lands to be affected for ownership gazettelement for “acquisition.” NLC has the responsibility of resolving land issues including land disputes arising from historical injustices. They will play a crucial role in the land issues triggered by wayleave acquisition. In brief NLC will:

Facilitate the gazettelement of the line

- Ensure resolution of disputes in value of land per acre.
- Manage public land on behalf of the national and county governments
- Encourage the application of traditional dispute resolution mechanisms in land conflicts
- Ensure that public land/land under the management of designated state agencies is sustainably managed
- Develop and encourage alternative dispute resolution mechanisms in land dispute handling and management.

### 9.3.4 The County Government

The County Government will participate in the RAP Implementation process through the Social Services Department, Planning, Land and Housing Department, Sub-County Administration; and Ward Administration, the department of Agriculture, livestock and fisheries.

### 9.3.5 National Treasury

The Treasury provides funding through the Ministry of Energy. They are critical in ensuring budgetary allocation for the project and RAP implementation including compensation.

### 9.3.6 Ministry of Energy (MoE)

The Ministry of Energy liaises with the Treasury to ensure adequate budgetary allocation for project activities. They will facilitate transfer of funds to KETRACO. In essence, MoE is responsible for procuring resources from the National Treasury and other developmental partners for the overall project implementation. The Ministry is also responsible for coordinating the actions of the implementing agencies to ensure they are geared towards meeting the project development objectives. In this regard, KETRACO will look to the Ministry to provide oversight to ensure that the overall approach related to issues between KETRACO and KPLC is well coordinated. In brief, MoE will:



- Provide adequate financing for RAP implementation through budgetary allocation
- Overall project coordination and oversight through regular meetings with KETRACO and KPLC
- Consolidation of progress reports from KETRACO & KPLC
- Reporting to financier

### 9.3.7 Ministry of Environment and Natural Resource

This Ministry is responsible for policies and programmes aimed at improving, maintaining, protecting, conserving, and managing the Country's natural resources (water, forestry, wildlife, and environment). The Ministry through NEMA will play a critical role in ensuring natural resources are conserved during the resettlement process.

### 9.3.8 Ministry of Agriculture

The ministry is responsible for various roles involving national goals of rural development, food security, rural income growth and job creation. The ministry fulfills its responsibilities through its departments and parastatals. Their role will be key during the RAP implementation and in the specific livelihood restoration process; for instance, agricultural interventions such as training farmers on sustainable agriculture including supply of seeds will require guidance from the Ministry of Agriculture.

### 9.3.9 The Ministry of Labour and Social Protection

The Ministry of Labour and Social Protection was established following the reorganization of Government in May, 2016. The Ministry has two State Departments; Labour and Social Protection. Social protection will be key in the RAP implementation during livelihood restoration programs and in particular linking of PAPs to National Safety Net programs for Vulnerable persons / Government support programs.

### 9.3.10 National Environment Management Authority (NEMA)

- The National Environment Management Authority (NEMA) exercises general supervision and, co-ordination of all matters relating to the environment and is expected to make approval of the project through issuance of a license.
- NEMA is also the principal instrument of the government in the implementation of all policies relating to the environment.
- NEMA is also the Designated National Authority for certain Multilateral Environmental Agreements.

The Authority will review EIA / ESMP project and study reports for the proposed project, visits the project sites to verify information provided in the report and issues EIA licenses if it considers that all the issues relevant to proposed projects including resettlement of affected persons have been identified and mitigation measures to manage them have been proposed.

### 9.3.11 Kenya Forest Service (KFS),

Kenya Forest Service is a corporate body established under the Forest Conservation and Management Act no 34 of 2016. The Act, which was operationalized on 31st March 2017, gave the Service's mandate as "to provide for the development and sustainable management, including conservation and rational utilization of all forest resources for the socioeconomic development of the country and for connected purposes." KFS is bound to conserve, protect and manage all public forests in accordance with the provisions of the Act. Mitigation measures to deal with the cut trees are well expounded in the ESIA / ESMP for the proposed Malindi -Kilifi project. Nonetheless KFS will / could play a significant advisory role during the livelihood restoration plan by training farmers on sustainable tree planting and management including supply of tree seedlings to all farmers.

### 9.3.12 Kenya Wildlife Services (KWS),

Kenya Wildlife Service is a state corporation that was established by an Act of Parliament (Cap 376), repealed by Wildlife Conservation and Management Act (WCMA 2013), with the following mandate of among others: conserve and manage national parks, wildlife conservation areas, and sanctuaries under its jurisdiction. KWS undertakes conservation and management of wildlife resources across all protected areas systems in collaboration with stakeholders. KWS will be key on wildlife management found within the ROW such as areas surrounding Arabuko Sokoke Forest of the proposed transmission line during RAP implementation. Mitigation to deal with wildlife are well expounded in the ESIA / ESMP for the proposed Malindi -Kilifi project.

### 9.3.13 The African Development Bank

AfDB will lay the benchmarks for all environmental and social safeguard issues including Resettlement Action Plan (RAP) process concerned with the development and implementation of the project. In brief Banks will:

- Monitor project performance indicators.
- Assess the implementation of the ESMF, and RPF and recommend additional measures for strengthening the management framework and implementation performance, where need be..
- Review project specific safeguards instruments, e.g., ESMPs, ESIAs and RAPs to ensure that their scope and quality are satisfactory to the Bank.
- Monitor the implementation of the different prepared instruments through regular supervision missions (which will include an environmental and/or social specialist) during which document reviews, and site visits and spot-checks will be conducted as needed

## 9.4 The RAP Implementation Organization Structure

### 9.4.1 Project Implementation Team (PIT)

The overall responsibility of compensation and resettlement rests with the implementing agency- KETRACO. KETRACO will nominate a team composed of experts with diverse key disciplines that oversee the RAP implementation process herein referred to As by the Project Implementation Team.

All PAHs will be compensated before their structures are demolished, thus compensation will be paid before project works start at a specific site/in a specific area as per the contractor's work schedule, and with sufficient 3 months notice period for relocation. KETRACO will be the lead agency in the RAP implementation and will work together with the County and National Governments in the PA to implement the RAP. KETRACO projects are managed by the PIT but the RAP process is spearheaded by the Environmental and safeguard section.

In this project, KETRACO has an established Project Implementation Team (PIT) specifically for this project and will implement this RAP. The unit will be responsible for ensuring that PAHs promptly access their compensation entitlements and that their livelihoods are restored after resettlement. The RAP implementation team will be responsible for:

- 67) Delivery of the RAP compensation and rehabilitation measures;
- 68) Appropriate coordination between the agencies and jurisdictions involved in the RAP implementation; and
- 69) The measures (including technical assistance) needed to strengthen the implementing agencies' capacities for managing the facilities and services provided under the project.

The day-to-day role of the PIT RAP implementation team will be to:

- i) Plan and coordinate prompt compensation payments;

- j) Plan and coordinate non-cash compensation such as special assistance to vulnerable groups;
- k) Ensure that the compensation process and entitlements adhere to legal provisions such as spousal and children's consent where it applies, and following the succession Act in case of the death of a PAH;
- l) Report to the KETRACO's senior management team and stakeholders;
- m) Ensure that the information needs of the PAHs are disseminated promptly and effectively;
- n) Establish, manage and update the RAP implementation database;
- o) Contribute to the regular monitoring and evaluation of the RAP implementation;
- p) Consult and sensitise the community and PAHs with regard to the RAP implementation progress.
  - Validation of PAHs prior to compensation
  - Making payments for loss/ easement of land, structures, trees and crops to the PAHs (payments to be made to bank accounts through the National Land Commission)
  - Appropriate coordination between the agencies and jurisdictions involved in the RAP implementation; and
  - Coordinate construction schedule of contractors
  - Alert PAHs on when they would be needed to relocate.
  - Plan, facilitate and coordinate CRC trainings and subsequent meetings

The KETRACO-PIT staffing includes a **social specialist, surveyor and Community Liason Officer (CLO)** who will be dedicated to this project and who will be the focal points and coordinators with respect to the RAP implementation. The key implementation processes of the RAP require continuous presence in the project area and continuous communication with authorities, CRC and affected people. With regard to the implementation of the RAP, KTRNIP-PIT resettlement staff will have the following responsibilities;

#### **9.4.1.1 Communication and Coordination**

This function will be undertaken by PIT from KETRACO and it entails the following:

- Overall coordination with County Government of Baringo and Laikipia and local administration with regard to the Project's RAP issues.
- Establishment and implementation of good and operational relations to affected communities (KETRACO to develop a Stakeholder Engagement Plan for this Project)
- Communication and cooperation with CRCs as key actors with implementation processes (i.e. compensation process, monitoring, identification of vulnerable people)

#### **9.4.1.2 Management of RAP Implementation**

This function will be undertaken by PIT from KETRACO and it entails the following:

- 70) Ensure and monitor overall social and environmental due diligence within RAP implementation (national requirements, lenders requirements)
- 71) Oversee RAP key implementation processes
- 72) Oversee Compensation process
- 73) Oversee Grievance mechanism
- 74) Monitoring of the RAP implementation
- 75) Manage staff recruitment processes and contracting processes of external service providers
- 76) Design of overall training plan for implementation staff, oversee implementation of plan

- 77) Review the budget needed for the implementation of this RAP and make request for the funding from KETRACO;
- 78) Provide the funds for compensation.

The KETRACO-PIT staffing who will be the focal points and coordinators with respect to the RAP implementation are as shown in table 10-1 below. KETRACO will be solely incharge of land acquisition and the implementation of the RAP. The key implementation processes of the RAP require continuous presence of KETRACO PIT in the project area and continuous communication with authorities, CRC and affected people. With regard to the implementation of the RAP, KETRACO-PIT resettlement staff will have the following responsibilities;

*Table 9-1:PIT Roles and Responsibilities*

SN	Expert	Role
i.	Team Leader (project manager/ General Manager, Technical Services)	Supervise technical designs and operations <ul style="list-style-type: none"> <li>• -Approve technical works</li> <li>• -Approval of social and environmental instruments (RAPs, ESIA/ESMP</li> <li>• -Administration of technical staff</li> <li>• -Bridge between the management and the technical team</li> </ul>
ii.	General Manager, Finance	<ul style="list-style-type: none"> <li>• -Authorize payments</li> <li>• -Supervise accounting systems</li> </ul>
iii.	Senior Manager Legal services	<ul style="list-style-type: none"> <li>• Supervise wayleave and land acquisition</li> <li>• -Facilitate transfer of alternative land acquired for vulnerable project displaced persons (PDPs)</li> <li>• -Promote amicable settlement of any disputes that may arise during the resettlement process</li> <li>• -Facilitate the transfer of substation land to KETRACO</li> <li>• -Register easements</li> </ul>
iv.	Social safeguards officer (assisted by Assistant Socio-economists and Community Liaison Officers).	Responsible for all social safeguard activities of the project, including: <ul style="list-style-type: none"> <li>• -Link between the PAPs and KETRACO</li> <li>• Contact local administration (county and national government) and plans for sensitization meetings</li> <li>• -Hold sensitization meetings and sensitize communities on the project</li> <li>• -Handle the social component of the project</li> <li>• --Prepare RAP for the project</li> <li>• -Supervise RAP Consultants</li> <li>• -Responsible for supporting the project Engineer in ensuring timely implementation of the RAP</li> <li>• -Carry out a socio-economic survey of the project area</li> <li>• -Oversee Resettlement</li> </ul>
v.	Environmental safeguards officer	Preparation of EIAs <ul style="list-style-type: none"> <li>• -Acquisition of ESIA licenses</li> <li>• -Implementation of Environmental Social Management Plans (ESMP)</li> <li>• -Supervise consultant</li> </ul>
vi.	Valuer	Wayleaves acquisition <ul style="list-style-type: none"> <li>• -Valuation and Compensation</li> <li>• -Resolving land related disputes</li> <li>• -Negotiations overcompensation</li> </ul>

vii.	Surveyor	<p>Draw mutations for land transfers</p> <ul style="list-style-type: none"> <li>• -Ground trothing</li> <li>• -Rerouting the line</li> <li>• -Scaling of the trace for valuation</li> <li>• -Supervise contracted surveyors</li> </ul>
viii.	Legal officer	<p>In charge of KETRACO's project legal services</p> <ul style="list-style-type: none"> <li>• -Supervise wayleave and land easement signing</li> <li>• -Facilitate transfer of alternative land acquired for vulnerable project displaced persons (PDPs)</li> <li>• -Draft contracts for outsourced RAP services and monitor the contract implementation</li> </ul> <p>-Promote amicable settlement of any disputes that may arise during the resettlement process</p> <p>-Register easements</p> <ul style="list-style-type: none"> <li>• -Custodian of the company seal</li> <li>• -Secretary to the board of directors</li> </ul>
ix.	Civil Engineer and Electrical Engineer	<p>Has overall responsibility for the project, including:</p> <ul style="list-style-type: none"> <li>• -Ensuring timely preparation and implementation of the RAP prior to start of civil works</li> <li>• Prepare project progress reports</li> <li>• Coordinate work during construction</li> <li>• Supervise contractors</li> <li>• Handle re-routings</li> <li>• Disseminate information to contractor</li> <li>• Review and approve project designs</li> <li>• Conduct FATs for construction materials</li> <li>• Approve payments for the contractor</li> </ul>
x.	Accountant	<p>Responsible for project funds</p> <ul style="list-style-type: none"> <li>• Collects PAPs payment details</li> <li>• Validates payment details</li> <li>• Processes payments for PAPs</li> <li>• Updates the wayleave acquisition schedule</li> </ul>
xi.	Project Clerk	<p>Has the overall responsibility of keeping project documents</p> <ul style="list-style-type: none"> <li>• Distribute gazette notices to PAPs</li> <li>• Deliver offer letters to PAPs</li> <li>• Collect accepted offer letters and requisite documents from PAPs</li> <li>• Update the wayleave acquisition schedule</li> </ul>
xii.	Wayleave/Liaison officers	<p>Is the face of KETRACO on the project site</p> <p>Disseminate information to PAPs</p> <ol style="list-style-type: none"> <li>Receive grievances on site</li> <li>Resolve and escalates grievances to the PIT</li> </ol>

		iii. Informs the contractor of the open fronts for work
iv.	Communication Officer	Develops and coordinates the Corporate communication between KETRACO and the community <ul style="list-style-type: none"> <li>• -Coordinates Corporate Social Responsibilities</li> <li>• Coordinates Project notices and publications</li> <li>• -In charge of complaints channeled through official corporate channels</li> </ul>

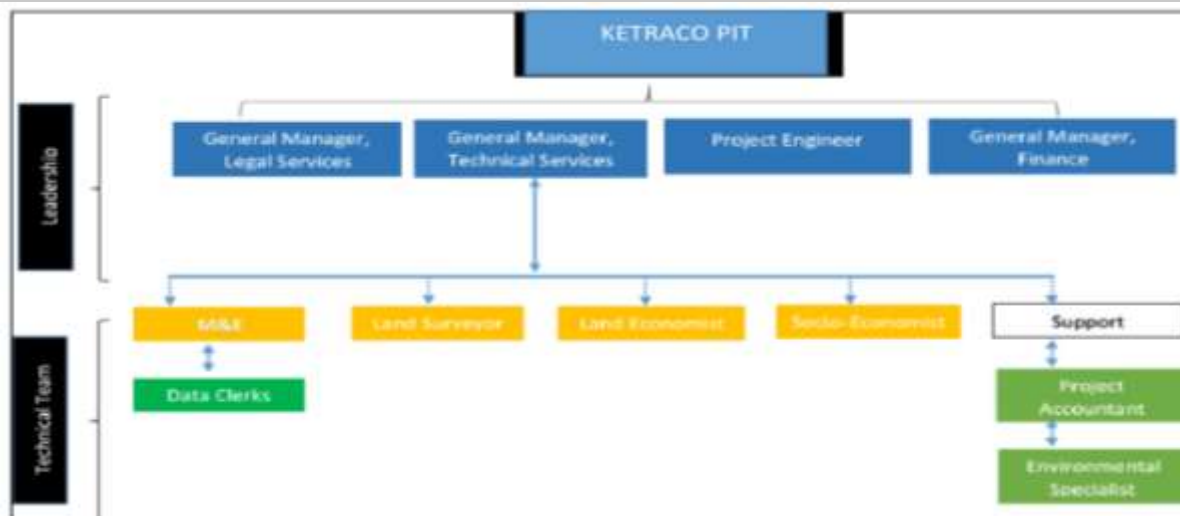


Figure 9-1:KETRACOs Project Implementation Team

#### 9.4.2 Community Resettlement Committee (CRC)

The CRC committees were established at the community level in each settlement (Location) and varied from a 7 to 15-member committee depending on the Location's or settlements uniqueness. A representative of the local government administration such as chief or assistant chief was elected a default member and (where needed). Every committee at its activation will select a chairperson, vice-chairperson and secretary. The secretary must be someone who can read and write in English.

A total of eight (8) committees were formulated along the Malindi – Kilifi line (*Annex 11 – List of CRC members*). The committees will be initiated to ensure timely execution of the whole process and further clarify the role of PAPs and their responsibility in the resettlement process. Membership was drawn from a variety of factors including Project Affected Persons (male, female, structure/landowners, affected institutions where needed, persons living with disabilities, council of elders' representatives, Youth, religious groupings, etc.), and cognizance of local dynamics. For authority, the local chief or assistant chief representation in the committee will be the convener.

The committee's role will include: -

- Assist PAPs to file a complaint.
- To address PAPs grievances as the first point of contact, within 1 month and at no cost to PAP.
- Publicize the grievance management procedures.
- Receive, review, investigate, and keep track of grievances through the grievance logs/registers.
- Adjudicate and develop redress options for the raised grievances.
- Monitor fulfillment of agreements achieved through the committee.

- Provide inputs into the monitoring and evaluation process, such as monthly reports on grievances.

#### **9.4.3 Community Liaison Officer (CLO)**

A Community Liaison Officer (CLO) representing, or wayleave officer employed by KETRACO will be included in the CRC. The CLO positions will be filled by staff hired from the communities in the project area.

The CLO's role will include

- Liaise with the community
- Liaise with CRC in registration of grievances
- Escalate grievances to KETRACO
- Acts as the link through Communication (in the local language) between KETRACO and the Community

#### **9.4.4 Remuneration of RAP Implementation Unit**

The RAP has provided a lump sum budget for RAP implementation which will cover the allowances for this unit. The allowances costs will also cover the following institution representatives who will be involved in the implementation of this RAP, i.e: County Government Representatives (CEC for Lands and Physical Planning) (1 per County).

- National Land Commission
- National Government Representatives (Chiefs) for each affected location (1)
- KETRACO PIT
- Local and county administration.

### **9.5 Payment and Compensation Procedures**

Wayleave is a right of way (ROW) over the land of another. This ROW is for carrying sewer, drain, power line or pipeline into, through, over or under any lands but in so doing may interfere with the existing buildings.

Wayleave acquisition is the process of enumerating affected assets, identifying affected people and registering easement on affected land parcels to grant a right of way.

So far KETRACO surveyors have carried out a desktop study of alternative routes from point A to B for electricity power evacuation. The best alternative with minimal impacts on people and the environment is chosen through discussions by the PIT.

Once a route has been chosen the PIT undertakes a stakeholder engagement and public sensitization process in order to create awareness about the impending project and communicate their intention to create a wayleave for the electricity transmission line.

At this point the surveyors seek for permission to undertake ground survey in order to identify the affected land parcels and their rightful owners.

This survey enables the surveyors to learn more about the geographic conditions and planned improvements to the land. The surveyors then profile the topography to aid in designing a line that minimizes impacts and costs of implementation.

The PIT then uses the above data to undertake a full RAP study of the transmission line corridor, carry out socio-economic surveys and enumerate all affected properties including land. So far all these processes have been undertaken.

Once this RAP is approved and disclosed, a number of activities will then follow:

- Detailed Survey of the Land which will then result in the final cadastral map showing how all the land parcels are impacted.

- **Gazettement:** A schedule of the affected parcels of lands and the RAP will be shared with NLC for ownership gazettement for “acquisition.
- 79) NLC also has the responsibility of resolving land issues including land disputes arising from historical injustices. They will play a crucial role in the land issues triggered by wayleave acquisition
- **Validation/verification of Impact and affected Assets by Ketraco** including final valuation:
- 80) Valuation of land in the different sections within the transmission corridor is also carried out by independent registered valuers to establish a fair market value of land within the project area.
- 81) **Offer to the PAPs:** Once valuation has been approved, Ketraco provides an acquisition document that sets down the terms of the agreement and an offer, based on the fair market value of the property. A survey and appraisal are needed before an offer can be made. offer letters are written to all affected landowners. KETRACO thus discloses the value of the affected portions of land to the landowners and if there are disputes, negotiations are done with landowners in good faith to reach a settlement for the property rights needed.
- 82) All land parcels and easements acquired by KETRACO are obtained through mutual agreement with all landowners. Ketraco negotiates in good faith with land owners to reach a settlement for the property rights needed. Nearly all of ketraco land parcels and easements are obtained through mutual agreement with land owners. If an owner refuses to negotiate or an agreement cannot be reached, ketraco can file a condemnation action in the Superior Court of the county where the property is located. The use of compulsory acquisition is a last resort. On average, less than 4 percent of ketraco land transactions are heard in court.
- 83) In addition, if a PAP rejects the value being offered by KETRACO as compensation for land, they have an option of seeking the services of a registered valuer to revalue their land which will be interrogated by Ketraco valuers so as to amicably resolve the dispute.
- 84) Once and agreement is reached, PAPs will be compensated and given 3 months notice to vacate the land...more so for those building structures to rebuild these out of the RoW
- 85) An easement is then executed and registered on all affected parcels and owners compensated accordingly. Easements may be acquired by grant express or implied, statute or adverse possession under the limitations of actions act.

All compensation payments will be made through designated bank accounts of PAHs. PAHs without bank accounts will be assisted to open up bank accounts.

## 9.6 RAP Cost and Budgeting

The overall financial responsibility for facilitation of affected land as well as properties such as structures is solely mandated to KETRACO and by extension the Ministry of Energy. The Treasury provides funding through the Ministry of Energy which ensures adequate financing for RAP implementation through budgetary allocation to KETRACO.

### 9.6.1 Cost Per Item Per Location

The detailed valuation schedules can be accessed in the annex as highlighted in **table 9-6 below**.

*Table 9-2:Detailed valuation schedules*

Annex 14	Schedule
a)	Compensation For Registered Land For Malindi-Kilifi TI
b)	Compensation Of Land Less Than Kshs 5000-Registered Land
c)	Compensation For Adjudicated Land For Malindi-Kilifi TI



d)	Compensation of Land Less Than Kshs 5000-Unadjudicated Land
e)	List Of Non-Registered Land Owners For Malindi-Kilifi TI
f)	Compensation For Structures For Malindi-Kilifi TI
g)	Compensation For Crops For Malindi-Kilifi TI
h)	Compensation For Trees For Malindi-Kilifi TI
i)	Compensation For Businesses(Loss Of Income) For Malindi-Kilifi TI
j)	Compensation For (Employees) Loss Of Income For Malindi-Kilifi TI
k)	Compensation For (Tenants) Loss Of Rent For Malindi-Kilifi TI

The budget / values per location / settlement is as presented in the succeeding summary of tables 9-7.

### 9.6.2 Goshi LocationT

#### 9-3:Summary of values per the locations

Components	Value (Kshs)
Land	6,311,128.62
Structures & other improvements	19,303,607.86
Disturbance Allowance (15%)	2,895,541.18
Crops	2,070,049.13
Trees	6,743,025
Loss of Rent-Tenants	6,000
<b>TOTAL</b>	<b>37,329,351.79</b>

### 9.6.3 Jilore location

Components	Value (Kshs)
Land	8,544,100.59
Structures & other improvements	105,353,067.34
Disturbance Allowance (15%)	15,802,960.10
Crops	1,779,529.07
Trees	9,377,850
Loss of Business Income -Business Owners	1,279,500
Loss of Rent-Tenants	195,000
<b>TOTAL</b>	<b>142,332,007.10</b>

### 9.6.4 Lango Baya Location

Components	Value (Kshs)
------------	--------------

Land	17,035,094.56
Structures & other improvements	23,047,746.70
Disturbance Allowance (15%)	3,457,162.01
Crops	1,152,990
Trees	50,523,450
Loss of Business Income -Business Owners	50,400
<b>TOTAL</b>	<b>95,266,843.26</b>

#### 9.6.5 Sokoke/Nyari Location

Components	Value (Kshs)
Land	16,565,209.04
Structures & other improvements	19,931,406.52
Disturbance Allowance (15%)	2,989,710.98
Crops	2,315,956
Trees	12,551,725
Loss of Business Income -Business Owners	200,700
<b>TOTAL</b>	<b>54,554,707.54</b>

#### 9.6.6 Tezo/Kilifi North Township Location

Components	Value (Kshs)
Land	43,417,384.84
Structures & other improvements	61,993,104.03
Disturbance Allowance (15%)	9,298,965.60
Crops	2,296,529
Trees	19,235,050
Loss of Business Income -Business Owners	134,800
Loss of Rent-Tenants	4,800
<b>TOTAL</b>	<b>136,380,633.47</b>

**Subtotal (All Locations) ..... Kshs 465,863,543.17**

#### 9.7 Certificate of Value

Subject to terms of reference, limiting conditions, general remarks and the analysis of potential damage and application of valuation methodologies, the likely cost of the damages anticipated from the proposed 82.5km 220 Kv Malindi –Kilifi double circuit line from Malindi substation to Kilifi substation is; Kshs **697,428,960.53**.

This cost is inclusive of compensation budget; administrative costs, miscellaneous costs, and contingencies; grievance redress mechanism implementation; support to Vulnerable individuals and households; stakeholder engagement; monitoring and evaluation; and livelihood restoration.

The grand total / certificate of value for the RAP can be broken down as follows:

*Table 9-4:Certificate of Value*

Location	Costs (Kshs)
Goshi	37,329,351.79
Jilore	142,332,007.10
Lango Baya	95,266,843.26
Sokoke/Nyari	54,554,707.53
Tezo/Kilifi North township	136,380,633.47
<b>Subtotal (compensation budget)</b>	<b>465,863,543.17</b>
Livelihood Restoration Plan-Actual cost	32,300,000
<b>Total Compensation and Livelihood restoration</b>	<b>498,163,543.17</b>
10% of <b>Total Compensation and Livelihood restoration</b> to cater for administrative costs, vulnerable, miscellaneous costs, and contingencies	49,816,354.32
Stakeholder engagement and Grievance Redress Mechanism Implementation Plan- 10% of Total Compensation and Livelihood restoration	49,816,354.32
Asset /Impact validation verification exercise (5% Total Compensation and Livelihood restoration)	24,908,177.2
Monitoring And Evaluation-5% of Total Compensation and Livelihood restoration	24,908,177.2
Contingency (10% Total Compensation and Livelihood restoration)	49,816,354.32
<b>Grand Total RAP Budget</b>	<b>Kshs 697,428,960.53</b>

### 9.8 Implementation Schedule

The KETRACO's RAP implementation team has developed the schedule for the implementation of activities. The implementation schedule includes:

- Target dates for the start and completion of compensation payments;
- Timetables for and the place of compensation payments;
- Target dates for fulfilling the prerequisites for compensation payments and other legal requirements by PAHs;
- The timetable for special assistance to vulnerable groups;
- Dates for vacant possession of the acquired land from the PAHs (this date must be after the payment of all compensation); and

- The link between the RAP activities to the implementation of the overall sub-project components.

The RAP will be implemented over 22 months, including three months for exit. Other activities, such as project monitoring and grievance management, will run throughout the RAP implementation cycle. The proposed schedule timelines is subject to change depending on when RAP approval is obtained and finances secured.

The activities related to construction of the Project are expected to commence sometime in mid to late 2023 by which time the PAHs are expected to have moved from the site. It is expected that by then, all the PAHs will have been fully compensated in line with the findings of the RAP study and that all the grievances arising will have been resolved in order to pave way for the project execution.

The proposed activities will take place in three stages, such as

- RAP Preparation Phase:* Largely preparatory work towards RAP approval and implementation. This will need a decision on the implementation modality for the RAP, and KETRACO has to make that decision early on whether to implement sections, not under NLC mandate or to hire a firm/NGO. A Possibility also exists to hire individuals on a contract basis to beef up KETRACO PMRU. Some livelihood activities are also better used when delivered early, for instance, training of PAPs.
- RAP Implementation Phase:* Actual awards are made and PAPs relocate
- Monitoring and Evaluation of the process

Overall, the RAP implementation should not take more than 30 months.

Table 9-5: Project Implementation Schedule

	RAP IMPLEMENTATION SCHEDULE (KABARNET-RUMURUTI 132kV TRANSMISSION LINE)																																
		Year	2022	2023												2024																	
		Month	9-12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6
	Activity/Month	Responsibility																															
1	RAP Review and Approval	KETRACO/AfD B																															
2	Disclosure of the approved RAP on KETRACO and AfDB websites	KETRACO/AfD B																															
3	Initial Land Wayleave/Easement Activities	KETRACO																															
a	Detailed TL Route Survey	KETRACO																															
b	Verification/Validation of Asset register/RAP impacts	KETRACO																															
c	Notification for Easement of Land (NLC)	KETRACO																															
d	Gazettement of Land Requirements/acquisition	KETRACO/NLC																															
4.	Public Sensitization and Awareness (public Barazas in all affected locations)/RAP Disclosure to PAPs	KETRACO																															
a	Distribution of Gazette Notices to PAPs and Key stakeholders	KETRACO																															
5	Capacity development of resettlement staff	KETRACO																															
6	Grievance Redress	KETRACO																															
a	Formation of Grievance Committee (CRCs)	KETRACO/Local Admin																															
b	Capacity building and Activation of Grievance Committee (CRCs)	KETRACO/Local Admin																															
c	Grievance Redress	KETRACO																															

	RAP IMPLEMENTATION SCHEDULE (KABARNET-RUMURUTI 132kV TRANSMISSION LINE)																																
		Year	2022	2023												2024																	
		Month	9-12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6
7	Financial training for the sustainable and prudent use of cash compensation by PAPs	KETRACO/Qualified Financial Experts																															
8	Easement Compensation activities	KETRACO																															
a	Letter of Offer to PAPs, Negotiation and Agreement on compensation	KETRACO																															
b	Compensation and Resettlement of PAPs including 3 months’ notice period	KETRACO																															
c	Registration of Easements on Land	KETRACO																															
d	Route clearing	Contractor																															
9	Livelihood Restoration Capacity Building and Related activities	KETRACO/ Govt Institutions e.g Ministry of Agriculture																															
10	Monitoring and Evaluation of RAP implementation	KETRACO/Consultant																															
a	Internal Monitoring	KETRACO																															
b	Midterm Review	KETRACO																															
c	RAP completion and audits	KETRACO/Consultant																															

### 10.1 Introduction

Monitoring refers to a routine and systematic collection of data relating to project resources, activities, and performance to assess performance and guide implementation. In this manner, it provides regular feedback and early indications of progress, or lack of progress thereof, allowing for speedy adjustments to ensure RAP objectives are met. It informs on whether project activities and outputs are going on as planned and thus points to the likelihood of whether the objectives will be met or not – thus providing opportunities to feedback into the project process, and effect changes where necessary, towards the actualization of the objectives of the RAP.

Evaluation, on the other hand, focuses on the performance of a project versus intended objectives, through asking the principal question; is the project producing the anticipated impact or outcomes? In other cases, as applicable to this RAP, it is the periodic such as mid-term and final assessment of an ongoing or completed project. In combination, the Monitoring and Evaluation enable the assessment of progress as well as overall success and effectiveness of the implementation of the resettlement and compensation processes and measures, and the resultant outcomes and impacts.

The objectives of monitoring the land acquisition, compensation and resettlement process will be to:

- to provide feedback on land acquisition, compensation and resettlement implementation in order to allow the timely adjustment of implementation arrangements; and
- to demonstrate that the land acquisition, compensation and resettlement process is being managed in line with objectives and desired outcomes.

This section provides an introduction to the key elements of the monitoring plan that will be required.

### 10.2 General Objectives of M&E

The general objective of the M&E system is to provide a basis for assessing the overall success and effectiveness of the implementation of the resettlement and compensation processes and measures. Monitoring and Evaluation is a specific requirement of the any RAP implementation Process which necessitates as part of the process framework, a comprehensive description of the arrangements for monitoring the activities and process outlined in the resettlement instrument, in this case the RAP.

The main goal of M&E is to review to facilitate the adaptation of actions or performance towards the achievement of the objectives of the RAP such as the improvement or at least restoration of the social and livelihood resources of the PAPs at their pre-project level. The specific objectives of M&E will be to determine:

- i. If affected people are satisfied with the actual resettlement process;
- ii. If affected people have been paid in full and before implementation of the project that is causing resettlement;
- iii. If affected individuals, households, and communities have been able to maintain their pre-project standard of living, and even improve on it;
- iv. If information was disseminated prior to the project implementation; and
- v. If information was disseminated to vulnerable persons

Based on the above, the primary reference document for the review of the RAP is the real RAP itself, the existing Kenyan legal framework. The responsibility for M&E rests with the KETRACO's Project Implementation Team, with expected reporting to the higher levels of company management and to AfDB. It is KETRACO's responsibility to ensure that the exercises are well funded and adequate staffing is available more so for internal monitoring,

as well as setting up the right procedures to guide the exercise. These functions, as the next sections will show, can be exercised through partnerships with other stakeholders such as external firms. The M&E will be undertaken at two levels:

- Internal monitoring: This will be undertaken regularly by the PIT/Monitoring and Evaluation Officer and reported to the Project Management team and through monthly RAP implementation Reports to AfDB in line with all Category 1 reports requirements and,
- External evaluations (or end-time of RAP implementation)/Completion Audit: Evaluations will be undertaken by an independent consulting firm hired by KETRACO. Evaluation will be necessary in order to ascertain whether the commitments in this RAP have been met and whether livelihood and income restoration goals and objectives have been realised.

**10.3 The KTNIP RAP Monitoring and Evaluation Framework**

A comprehensive M&E framework should seek to track progress on five critical areas of RAP inputs, activities, output, purpose/ objectives and the goal/ long-term objective (See Figure below). These relate broadly to the two main components of a monitoring plan as identified by IFC’s handbook on resettlement such as RAP performance and RAP impact/outcome monitoring, and under which a variety of questions can be used as an essential guide in the monitoring process as table 10.1 below shows. The third, a completion audit can dwell on both areas.

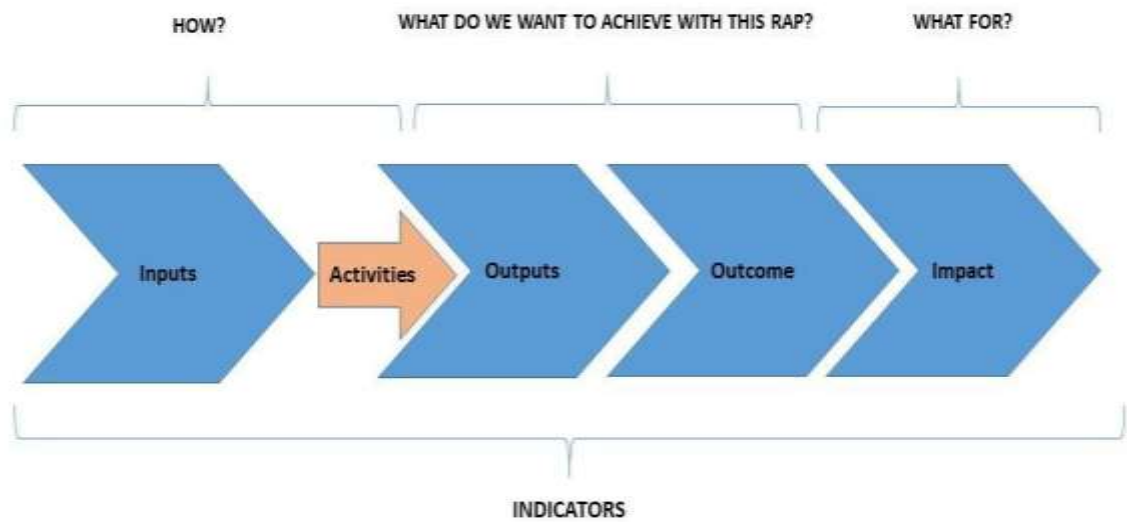


Figure 10-1:Key areas to track progress in RAP

Table 10-1:Key questions to guide monitoring and evaluation

Level in a result chain	Sample Key Questions to ask/guide	Corresponding Components of a Monitoring Plan
Inputs	<ul style="list-style-type: none"><li>•Are resources being used efficiently?</li><li>•What interventions, measures, and resources are needed?</li></ul>	(Internal) Performance monitoring



Level in a result chain	Sample Key Questions to ask/guide	Corresponding Components of a Monitoring Plan
<b>Activities</b>	<ul style="list-style-type: none"> <li>● Have planned activities been completed on time and within the budget?</li> <li>● What are we doing? Are we doing it right?</li> <li>● What unplanned activities have been completed?</li> <li>● What factors are affecting (in an enabling or disabling manner) the implementation of activities?</li> </ul>	(Internal) Performance monitoring
<b>Outputs</b>	<ul style="list-style-type: none"> <li>● What has direct tangible outputs the RAP implementation delivered?</li> <li>● Are we implementing the measures/interventions as planned?</li> </ul>	(Internal) Performance monitoring
<b>Purpose/objectives</b>	<ul style="list-style-type: none"> <li>● What changes have occurred as a result of the outputs? To what extent are these likely to contribute towards the project purpose and desired impact?</li> <li>● Has the RAP achieved the changes for which it can realistically be held accountable?</li> <li>● Are interventions working or making a difference?</li> <li>● What factors are affecting (in an enabling or disabling manner) the achievement of results as stated in the RAP and work plans?</li> <li>● To what extent and in what ways do KETRACOs (and its implementing partners) need to modify its activities or manner of working in light of results coming out of its reflection exercises?</li> </ul>	(External) Impact Evaluation
<b>Goal/long-term objective</b>	<ul style="list-style-type: none"> <li>● To what extent has the RAP implementation contributed towards its longer-term goals? Why or why not?</li> <li>● What unanticipated positive or negative consequences did the RAP proposed measures/interventions have? Why did they arise?</li> </ul>	(External) Impact Evaluation

Source: Global Fund (2009) and International Federation of Red Cross and Red Crescent Societies (2007)

### 10.3.1 Internal Performance Monitoring

Internal performance monitoring allows KETRACOs to measure physical progress against milestones and schedules of required actions established in the RAP. It is meant to be an internally driven continuous process such as routinely aimed at ascertaining the RAP implementation achievements against a set of specific actions. Performance monitoring assesses KETRACO performance in line with this RAP's scheduled activities, with a bias towards inputs, activities, and outputs such as measures if inputs (here defined as the services, resources or goods that contribute to achieving outputs and, ultimately, desired outcomes) are delivered promptly or on schedule. Internal monitoring is the responsibility of the Project Implementation Team. To avoid the perception that it is an additional activity, it will ideally be integrated into the overall project management to:

- Ensure that RAP activities are synchronized with all project implementation activities,

- Ensure that performance monitoring becomes a continuous process that relies on existing processes of collecting data to the extent possible, rather than scheduling of the exercise as a separate event.

This means the PMRU – the key person being the M&E officer – after every significant activity updates the M&E database. For instance, to monitor the delivery of the consultations held with the PAPs as scheduled, after the meeting, the title of the meeting held, date, number of participants (male and female), issues discussed, etc. should be updated in the database. Besides, after every compensation cycle undertaken by NLC, KETRACO would update, name of PAP and compensation amounts. The M&E officer works in collaboration with the rest of the PIT team, for instance the Community Liaison Officer to track progress of the grievance handling, finance office in tracking disbursement of facilitation, etc. However, in such a RAP as large as this, involving numerous activities and types of PAPs, ideally a software-based M&E programme would serve best, making it easier and efficient to produce monthly reports for review by the PIT. These can also use the reports to make decisions where adjustments are needed to ensure the RAP implementation process achieves the desired results and on time.

The objective of internal monitoring and supervision will be:

- To verify that the valuation of assets lost or damaged, and the provision of compensation, resettlement and other rehabilitation entitlements, has been carried out in accordance with the RPF, developed in line with Kenyan laws and World Bank Policies.
- To oversee that the RAP is implemented as designed and approved;
- To verify that funds for implementation of the RAP are provided by the Project authorities in a timely manner and in amounts sufficient for their purposes and that such funds are used in accordance with the provisions of the RAP.
- To verify that grievances are registered and handled as proposed in the grievance redress procedures of the RAP Report
- To verify that restoration of livelihoods is done in the shortest time possible and PAPs are able to continue with their normal livelihood activities.
- To verify that PAPs socio-cultural activities including access to social amenities (Religious institutions, and Schools etc.) are guaranteed.
- Establish the time taken and ability of the PAPs to re-establish their livelihood activities

Monitoring reports will be required for internal purposes to ensure that the RAP finalisation and implementation is on track, to identify and resolve emerging issues and to provide status reports to external groups such as financing partners. Monitoring reports will be completed by the Resettlement Implementation Team and KETRACO's Monitoring Officer, and provided to internal Project Management to review and discuss issues identified and corrective actions. In line with AfDB requirements for Category 1 reports, monthly RAP implementation reports will be submitted to the Bank.

Monitoring of the compensation process and activities is to ensure that effectiveness is achieved throughout the RAP implementation process.

Internal monitoring will be thematically carried out at two process levels; during the resettlement compensation payment period and after that period (post-compensation payment period). Each process/thematic period will have different monitoring issues which the M&E officer should pay attention to, as summarized in **Table 10-2** below.

Table 10-2: Monitoring Thematic Issues during and after Compensation Payments

<b><u>Thematic periods</u></b>	
<b><u>Resettlement compensation payment period</u></b>	<b><u>Post-resettlement compensation payment period</u></b>
<ol style="list-style-type: none"> <li>1. Number of PAHs compensated</li> <li>2. Number of PAHs who have acquired legal papers to new property</li> <li>3. Number of PAHs who have restored their livelihood enterprises</li> <li>4. Number of PAHs who have registered grievances with the project RC</li> <li>5. Number of PAHs whose grievances have been resolved</li> <li>6. Number of vulnerable PAHs or groups identified and assisted during compensation payments</li> </ol>	<ol style="list-style-type: none"> <li>1. Number of PAHs with successfully restored livelihoods and assets,</li> <li>2. Number of PAHs who have maintained social and cultural ties,</li> <li>3. No of PAHs whose grievances have been resolved or otherwise,</li> <li>4. Number of vulnerable groups assisted and restored livelihood enterprise and assets.</li> </ol>

All above indicators will be disaggregated according to gender, where applicable.

### 10.3.2.1 M & E Officer Roles and Responsibilities

The roles and responsibilities of the Monitoring Officer must be seen to directly contribute to the objectives of the internal monitoring process. The roles and responsibilities will involve:

- Setting up a system to collect on a monthly basis basic demographic and livelihood data about PAHs and having this data entered into a database for M&E;
- The identification and improvement of indicators to measure the RAP performance;
- The measurement of indicators at appropriate intervals;
- Collecting and analysing M&E data against pre-compensation baseline information to be able to track and isolate changes in the livelihoods of the PAHs;
- Setting up a system to enable the PIT to use M&E findings to improve or modify existing implementation measures or processes;
- Maintaining in good order and regularly updating the M&E database;
- Receiving information from other officers in the PIT, from the general community, from technical and political officers from sub-counties;
- Giving feedback to other officers in the PIT, stakeholders and representatives through monthly reports and disseminations;
- Training and supervising locally recruited enumerators to collect data from the PAHs; and
- Undertaking specialized assessments for vulnerable PAHs and suggesting necessary interventions for such groups.

### 10.3.2 External Impact evaluation (Midterm Evaluation)

The external impact evaluation will gauge the effectiveness of the RAP and its implementation in meeting the needs of the affected population such as assessing the satisfaction of affected people with resettlement initiatives and, thus, the adequacy of those initiatives. Its focus is largely on the effects of resettlement or compensation, although it will incorporate some performance aspects. For instance, it will purposely validate the work done by the PIT in monitoring, to ascertain that the targets are met, and the objectives of the RAP are adhered to. In brief external impact evaluation objectives will include:

- iv. Review the results of the internal monitoring and review overall compliance with the RAP.

- v. Assess whether resettlement objectives and targets have been met / adhered especially with regard to compensation, livelihoods and standards of living levels, etc.
- vi. Determine overall adequacy of entitlements and the rehabilitation to meet the objectives.

Clear lessons learnt and recommendations to KETRACO on how to improve performance and impacts should be the primary deliverable from this exercise. The report should advise KETRACO management of changes necessary to improve implementation of the RAP towards the achievement of its objectives, including strategies on how to implement those changes. In this regard, therefore, it should be held a minimum six months after the start of the RAP implementation but not more than one year.

The most prominent and widely adopted guideline for evaluations is the five criteria of Relevance, Effectiveness, Efficiency, Impact and Sustainability from the Development Assistance Committee of the Economic Cooperation and Development (OECD/DAC). This also allows for cross-cutting issues, such as poverty, gender and environment, to be taken into consideration.

Criteria	Questions to ask in RAP
Relevance	<ul style="list-style-type: none"> <li>• Is the RAP design appropriate in the context?</li> <li>• Are the livelihood restoration measures, stakeholder engagement methods and content, institutions formed, GRM etc. suitable and sensitive to the context?</li> <li>• Is the compensation and livelihood restoration in line with applicable legal and international standards?</li> </ul>
Efficiency	<ul style="list-style-type: none"> <li>• Is the RAP implementation timely, and undertaken in a cost-effective manner?</li> <li>• Have resources been used cost effectively?</li> <li>• Do the results – quantity and quality – justify the resources expended?</li> </ul>
Effectiveness	<ul style="list-style-type: none"> <li>• To what extent were planned RAP outputs/results versus the planned actions/schedule achieved?</li> <li>• What are the reasons for the state of achievement?</li> <li>• To what extent are all the categories of PAPs been reached?</li> <li>• Are there any outstanding issues related to compensation payments (rates, amounts and timing)?</li> <li>• What is the quality of technical planning, coordination and partnerships established</li> <li>• What supports and barriers have affected achievement of the RAP objectives?</li> <li>• What is the general feedback from the affected population?</li> <li>• What are the lessons learnt in the RAP implementation so far, and what improvements need to be made, and how? Is there a need to adjust or propose additional compensation and/or livelihood restoration measures?</li> </ul>
Impact	<ul style="list-style-type: none"> <li>• Have PAPs re-established themselves in the resettlement sites?</li> <li>• Is PAPs livelihood restoration or improvement happening?</li> <li>• How are vulnerable groups or persons fairing?</li> <li>• Are there unanticipated positive or negative consequences?</li> </ul>
Sustainability	<ul style="list-style-type: none"> <li>• Can the livelihood outcomes of the RAP be sustained beyond the life of the RAP?</li> <li>• Will impacts continue to be realized after the end of the RAP?</li> </ul>

Figure 10-2:OECD Criteria in RAP Evaluation

Necessarily, evaluation should be as participatory as possible. Therefore, external evaluators will interview PAPs (and other stakeholders), to ascertain their knowledge and concerns about the resettlement process,

*their entitlements, and the rehabilitation measures. The external evaluation should a variety of avenues to collect data, including:*

- Document review, entailing review of the grievance registers, sensitization material to assess their appropriateness, etc.;
- Semi-structured interviews with a sample of the PAPs from the various settlements and covering all types/categories of PAPs, including the vulnerable, and those who have gone through the GRM process;
- Resettlement sites and Livelihood observation;
- Survey of a sample of PAPs to assess their socio-economic life against the baseline to check if lives/livelihoods are improving as well as to assess their satisfaction with the compensation/rehabilitation methods and entitlements, timing of payments, etc.;
- Meet the various committees to assess their ability to do their work, note their challenges and provision of necessary resources to facilitate effective work;
- Key Informant Interviews (KIIs) which enable a more in-depth process of inquiry among selected participants and other stakeholders.

Overall, an external evaluation will assist KETRACO meet accountability and transparency thresholds. Evaluation, therefore, should be facilitated by an external and independent M&E specialist (individual or firm) for purposes of evaluating compensation and resettlement activities, and verification if undertaken according to the RAP.

### **10.3.3 Post-Implementation Evaluation (Completion Audit)**

Upon completion of the RAP implementation (at least six months but not more than a year later), KETRACO should undertake an audit to determine if the outcome of the RAP complies with the objective of the RAP towards restoration or improvement of the standard of living of the PAPs. The post implementation evaluation will verify if all commitments were delivered and whether mitigation measures had the desired effect. If the outcome of the audit reveals that these objectives may not have been realized, KETRACO is required to propose follow-up measures, as they may deem appropriate. This also documents the lessons learnt for feeding into the implementation of other RAPs and future projects.

The audit is undertaken by an external independent third party and will consider the baseline conditions, the results of resettlement monitoring, and midterm review. Also, the auditors will make their assessments, surveys, and interviews in the field and with PAPs.

The completion audit is intended to verify the results of the RAP implementation indicators, and to assess whether the RAP implementation achieved the resettlement objectives. A specific question for the final audit is whether livelihood and living standards have been restored or enhanced. If the answer is positive, then the RAP implementation will be considered to be completed. The audit will also assess the efficiency, effectiveness, impact and sustainability of the RAP sub-project activities and document the lessons learnt for application to future sub-projects or other projects in the sector and in the country. Finally, the RAP completion audit will ascertain whether the resettlement entitlements were appropriate, as defined in the ISS guidelines. KETRACO will engage a qualified firm to prepare the audit and will submit the completion audit report to the AfDB for review and appropriate action. KETRACO will be responsible for sourcing of and assigning to qualified firm(s) the undertaking of the completion audit.

The external evaluation will also be thematically undertaken at two levels and will examine the RAP implementation effectiveness and outcomes as outlined in **Table 10-3**.

Table 10-3: External Evaluation Thematic Issues

<b><u>Thematic Issues</u></b>	
<b><u>Process indicators that measure the effectiveness of the RAP implementation process.</u></b>	<b><u>Outcome indicators (the main design of outcome evaluation will be a pre- and post-compensation comparative analysis).</u></b>
<ol style="list-style-type: none"> <li>1. Adequacy (of staff numbers/skills/knowledge levels; equipment and facilities) at KTRNIP/PIT</li> <li>2. Legislative compliance with national and AfDB standards</li> <li>3. Outputs of the M&amp;E, compensation payments, community engagement, reporting, grievance processes as indicators of effectiveness and adequacy</li> <li>4. Collaboration and coordination adequacy of the PIT</li> </ol>	Livelihood changes among PAHs, including production systems and the standard of living and welfare

## 10.4 Monitoring Indicators

### 10.4.1 Performance Monitoring

Performance monitoring is an internal management function to measure physical progress against milestones established in the RAP. Performance milestones for this Project might include:

- Grievance redress procedures in place and functioning to an agreed timeframe; Acquisition, compensation and resettlement activities completed; and
- Identification of emerging issues and potential problems with need to be managed
- Replacement houses constructed;
- Compensation payments disbursed;
- Livelihood restoration plans for vulnerable households in place;
- Acquisition, compensation and resettlement activities completed.

### 10.4.2 Impact Monitoring

Impact monitoring gauges the effectiveness of the RAP and its implementation in meeting the overall objectives of restoring standard of living and livelihoods of the affected communities. The purpose of impact monitoring is to provide an assessment of the effects of the resettlement process and to identify adjustments required in the RAP, as required. As part of impact monitoring the requirements of the RAP will be tracked against the baseline conditions of the affected households prior to the land acquisition, compensation and resettlement activities. Objectively verifiable indicators for measuring the impact of resettlement on the socio-economic welfare of the affected people and the effectiveness of impact mitigation measures will be established. These impact indicators will be directly associated with the issues and priorities of the land acquisition, compensation and resettlement activities, and will include indicators that measure vulnerability and changes in vulnerability over time.

Indicators will also be informed by consultation with affected communities, and from a review of common concerns raised through the grievance mechanism process. Examples of indicators that are likely to be considered include the following:



- Access to infrastructure services such as primary house (e.g. size of house), water supply (distance to clean water), access to sanitation (household toilet/improved toilet), etc. Access to change in access to livelihood resources such as agricultural plots (size of plot, fertility), employment (employment positions in the household), etc.
- Overall sense of wellbeing (household food shortage, health status).
- Impact monitoring, based on a sample of affected people stratified by eligible group will be used to inform quantitative indicators. The quantitative indicators described above will be supplemented by qualitative indicators, in order to assess the satisfaction of affected people with the resettlement planning and implementation initiatives. The qualitative indicators will be informed by engagement with affected households.

A variety of monitoring indicators that KETRACO and/or its implementing partners can use are indicated in the Table below. This should be supplemented by the evaluation questions raised in the diagram above and proposed monitoring plan (Table 10-4)

*Table 10-4: Monitoring Indicators*

Activity/Parameters	Indicators
Basin Information on the PAP and Demographic changes	<ul style="list-style-type: none"> <li>▪ Name of persons/institutions/groups affected</li> <li>▪ Average education attainment, Marital Status, age</li> <li>▪ Employment status and income earnings (average)</li> </ul>
Assets Acquisition	<ul style="list-style-type: none"> <li>▪ Amount (area) of private land acquired</li> <li>▪ Amount (area) of communal land acquired</li> <li>▪ Amount (area) of government land acquired</li> <li>▪ Number, type, and size of the private building acquired</li> <li>▪ Number, type, and size of community buildings acquired</li> <li>▪ Number, type, and size of cultural buildings acquired</li> <li>▪ Number, type, and size of government buildings acquired</li> <li>▪ Number and types of trees acquired</li> </ul>
Compensation payments to PAPs	<ul style="list-style-type: none"> <li>▪ Number of PAPs compensated, by type of PAP</li> <li>▪ Number of PAPs promptly paid disaggregated by gender</li> <li>▪ Number of PAPs not paid promptly and reasons</li> <li>▪ Amounts of money paid to PAPs</li> <li>▪ The payment free of transfer costs</li> <li>▪ Use of compensation cash by PAPs</li> <li>▪ Options provided in compensation by PAP (land for land versus cash for land/assets), and adoption by PAPs</li> </ul>
Restoration of assets	<ul style="list-style-type: none"> <li>▪ Number of PAPs with restored assets disaggregated by gender and asset type</li> <li>▪ Number of PAPs without restored assets</li> <li>▪ Size, construction, and durability of replacement houses.</li> <li>▪ Number of restored or relocated cultural sites and assets (graves, mosques).</li> </ul>

Activity/Parameters	Indicators
	<ul style="list-style-type: none"> <li>▪ The notice period for relocation</li> </ul>
Restoration of livelihoods	<ul style="list-style-type: none"> <li>▪ Number of occupied (re-established) Rental Units, and average monthly rental income</li> <li>▪ Number of re-established businesses, and average monthly income</li> <li>▪ A number of livelihoods specific training held by type, gender, and thematic areas covered.</li> <li>▪ PAPs perception of the usefulness of the training</li> <li>▪ Application of training in PAPs livelihoods</li> </ul>
Assistance to Vulnerable	<ul style="list-style-type: none"> <li>▪ Number of vulnerable PAPs assisted by type and gender</li> <li>▪ Type of assistance provided to vulnerable PAPs</li> <li>▪ Number of vulnerable PAPs not assisted and reasons</li> </ul>
Disclosure, Community participation, public engagement and Access to Information	<ul style="list-style-type: none"> <li>▪ Disclosure of RAP on KETRACO and World Bank websites.</li> <li>▪ Availability of RAP at the county level.</li> <li>▪ Disclosure of RAP summary at Location/Sub Location level, in a language, understood by the PAPs</li> <li>▪ Number of settlement level consultative meetings held, by type</li> <li>▪ PAPs awareness of RAP and entitlements</li> <li>▪ Number of County and National Government leaders engaged/briefed about the RAP</li> <li>▪ Number of PAP consultative meetings held</li> <li>▪ Type of information provided in meetings</li> <li>▪ Type of issues raised at public consultation meetings, and response rate</li> <li>▪ Number of participants attending public consultation meetings related to displacement disaggregated by gender</li> <li>▪ Modes and language of communication.</li> <li>▪ Minutes of meetings held and lists of attendance</li> <li>▪ Number of people seeking information on displacement and compensation</li> </ul>
Access to Social Services	<ul style="list-style-type: none"> <li>▪ Restored access to and functioning social services, for instance, water</li> </ul>
Grievance management	<ul style="list-style-type: none"> <li>▪ Number of PAPs sensitized on the grievance mechanism, gender</li> <li>▪ Activation of CRCs, and timing</li> <li>▪ Formation of CRC, and timing.</li> <li>▪ Capacity building of Grievance committees and timing; thematic areas of training, and frequency of training</li> <li>▪ Number of complaints/ grievances registered/received by type and whom (gender) at each level</li> <li>▪ Number of grievances resolved promptly (within the duration allowed in the grievance redress mechanism) at each level</li> <li>▪ Number of grievances not resolved in time but completed</li> <li>▪ Number of outstanding grievances not resolved</li> </ul>



Activity/Parameters	Indicators
	<ul style="list-style-type: none"> <li>▪ Average timelines for resolution of grievances disaggregated by the various levels of grievance redress mechanism/institutions and disaggregated by different types of grievances.</li> <li>▪ Number of grievances referred to the CRC</li> <li>▪ Number of grievances referred to KETRACO 's PIT</li> <li>▪ Number of grievances referred to Level 3 (Courts of Law Number of complainants satisfied with the response and grievance redress process</li> <li>▪ Number of PAPs that have access to the GRM</li> <li>▪ Provision of necessary resources/tools for work (grievance forms, registers, files, etc.) per Grievance committee</li> </ul>
Training and Capacity Building	<ul style="list-style-type: none"> <li>▪ Number of trainings held disaggregated by target group/institutions and issues</li> <li>▪ Number and type of committees trained disaggregated by gender</li> <li>▪ Number and type of participants trained disaggregated by gender</li> <li>▪ Themes discussed in various training</li> <li>▪ Committees' perception on usefulness of training</li> </ul>
Process Management	<ul style="list-style-type: none"> <li>▪ Number of KETRACO staff dedicated/involved in RAP implementation</li> <li>▪ Number of implementing agencies/firms by function</li> <li>▪ A number of coordination meetings between various stakeholders.</li> </ul>
Changes in Household Baseline	<ul style="list-style-type: none"> <li>▪ Refer to indicators used to track changes in educational attainment, health, etc.</li> </ul>
Cultural and Gender sensitive Concerns	<ul style="list-style-type: none"> <li>▪ Cultural appropriateness of the methods, modes used in compensation, consultation etc.</li> <li>▪ Incorporation of cultural relevant institutions in RAP institutions</li> <li>▪ Gender violence cases related to RAP implementation</li> <li>▪ Change is social-cultural setting of the PAPs triggered by RAP</li> <li>▪ Participation of women in RAP implementation</li> <li>▪ Changes to the status of women</li> </ul>

### 10.5 M&E Budget

Monitoring and evaluation should ensure that performance monitoring is a continuous process that relies on existing processes of collecting data to the extent possible, rather than scheduling of the exercise as a separate event. This will ensure effectiveness in M&E and ease on budget expenses for the project. The established indicators in the M&E plan (Table 10-5) should assist to understand the right type of information and budget that is needed per item to influence the resettlement process at the right times. The RAP therefore recommends a 5% of the total resettlement costs of the RAP budget.

Table 10-5: Proposed M&E plan

SN	Item / Subject	Indicator	Variable	Time Frame/ Period	Responsibility	Frequency
1.	Land	Acquisition or Easement of land	<ul style="list-style-type: none"> <li>Area of private land acquired or put under easement</li> <li>Area of public land acquired or put under easement</li> <li>Total area of Land Acquired</li> </ul>	During RAP Implementation	<ul style="list-style-type: none"> <li>KETRACO Project Implementation Team (PIT)</li> <li>(In its various roles in this table, the PIT will enrol the support and collaboration of the CRC)</li> </ul>	Weekly basis during the RAP Implementation Period
2.	Buildings/ Structures	Number, size and type of Affected buildings	<ul style="list-style-type: none"> <li>Number, type and size of private buildings affected and compensated</li> <li>Number, type and size of community buildings affected and compensated</li> <li>Number, type and size of public structures affected and compensated</li> </ul>	During RAP Implementation		Weekly basis
		Other structures affected by project	<ul style="list-style-type: none"> <li>Number, type and size of other private structures affected and compensated</li> <li>Number, type and size of other community structures affected and compensated</li> <li>Number, type and size of public structures affected and compensated</li> </ul>	During RAP Implementation		Weekly basis
3.	Trees and Crops	Affected Trees and Crops	<ul style="list-style-type: none"> <li>Number and type of trees cut / destroyed and compensated</li> <li>Acreage of crop damage / Total area destroyed and compensated</li> </ul>	During RAP Implementation		Weekly basis
4.	Loss of Income	Income affected by Project	<ul style="list-style-type: none"> <li>Daily, Weekly or Monthly income that will be affected by the project and compensated</li> </ul>	During RAP Implementation		Weekly basis
5.	Compensation, for Losses	Compensation Amount Paid to PAPs	<p><u>Land</u></p> <ul style="list-style-type: none"> <li>Compensation Rate for Land per Acre</li> <li>Compensation Amount for acquired or land under easement</li> <li>Compensation Payment Period for Land</li> </ul> <p><u>Structures</u></p> <ul style="list-style-type: none"> <li>Compensation Rate for each Structure</li> <li>Compensation Amount for Affected Structures</li> <li>Compensation Payment Period for Structures</li> <li>Payment of Disturbance Allowance</li> </ul> <p><u>Trees and Crops</u></p> <ul style="list-style-type: none"> <li>Compensation Rates for Trees and Crops</li> <li>Compensation Payment Period</li> </ul>	During RAP Implementation	<ul style="list-style-type: none"> <li>PIT</li> <li>National Land Commission (NLC)</li> </ul>	Weekly basis

SN	Item / Subject	Indicator	Variable	Time Frame/ Period	Responsibility	Frequency
			<u><b>Businesses/Source of Income</b></u> <ul style="list-style-type: none"> <li>• Compensation Rate for Loss of income</li> <li>• Compensation Amount for Loss of Income for 3 months</li> </ul>			
6.	<b>Resettlement and Livelihood Restoration</b>	<b>No of PAPs Requiring Resettlement and Livelihood Restoration</b>	<u><b>Resettlement</b></u> <ul style="list-style-type: none"> <li>• Number of land parcels acquired for displaced persons</li> <li>• Number of persons relocated within their land parcels</li> <li>• No of Households that have been resettled</li> <li>• Number of affected buildings that have been replaced</li> <li>• Number, type of plants lost</li> </ul> <u><b>Livelihood restoration</b></u> <ul style="list-style-type: none"> <li>• Number of seedlings supplied by type</li> <li>• Number of trees planted</li> <li>• Number of reestablished businesses/income sources</li> <li>• Feedback from PAPs on their satisfaction, feelings and reactions on resettlement implementation</li> </ul>	During Resettlement and tracked for 1 year after	<ul style="list-style-type: none"> <li>• PIT</li> <li>• NLC</li> </ul>	<ul style="list-style-type: none"> <li>• Weekly during Resettlement</li> <li>• Monthly after resettlement for a period of 1 year.</li> </ul>
7.	<b>Vulnerable Persons requiring special assistance</b>	<b>Type of Vulnerability for each Household Head</b>	<ul style="list-style-type: none"> <li>• No. of vulnerable Household Heads affected by the project</li> <li>• Type of vulnerability and limitations</li> <li>• Type of impact being experienced by vulnerable persons</li> <li>• The assistance offered to Vulnerable persons</li> <li>• Assistance to Vulnerable Number of vulnerable PAPs assisted by type and gender</li> <li>• Type of assistance provided to vulnerable PAPs</li> <li>• Number of vulnerable PAPs not assisted and reasons</li> <li>• Number and types of vulnerable issues articulated</li> <li>• Number of vulnerable persons sensitized</li> </ul>	During Resettlement and 1 year after	<ul style="list-style-type: none"> <li>• PIT</li> <li>• NLC</li> </ul>	<ul style="list-style-type: none"> <li>• Weekly during Resettlement</li> <li>• Monthly after resettlement for a period of 1 year.</li> </ul>
8.	<b>Community Resources</b>	<b>Re-establishment of community resources</b>	<ul style="list-style-type: none"> <li>• Number of community facilities replaced</li> </ul>	During Resettlement	<ul style="list-style-type: none"> <li>• PIT</li> <li>• NLC</li> </ul>	<ul style="list-style-type: none"> <li>• Weekly during Resettlement</li> </ul>
9.	<b>Social/ Demographic</b>	<b>Changes to homestead Demographics</b>	<ul style="list-style-type: none"> <li>• Homestead size (births, deaths, migration in and out)</li> <li>• Age distribution</li> <li>• Gender distribution</li> <li>• Marital status</li> <li>• Relationship to homestead head</li> <li>• Status of “vulnerable” homesteads#</li> <li>• Social/ Demographic Changes to homestead structure</li> </ul>	During Resettlement and 1 year after	<ul style="list-style-type: none"> <li>• PIT</li> </ul>	<ul style="list-style-type: none"> <li>• Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year</li> </ul>

SN	Item / Subject	Indicator	Variable	Time Frame/ Period	Responsibility	Frequency
		<b>Changes to access</b>	Distance/travel time to nearest school, health center, religious institutions, shop, village	During Resettlement	● PIT	Monthly during Resettlement and 1 year after
		<b>Changes to status of women</b>	<ul style="list-style-type: none"> <li>● Participation in training programs</li> <li>● Use of credit facilities</li> <li>● Landholding status</li> <li>● Taking up leadership roles</li> </ul>		● PIT	
		<b>Changes to health status of PAPs</b>	<ul style="list-style-type: none"> <li>● Nutritional status of resettled homestead members</li> <li>● Number of people with disease by type (STDs, diarrhea, malaria, immunizable disease)</li> <li>● Mortality rates</li> <li>● Access to healthcare services (distance to nearest facility, cost of services, quality of services)</li> <li>● Utilization of healthcare services</li> <li>● Disease prevention strategies</li> <li>● Extent of educational programmes</li> </ul>	During Resettlement and 1 year after	● PIT	Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year
		<b>Homestead earning capacity</b>	<ul style="list-style-type: none"> <li>● Ownership of capital assets</li> <li>● Land holding status (tenure)</li> <li>● Changes to livestock ownership and post disturbance</li> <li>● Value of livestock sales, and imputed value of barter trade</li> <li>● Employment status of economically active members</li> <li>● Skills of homestead members</li> <li>● income by source, separating compensation payments</li> <li>● Changes to income activities – pre and post disturbance</li> <li>● Amount and balance of income and expenditure</li> <li>● Realization of homestead income restoration plans (Components implemented, net income achieved)</li> <li>● Possession of bank and savings accounts</li> <li>● Access to income generating natural resource base (wood, grass, sand, stones)</li> </ul>	During Resettlement and 1 year after	● PIT	Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year

SN	Item / Subject	Indicator	Variable	Time Frame/ Period	Responsibility	Frequency
		<b>Population influx</b>	<ul style="list-style-type: none"> <li>● Growth in number and size of settlements, formal and informal</li> <li>● Growth in market areas</li> </ul>	During Resettlement and 1 year after	● PIT	Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year
10.	<b>Disturbance</b>	<b>Number of homesteads affected by disturbances from construction</b>	<ul style="list-style-type: none"> <li>● Movement in and out of the homestead (place and residence of homestead members)</li> <li>● Access to social facilities</li> <li>● Distance/travel time to nearest market center, religious institutions, shop.</li> <li>● Changes to health status</li> <li>● Number of people with communicable diseases</li> <li>● Mortality Rates-Deaths registered per household</li> <li>● Access to health care services (distance to nearest facility, cost of services, quality of services)</li> <li>● Utilization of health care services</li> <li>● Extent of educational programs</li> <li>● Latrine provision</li> <li>● Access to clean water sources</li> </ul>	During Resettlement and 1 year after	● PIT	Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year
11.	<b>Consultation</b>	<b>Public Consultations</b>	<ul style="list-style-type: none"> <li>● Affected communities informed</li> <li>● Number of public meetings</li> <li>● Reports of engagement</li> </ul>	During Resettlement and 1 year after	● PIT	Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year
		<b>Grievances resolved</b>	<ul style="list-style-type: none"> <li>● Channels used for redress</li> <li>● Number &amp; type of grievances received and recorded by CLOs in the grievances log</li> <li>● -Number &amp; type of grievances resolved promptly (within the duration allowed in the grievance redress mechanism)</li> <li>● -Number type of grievances not resolved in time but completed</li> <li>● -Number &amp; type of outstanding grievances not resolved</li> </ul>	During Resettlement and 1 year after	● PIT	Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year

SN	Item / Subject	Indicator	Variable	Time Frame/ Period	Responsibility	Frequency
			<ul style="list-style-type: none"> <li>• -Average timelines for resolution of grievances disaggregated by the various levels of grievance redress mechanism/institutions</li> <li>• -Number of grievances referred to Level 3 (Courts of Law)</li> <li>• -Number of complaints referred to KETRACO</li> </ul>			
		<b>Consultation program operation</b>	<ul style="list-style-type: none"> <li>• Number of CRCs established</li> <li>• Number of Women and Youth in the Committees established</li> <li>• Number and dates of CRC meetings</li> <li>• Type of issues raised at CRC meetings</li> <li>• Number of participating NGOs</li> </ul>	During Resettlement and 1 year after	• PIT	Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year
12.	<b>Procedures in operation</b>	<b>Census and asset verification/quantification procedures in place</b>	<ul style="list-style-type: none"> <li>• Effectiveness of compensation delivery system</li> <li>• Number of land transfers effected</li> <li>• Co-ordination between local community and KETRACO officials</li> </ul>	During Resettlement and 1 year after	• PIT	Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year
13.	<b>Cultural Aspects</b>	<b>Cultural appropriateness of the methods</b>	<ul style="list-style-type: none"> <li>• Cultural appropriateness of the methods, modes used in consultation etc.</li> <li>• Incorporation of cultural relevant institutions in SEP</li> <li>• Change in social-cultural setting of the PAPs triggered by RAP</li> </ul>	During Resettlement and 1 year after	• PIT	Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year
14.	<b>Physical cultural resources</b>	<b>Protection of cultural resources</b>	<ul style="list-style-type: none"> <li>• No. of physical cultural resources avoided such as graves along the Row</li> <li>• Protection of the Baobab Tree</li> <li>• No. of grievances reported on impact to physical cultural resources</li> </ul>	During Resettlement and 1 year after	• PIT	Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year
15.	<b>Training and Capacity Building</b>	<b>Operation of training program</b>	<ul style="list-style-type: none"> <li>• Number of CRC members trained</li> <li>• Number of affected populations trained in Project related courses</li> <li>• Number of vulnerable persons involved in the Training Programme</li> <li>• Number of trainings held disaggregated by target group/institutions and issues amongst employed locals</li> <li>• Number and type of participants disaggregated by gender</li> </ul>	During Resettlement and 1 year after	• PIT	Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year

SN	Item / Subject	Indicator	Variable	Time Frame/ Period	Responsibility	Frequency
16.	Stakeholder engagement and information disclosure;	Disclosure of RAP	<ul style="list-style-type: none"> <li>• - Disclosure of RAP report on KETRACO and World Bank websites.</li> <li>• - Availability of RAP report at the county level.</li> <li>• - Disclosure of RAP report summary at in a language, understood by the stakeholders</li> <li>• - Number of consultative meetings held, by type</li> <li>• - Stakeholder's awareness of RAP entitlements</li> <li>• - Number of County and National Government leaders engaged/briefed about the RAP process</li> <li>• - Number of stakeholders consultative meetings held</li> <li>• - Type of information provided in meetings</li> <li>• - Type of issues raised at PAP consultation meetings, and response rate</li> <li>• - Number of participants attending PAP consultation meetings related to project disaggregated by gender</li> <li>• - Modes and language of communication.</li> <li>• - Minutes of meetings held and lists of attendance</li> <li>• - Number of people seeking information on displacement and compensation</li> </ul>	During Resettlement and 1 year after	• PIT	Monthly during Resettlement and Quarterly after Resettlement for a period of 1 year
Progress and Final Reports						
17.	<b>Monitoring and Evaluation Reports</b>		<ul style="list-style-type: none"> <li>• Regular Progress Reports Weekly, Monthly or Quarterly as the monitoring variables may require.</li> <li>• Final Reports at the end of the Monitoring Exercise</li> </ul>			

## CHAPTER ELEVEN- CONCLUSION AND RECOMMENDATIONS

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The proposed Malindi-Kilifi transmission line project will certainly improve power supply in the region as intended by KETRACO. The benefits of this project will go past economic development of the Kilifi region to the nation. However, it is expected to cause loss of land, property and displacement of PAPs. The overall objective of the project is good, and its positive impacts can be enhanced by ensuring that the identified PAPs are adequately compensated with the aim of improving their livelihoods or restoring their livelihoods to pre-impact standards. This RAP has enumerated PAPs in affected locations, Goshi/Kakuyuni, Jilore, Langobaya, and Nyari/Sokoke, Dida, Kilifi North Township and Takaungu. Procedures recommended in the national legislation as well as World Bank policies on involuntary resettlement have been factored into the compensation process and the RAP has considered compensation commensurate with the affected property and loss of disturbed livelihoods.

From the valuation and compensation fronted, a total of Kshs. **465,863,543.17** will be required to compensate the PAP/Hs. However, the grand total RAP budget inclusive of valuation & compensation budget; administrative costs, miscellaneous costs and contingencies; grievance redress mechanism implementation; support to Vulnerable individuals and households; stakeholder engagement; monitoring and evaluation; and livelihood restoration is **697,428,960.53.**

In a bid to reduce project impacts that will directly affect project sustainability the transmission line reserve boundaries will be clearly demarcated after confirmation to avoid future unwanted inconveniences during project implementation or maintenance of the double-circuit line. It is essential that the entire resettlement exercise is completed in consultation with the PAPs, and appropriate time allowed so that the PAPs can bring any contentious issues forward and amicable mechanisms found to address them. Also, reasonable time should be allowed so that the PAPs can salvage reusable construction material from the structures that need to be demolished. Also, reasonable time should be allowed so that the PAPs can salvage reusable construction material from the structures that need to be demolished. In a nutshell, a three-month period after compensation should be allocated to allow PAPs step back or relocate and clear ROW.

The socio-economic survey came across one (1) youthful respondent in Konjora 3 village – Kilifi Township location who were noted to be of Bajun origin. The respondent is polygamous with three children. The respondent has assimilated into the Giriama and practices business, rears livestock and undertakes subsistence farming. Therefore, the RAP team did not come across any significant settlement occupied by the Indigenous people (IP), such as “the Bajuni” and “the Waatha” The RAP findings indicates that no Social Assessment (SA) report or Vulnerable and Marginalized Group Plan (VMGP) will be prepared for this project since no indigenous communities are traversed. The project will therefore implement targeted interventions to ensure vulnerable individuals and households are adequately and effectively engaged and equally access project benefits and opportunities.

The success of procedures and activities in this RAP greatly depends on the KETRACO commitment towards ensuring the effectiveness and efficiency of the implementation process thus requiring provision of necessary and adequate funds for the implementation of the various activities, regular monitoring including capacity building of the CRC.

The RAP reports will need to be updated at the cost of the proponent based on below conditions:

- A change of design from the current Row for the proposed transmission line.
- Expiry of two years from the date of valuation.



**KETRACO intends to undertake the following:**

- i. All displacements to only be undertaken after full compensation payments have been made;
- ii. Adequate notice preferably negotiated between the project and PAPs should be agreed on before commencement of construction;
- iii. Identify legal property owners before compensation;
- iv. Early negotiations between KETRACO, Kilifi Mariakani Water and Sewerage Co. LTD and River Sabaki (Baricho) Water Source Kilifi-Mariakani MAWASCO, to be commenced on the relocation of any affected water facility, water pipes in the land to be acquired and;
- v. In case land disputes arise during compensation and resettlement, KETRACO should coordinate with CRC as well as relevant government agencies such as National Land Commission (NLC) to address such disputes;
- vi. KETRACO should prioritize affected Vulnerable persons regarding compensation and resettlement;
- vii. KETRACO, the Contractor and the local administrative leadership need to have meetings before commencement of the project works to lay the framework for utilization of local labor since RAP implementation activities such as relocation support to vulnerable individuals and households, and engagement of Community Liaison Officers may have opportunities for employment of local labor. It is proposed that adequate resources be set aside for full RAP implementation as per the Certificate of Value provided in this report.
- viii. Most of the household heads did not have a bank account hence a source of concern, mainly if compensation payments will be channeled into bank accounts. It is recommended that in the interim period, the PAPs without bank accounts be sensitized to open or the project proponent could partner with a local bank branch in Kilifi and/or Malindi to provide field account opening services in each location where RAP meetings were held. This will facilitate and ensure PAPs open bank accounts prior to compensation.
- ix. The RAP recommends that the land ownership issue being emotive should be addressed by the relevant stakeholders before project commences. It is also recommended that National Land Commission (NLC), County Government, local political leadership and owners of contested land converge to resolve the land disputes amicably.
- x. The RAP recommends that tenant PAPs should be treated according to the prevailing regulations governing PAPs under different entitlements.
- xi. Given the centrality of water to rural communities it is recommended that slight adjustments on positioning of pylons during construction could be done in order to avoid negative impact on water access.
- xii. The RAP recommends that the ROW and towers / pylons be adjusted slightly to avoid sensitive cultural properties like graves, prayer sites, religious institutions where possible. This will significantly reduce interference with locals' worship and avert opposition to the project. Notably, slight adjustment of the ROW and towers/pylons to avoid sensitive cultural properties like graves was informed by ESIA from specifically the local community during stakeholders' engagement process. The locals were categorical that graves hold cultural values and social ties to the bereaved. As per the mitigation hierarchy – avoidance of the graves was reached as a viable measure in consultation with the PAPs. Avoidance was also informed / confirmed from an engineering perspective and previous good & replicable practices by KETRACO. Therefore, no compensation has been provided for graves since none will be affected / exhumed.

- xiii. The RAP recommends that the project partners with and facilitates relevant county staff to register vulnerable peoples at location levels to enable them access existing facilities and services.
- xiv. The proponent to implement Free, Prior, and Informed Consultations with PAPs throughout the project cycle.
- xv. KETRACO will be required to liaise with other relevant agencies (governmental - and non-governmental), to ensure RAP implementation and the sustainability of the proposed measures beyond the project cycle. E.g., Agricultural interventions will require guidance from the Ministry of Agriculture; implementation of safety nets will involve Ministry of Social Protection; tree planting activities will require support of Kenya Forest Service amongst other agencies. It is therefore recommended that the agencies be informed and engaged in the RAP implementation in a timely manner.
- xvi. This RAP also recommends that the proponent to disseminates the correct information on KETRACO CSR policy and the cap for trees and crops allowed under the RoW guided by the RPF provisions to PAPs in consecutive stakeholder engagement sessions e.g., during the disclosure of the RAP and ESIA.

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Annex 1	PAPs Socio-economic Questionnaire
Annex 2	Asset Inventory Questionnaire
Annex 3i	Minutes of the Interested parties or other stakeholders and individuals/groups / entities' meeting and attendance sheets
Annex 3ii	Minutes and List of Attendants for commencement of RAP <ul style="list-style-type: none"> <li>a) Chief's Office Grounds / Camp – Jilore Location</li> <li>b) DO's/Chief's Office Grounds Bao Lala – Lango Baya Location</li> <li>c) Mgadini Football Grounds (near Fumbini</li> <li>d) Primary School) – Kilifi Township Location</li> <li>e) Konjora Primary School Grounds – Kilifi Township Location</li> <li>f) Mongotini Secondary School Ground's – Goshi Location</li> </ul>
Annex 3iii	Minutes of PAPs meetings and List of Attendants <ul style="list-style-type: none"> <li>a) Minutes and Participants at Dida Primary school</li> <li>b) Minutes and Participants at Jilore Chief's camp</li> <li>c) Minutes and Participants Konjora Primary school</li> <li>d) Minutes and Participants at Lango baya Chief's camp</li> <li>e) Minutes and Participants at Malanga Trading Centre</li> <li>f) Minutes and Participants at Mgandini Football Grounds (Fumbini)</li> <li>g) Minutes and Participants at Mongotini Primary School</li> <li>h) Minutes and Participants at Nyari-sokoke Asst.chiefs Camp</li> </ul>
Annex 4	List of Chiefs / Assistant Chiefs
Annex 5	List of Village Elders
Annex 6	List of Vulnerable PAPs
Annex 7i	Schedule of Vulnerable individuals and households meeting
Annex 7ii	List of Interested parties or other stakeholders and individuals/groups / entities consulted on Vulnerable individuals and households
Annex 7iii	Vulnerable individuals and households Minutes and Attendance Sheets
Annex 8	List of PAPs
Annex 9 i	Sample Grievance Registration Form
Annex 9 ii	Sample Grievance Register
Annex 9 iii	Grievance Resolution / Close-out Form
Annex 10	Stakeholders Engagement Plan
Annex 11	List of CRC members
Annex 12	List of Project Displaced Persons (PDPs)
Annex 13	Schedule of Rate
Annex 14	Detailed Valuation Schedules <ul style="list-style-type: none"> <li>a) Compensation For Registered Land For Malindi-Kilifi TI</li> <li>b) Compensation Of Land Less Than Kshs 5000-Registered Land</li> </ul>

- c) Compensation For Adjudicated Land For Malindi-Kilifi TI
- d) Compensation of Land Less Than Kshs 5000-Unadjudicated Land
- e) List Of Non-Registered Land Owners For Malindi-Kilifi TI
- f) Compensation For Structures For Malindi-Kilifi TI
- g) Compensation For Crops For Malindi-Kilifi TI
- h) Compensation For Trees For Malindi-Kilifi TI
- i) Compensation For Businesses(Loss Of Income) For Malindi-Kilifi TI
- j) Compensation For (Employees) Loss Of Income For Malindi-Kilifi TI
- k) Compensation For (Tenants) Loss Of Rent For Malindi-Kilifi TI