

SERVICES FOR CONDUCT OF AN EVICTIONS AUDIT AND PREPARATION OF A CORRECTIVE ACTION PLAN FOR THE MOMBASA-MARIAKANI ROAD PROJECT



CORRECTIVE ACTION PLAN FINAL REPORT

EVICTIONS AUDIT AND PREPARATION OF A CORRECTIVE ACTION PLAN FOR THE MOMBASA-MARIAKANI ROAD PROJECT

FINALCORRECTIVE ACTION PLAN

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LIST OF ACRONYMS

AfDB	Africa Development Bank
CAP	Corrective Action Plan
CIC	CAP Implementation Committee
EIB	European Investment Bank
GRM	Grievance Resolution Mechanism
ISUDP	Integrated Spatial Urban Development Plan
KeNHA	Kenya National Highway Authority
KfW	Kreditanstalt für Wiederaufbau
PAPs	Project Affected Persons
RAP	Resettlement Action Plan

EXECUTIVE SUMMARY

The measures in this CAP are proposed after thorough review of the Kenyan policies, guideline and Laws as well as lender's guidelines on involuntary resettlement. In developing the mitigations measures and appropriate action plans, considerations were made to the Lenders standards in comparison to the Kenyan standards, and those found to be more stringent were espoused.

A total of 117 structures were identified during the audit exercise. Evictees were categorised into the following four broad groups: Structure owners (129 - One structure was co-owned by 12 people) tenants (105), employees (93) and dependants (55). In total, three hundred and eighty two (382 No) persons were identified as having been affected by the demolitions.

A Draft Valuation Report for the demolished structures on the Mombasa-Mariakani Report (October 2015) conducted by KeNHA, covered ninety four (94 No) structures, while Audit Report findings identified a total of 117 structures. However, eighty three (83 No) structure owners were found to be consistent in both lists. The pending 33 structures have undergone valuation based on the methodology earlier used.

The evictees are very keen to receive cash compensation for damages experienced during the demolitions. This compensation is expected to include compensation for demolished structures to enable re-establishment of the same; compensation for tenants on loss of rental expenditure incurred (lost rent paid) on the affected structure and compensation for 'loose' assets, including furniture, electronics and other household items. Apart from cash compensation, the evictees would require additional assistance such as psychological guidance and training on financial management during the CAP implementation period.

KeNHA will be responsible for implementing this CAP in conjunction with other stakeholders such as the Deputy County Commissioner (DCC) Jomvu sub county. Grievance redress mechanism has also been designed through establishment of Grievance Management Committee (GMC) and KeNHA will work proactively to address grievances through developing a channel where all queries are responded to within the earliest possible timeframe.

The GMC will have at their disposal a Community Liaison Officer (CLO), facilitated by KeNHA. The CLO will be stationed at the Coast Mombasa Regional office to keep records and coordinate all activities of the GMC in close collaboration with the DCC and Local Chief

A total of **Kshs. 32,956,995** has already been paid by KeNHA to 83 structure owners. Further to this, an additional payment of **31,947,347** is proposed for 33 additional structure owners, 105 tenants, 93 employees, 3 PAPs with cheques not paid due to inconsistencies and an additional amount to the 83 structure owners initially paid. For the full implementation of the CAP, costs inclusive of counselling and training, facilitation of GRM committees and the CAP exit Audit will project the total costs to **Ksh. 33,847,346**. This CAP is scheduled to take three months for the full implementation. Monitoring and Evaluation has been designed to provide timely and operationally useful information on how efficiently each phase will be operating.

This CAP report recommends that, for the successful implementation; information disclosure to all stakeholders is paramount to enable them make an informed decision. Second, consultations between evictees and KeNHA should be encouraged at all times and lastly, GMC should be effectively facilitated for an effective operation.

1 INTRODUCTION

1.1 Background

1.1.1 Mombasa-Mariakani Road Project and the Evictions

The Government of Kenya, through the Kenya National Highways Authority (KeNHA) is undertaking the rehabilitation and expansion of the Mombasa-Mariakani section of the Northern Corridor Road in south-eastern part of Kenya.

Funding for the Mombasa-Kwa Jomvu (Lot 1) section has already been secured from the African Development Bank (AfDB) while funding for the Kwa Jomvu-Mariakani (Lot 2) Section is under consideration by Kreditanstalt für Wiederaufbau (KfW) and the European Investment Bank (EIB).

Part of the impacts of the road expansion includes land take and relocation of persons within the corridor earmarked for expansion. Prior to the implementation of the project's Resettlement Action Plan (RAP), demolitions were conducted between Km 10+700 to Km 11+450 of the project road, primarily on the current road reserve of the project road. This reserve had been earmarked as part of the construction corridor for the proposed road expansion. This report provides a Corrective Action Plan for the community that was affected during eviction.

1.1.2 Location of the Affected Area

The eviction area comprises of 3 villages, namely; Kwa Jomvu Madafuni, Narcol and Ngamani Voi of Miritini Location, Jomvu Sub County. Part of the eviction area also falls within Changamwe Sub County of Mombasa County as presented in Figure 1-1 below.

Figure 1.1: The Eviction Area



Source: Google Map and consultations with evictees

1.1.3 Objectives of Corrective Action Plan

The main objective of the CAP is to design suitable and relevant corrective actions remedying harm caused by the forced evictions incident of May 2015. This is inclusive of carrying out an associated time-bound implementation schedule and a clear attribution of roles and responsibilities for the beneficiaries and other agencies involved.

The CAP is expected to indicate the following:

- A clear Entitlements Matrix corresponding to the impacts caused by the incident;
 - Top-up entitlements where there are gaps identified between the national relevant provisions and those of EIB and AfDB standards, so as to capture all affected persons and meet the level of entitlements, as per the latter. The provisional entitlements matrix, as originally developed by the Lenders, ought to guide delivery on this action by the Consultant;
 - Action required to effectively ensuring that livelihood levels return to ex ante levels until the project's RAP implementation kicks in, including indicating an associated timeframe and other assistance at the earliest possible time. Key objective under this action point is for any remedial measure proposed by the consultant to:
 - ✓ Arrest any further aggravation of harm suffered on account of the May 2015 evictions;
 - ✓ Compensate for all harm suffered to the date of the award of the compensation on account of the forced evictions;
 - ✓ To align, to the maximum extent possible, any long-term resettlement solution with the provisions of the project's RAP and to be delivered in one go, both for Forcibly Evicted Persons and the remainder of the affected population under the project's RAP. Therein, reviewing the original provisions made by the currently available draft RAP and associated feedback offered to date by Lenders, especially on the point of sustainable livelihoods restoration for informal traders, will be necessary;
 - Suitable arrangements for any outstanding urgent cases where lives may be at risk by recommending appropriate alternative income restoration arrangements in line with EIB & AfDB principles and standards;
 - Actions required for implementing a follow up monitoring including indicators, which are suitable and possible to monitor and responsibilities.
-

1.2 Findings of the Eviction Audit

This is an abridged version of the audit findings as presented in the Audit Report. Readers are encouraged to read the Audit Report for a comprehensive coverage of the findings.

1.2.1 Applicable National Guidelines and Laws on Evictions

The measures in this CAP are proposed after thorough review of the Kenyan policies, guidelines and Laws as well as on the three lender's guidelines on involuntary resettlement. Below are some of the policy guidelines and legal framework that can shape the dialogue on the design and implementation of this CAP.

- The National Lands Policy outlines the government's intentions to providing some level of security of tenure for existing informal settlements in the country. Among other recommendations, the policy recommends that an appropriate legal framework should be put in place for eviction based on internationally acceptable guidelines. There is however, a need to provide legal instruments for implementation of the policy objectives;
- The Eviction and Resettlement Guidelines (2009) provides a plan to promote fair and justifiable management of evictions and resettlement procedures in Kenya. The

guidelines also recommends that all persons subjected to any eviction should have a right to compensation for any losses of land, personal, real or other property or goods, including rights or interests in property not recognized in national legislation, incurred in connection with a forced eviction. However, there is no legal instrument that would provide for the implementation of this guideline.

- Kenyan Constitution (2010) is explicit on the Bill of rights and Article 2 on the Supremacy of the Constitution, provides that any treaty or convention ratified by Kenya is considered as part of the Constitution. Some of these treaties include;
 - (a) International Covenant on Economic, Social and Cultural Rights;
 - (b) Convention of the Rights of the Child;
 - (c) Convention of the Rights of Persons with Disability.
- The right to property is protected under Article 40 the Kenyan Constitution (2010). Article 40(3) states that the State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description. Article 40 (4) further states that provision may be made for compensation to be paid to occupants in good faith. Article 40 (6) additionally warns that the rights under this Article do not extend to any property that has been found to have been unlawfully acquired. Based on this provision, Land will not be considered for compensation under this CAP as it has been documented as a road reserve.
- The National Lands Act (2012) establishes the National Land Commission (NLC). One of the mandates of the NLC is to investigate, on its own initiative or on a complaint, into present or historical land injustices, and to recommend appropriate redress. NLC will therefore guide the process in formulation of appropriate grievance solving mechanism to address any emergent grievances. It will also help in grievance redress that may arise during implementation of the Corrective Action Plan.

The following Lenders policies and standards were triggered and have therefore been recognised;

- AfDB's Operations Safeguard 2 on Involuntary Resettlement: Land Acquisition, Population Displacement and Compensation;
- EIB's Environmental and Social Standard6: Involuntary Resettlement; and
- EIB's Environmental and Social Standard 7: Rights and Interests of Vulnerable Groups.

In developing the mitigations measures and appropriate action plans, considerations were made to these standards in comparison to the Kenyan standards, and those found to be more stringent were espoused. (Reader is persuaded to refer Audit report's gap analysis between the Kenyan and Lenders' standards).

1.2.2 Categories of Evictees

Evictees were categorised into the following four broad groups:

(a) Structure owners

Structure owners were categorised as the follows:

- Non-resident structure owners (37 No);
- Owner occupied structure owners (92 No);

One of the structures was co-owned by 12 *khat* (miraa) sellers. This therefore implies that a total of 117 structures were identified during the audit exercise. Some of these structures were subdivided into multi uses (business and residential) and multiple users.

(b) Tenants

Tenants were categorised as follows:

- Business Tenants (89 No);
- Residential Tenants (15 No);
- Mix use (business and residential) tenants (1 No).

A total of 105 tenants were identified during the Audit exercise.

(c) Employees

Employees were identified through their former employers. It was up to the employer to declare their employees, including those who had since been laid off as a direct result of the impacts of evictions. Since the type of employment was generally casual, and also the informal nature of businesses being carried along the road, there was no proof of evidence. The audit enumerated a total of two hundred and eight (208 No) employees (presented as 125 No male while 83 female) who were affected by the evictions. However, on verification, only 93 employees were found to be having valid documentation in form of national identity cards which was an indication that they were within the acceptable labour force participation age.

(d) Household Membership

A total of Thirteen (13 No) structures were used for residential purposes. These structures have a total of 20 housing units. A total of sixty nine (69 No) family members resided within these households. From the analysis, there were persons with special needs who were identified within these families. These persons will need to be assimilated into implementation program, by giving them special assistance. This assistance will be towards eliminating barriers that would impede them from experiencing the same benefits as the rest of PAPs.

(e) Total PAPs

The findings of the audit study is that four hundred and seventy two persons (472 No) were reported to have been affected by the demolitions. This number covers the people who either lived or worked at the affected site.

Following the validation exercise it emerged that some of the employees that were declared by the employers did not have National Identification Cards (ID Cards). Eligibility for compensation was therefore based on the premise that individuals must be in possession of a valid identification document for the Government of Kenya to issue compensation to them. It is also possible that some of these employees were below 18 years of age hence they would not be eligible for formal employment. As such, the employees who did not have identification documents were removed from the list of final persons due for compensation.

As such the revised number of affected persons who lived or worked at the site is three hundred and eighty two (382 No) persons as presented in Table 1.1 below.

Table 1.1: Total Number of PAPs

PAP/ Evictees Type	Male	Female	Total
1. Structure Owners	85	42	127
Luvoi Youth Group*	-	-	1
Soul Harvest Church	-	-	1
2. Tenants	59	46	105
3. Employees	68	25	93
4. Dependents	34	21	55
Total	246	135	382

*Luvoy youth group, with a membership of 10 people had rented out their structure, while membership of Soul Harvest Church was not clear.

It is also understood that compensation will be paid to the affected unit representative and not his dependants (children, relatives living / working in the affected premises). Hence the number of persons to be paid is less than three hundred and eighty two (382 No) persons as explained in section (f) below.

(f) Eligible PAPs for Entitlements

The eligible PAP's for compensation were established to be three hundred and twenty seven (327 no.) persons. This number excludes the dependants outlined in Table 1.1 above.

Table 1.2: Eligible PAPs for compensation

PAP/ Evictees Type	Total
1.Structure Owners	127
Luvoy Youth Group	1
Soul Harvest Church	1
2.Tenants	105
3.Employees	93
Total	327

1.2.3 Vulnerability Analysis

Vulnerability analysis was conducted as a means of establishing highly vulnerable PAP's in need of additional assistance or special attention further to compensation entitlements. In this regard, a Participatory Vulnerability Analysis (PVA) method was used to assess vulnerability among the evictees. The evictees were assessed on the following parameters of vulnerability and vulnerability scores assigned for each:

- Source of income;
- Action taken after eviction;
- Current occupation after evictions;
- Membership to social networks;
- Age;
- Marital status;
- Disability levels;
- Sex/Gender;
- Number of dependants;
- Income levels after evictions;
- Source of funding for reconstitution;
- Presence/level of chronic illness.

A framework for measuring and ranking vulnerability was developed (see Appendix I). The result shows that none of the evictees were highly vulnerable while majority (121 No) of evicted were classified as lowly vulnerable with the rest being moderately vulnerable.

KEY	REMARKS	Scores level	Number
Highly Vulnerable	Additional assistance and / or emergency assistance needed	41-60	0
Moderately Vulnerable	No Additional assistance required above what is recommended in the entitlement matrix	21-40	113
Lowly Vulnerable		<20	121

In this regard, none of the evictees were considered to be in need of dire special or emergency assistance or additional assistance over and above what was recommended in the entitlement matrix.

1.2.4 Comparison of Existing Valuation Report and the Audit Findings

The audit also noted that the *Draft Valuation Report for the demolished structures on the Mombasa-Mariakani Report (October 2015)* conducted by NLC, only identified ninety four (94 No) structures. The audit report identified a total of one hundred and twenty seven structures (127 no.). Comparison between the Audit Report findings and the Valuation Report shows that there were eighty three (83 No) consistent names of structure owners.

One of the recommendations made in the Audit report is that the pending 33 structures to undergo valuation based on the same methodology used. This has already been done. Further to this, the compensation payment already issued to the PAPs by KeNHA against the additional compensation payments proposed within the CAP stands at **32,956,995** and **31,947,346** respectively.

1.2.5 Impact on Housing and Related Services

Some of the houses were partially demolished and some of the evictees claimed exposure to harsh weather as they were rained on and only moved afterwards. Others reported that they moved to other areas to find rental housing. By the time of the audit, no evictee was found to be living in those structures.

A faction of the evictees claimed that they were homeless for two nights until their neighbours took them in. Similarly, by the time of the audit survey, none of the evictees reported being homeless.

Scrap metals, wood and nails left over from the demolitions (debris) were reported to present a risk of injury to persons accessing the site. The evictees also reported that most of the abandoned partially demolished structures have been turned to toilets by the surrounding community, thus degrading the sanitation standards within the road reserve. As a result of this, the affected area is perceived by the surrounding community as a health hazard.

1.2.6 Impact on Occupation and Incomes

Business owners reported that their customer base had decreased since some of the evictees are yet to return to the area. This has resulted in reduced incomes for the businesses in the area. A trickle effect of the reduction in income is that some businesses were forced to close down after the eviction, due to reduced incomes. This implies that due to the loss of customers the businesses were no longer turning profits.

Other businesses have been forced to scale down. For example, businesses with five employees have now scaled down to two employees. This implies that some people were laid off as a result of the demolitions.

A number of structure owners reported reduced incomes from their housing unit. Similarly, tenants claimed that their current income level is too low and that they are unable to pay their rent.

For the businesses that were not re-established, the remaining customer base has moved to areas where demolitions have not been done. The example given was that MPESA customers have now moved to Mariakani area.

1.2.7 Impact on Children

The two main reported impacts on children were:

- Psychological torture for those who were present during the demolitions. A total of sixteen (16 No) children (aged below 18 years) were reported to be present during the night of demolition. Audit report established that Fifteen(15 No) of the children were attending school at the time of the demolitions;
- Cumulative claims for impact on education were as a result of reduced income in both the affected households and businesses.

As a result, there is likelihood of reduced incomes among the evictees. The following claims of impacts were also reported by the evictees:

- Some parents reported that they were not able to continue paying schools in private schools and had to move their children from private schools to more affordable public schools;
- The performance of children in school has dropped as a result of the evictions;
- There was a claim that some children were forced to drop out of schools due to lack of school fees.

Additional consultations were therefore held with the parents who claimed impacts on education of their children as a direct result of the evictions. The key queries raised with the parents were basically to determine how the pre-eviction income from the economic activities conducted on the affected area were contributing to their children's education. The parents therefore had to disclose the school fees they were paying per term or per year for their children and any other dependants they were paying school fees for.

The second issue that was discussed was how eviction had interfered with this income and conversely, the payment of school fees. It was also clear that they relied on other off-site sources of income to pay for their children's school fees.

From the comparison of the school fees that they reported to be paying in these schools and the actual contribution from the income from the eviction area, it was clear that the income from the eviction area was not the main source of funding for their children's education.

Verification on the psychological impacts of the eviction on children and their performance in school should however be considered in view of any special needs that children may have with regard to psychosocial support and as advised by experts in child psychology. An appropriate partner would be the Gender and Social Services provided by the National Government at sub-county level.

1.3 Evictees Expectations on Proposed Corrective Actions

Discussions were held with the evictees to determine their expectations on the corrective actions. Key issues arising and analysis of these discussions are presented below:

1.3.1 Compensation

The evictees are keen to receiving cash compensation for damages experienced during the demolitions. This compensation is expected to encompass the following:

- Compensation for demolished structures to enable re-establishment of the same;
- Compensation for tenants on loss of rental expenditure incurred (lost rent paid) on the affected structure;
- Compensation for 'loose' assets. These include furniture, electronics and other household items;

- Compensation for loss of business stock due to looting as a direct result of the evictions. It was reported that evictees were able to rescue their merchandize from the demolished structures, but lost them from looters who took advantage of the situation to loot business stock. Type and value of stock varied depending on the type of business affected.

Remarks from the Audit Exercise

Valuation of structures was conducted by a registered Land and Asset Valuer in September 2015, and a compensation package for 94 structures prepared. The list established by the Land and Asset Valuer was compared with the list from the Audit exercise and only eighty three (83 no.) structures were confirmed to be consistent. The remaining 33 structures have since been valued and their valuation included in the final CAP.

To meet Lenders' standards, and in line with the Kenyan Constitution (2010), which call for payment in good faith, there is need to consider compensation for loss of rent, assets and business stock. From the survey findings some of the evictees claimed very high losses in terms of lost stock to the tune of a minimum of Kshs.20, 000.00 to a maximum of Kshs 3,674,000.00.

Verification of the claims made above was carried out in the month of July 2016. Calculation of entitlement was based on an agreed entitlement matrix as presented in Appendix II.

1.3.2 Additional Assistance to the Evictees

Apart from cash compensation, the evictees get additional assistance such as training on financial management and psychological guidance during CAP implementation.

Remarks from the Audit Exercise

The compensation offered to the evictees is expected to include cash payments. This CAP recognises that the final decision on how the evictees will actually utilise this compensation is with the evictee's themselves. However, there is need for guidance to be offered to the evictees on financial management as a measure to mitigate use of the money on other more pressing needs.

1.3.3 Assistance in Securing a Resettlement Site

The need for a site free from future eviction came out clearly from the consultations. Considering that the evictees were on road reserve, one of the considerations would be identification of an area where they would have some form of security of tenure, even if it was on tenancy status.

The respondents were keen on resettlement sites that are not far from the current project area. The perception is that this is the area they know and starting a business in a whole new place was daunting for them. It was felt that they better understood the business dynamics at their current location hence, re-establishment in a familiar area would be easier to accept than re-establishment in a whole new area.

Remarks from the Audit Exercise

This study recognises that the affected area is earmarked for road development and may not necessarily be suitable for commercial purposes. Furthermore, the health and safety risks for residential uses are also high to the point of making it unsuitable for housing.

Based on the consultations held with Mombasa County City Planner, there are two possible sites for markets that are near the project footprint. These sites are approximately 2km from *Kwa Jomvu*. KeNHA, in conjunction with NLC can liaise with Mombasa County Government to identify the most appropriate site where evictees can be relocated.

Other possible sites mentioned include a lorry park in Miritini area where, if possible, the evictees would be relocated. From the discussions during the meeting with NLC, this site is public land that would be used to relocate persons being moved under roads and railway projects in the area.

This study is cognisance of the RAP update that is currently ongoing and suggests that the entitlement matrix so developed in that updated RAP should include these evictees. This will enable the PAPs along the road be treated as one entity.

1.3.4 Employment opportunities

The evictees requested that the locals be given opportunity for employment during the roads construction phase.

Remarks from the Audit Exercise

This can also be considered as additional support if opportunity for employment is offered to the evictees. However, modalities for employment of the evictees by the project would have to be integrated into the specifications and requirements for the construction contracts specifically for non-skilled or semi-skilled staff for the Contractor.

2 ANALYSIS OF CORRECTIVE ACTIONS

2.1 Background

The Terms of Reference for the assignment included a proposed entitlement matrix as provided by the Lenders for discussion with KeNHA and relevant stakeholders as well as analysis on the plausible measures as per the assignment findings.

The proposed matrix provided for discussion and analysis as part of the assignment is presented in Appendix 1 of this Report.

An analysis of the discussions on the proposals in the matrix is presented in Table 2.1 below.

Table 2.1: Analysis of the Entitlement Framework for Forcefully Evicted People on Kenya's Road Reserve

Category of Evictees	Loss	Proposed Corrective Action as per the Lenders guidelines	Feedback from NLC	Feedback from KeNHA	Proposed Action	
Legal Owners	Land	Compensation for any destruction on the land at replacement cost, alternatively at market value should latter prove higher than awarding equal size land in another location.	<ul style="list-style-type: none"> No compensation. Evictees were settled on the road reserve illegally 	<ul style="list-style-type: none"> No compensation for those residing on road reserve 	No Compensation	
	Structure Owners	Business structure (kiosk, restaurant, hotel, workshop, rental property, etc.)	<ul style="list-style-type: none"> Compensation at replacement value for loss of business structure; Compensation at replacement value for loss of residential house; Compensation at replacement value for loss of other structures associated to affected structure. 	<ul style="list-style-type: none"> The valuation report as prepared by the Registered Land and Asset valuer was adopted by NLC. Therefore compensation will be based on the methodology adopted by the Land and Asset valuer. 	<ul style="list-style-type: none"> Compensation for structures would best be based on valuation using valuation principles based on the market value. The computation of such was drawn from the valuer's methodology as documented in the Valuers Report Adoption of 'full replacement cost' would be deemed as rewarding or endorsing an illegality as per the Kenyan Law 	<ul style="list-style-type: none"> Cash compensation based on the market value including a 15% disturbance allowance
		Residential Structure	Compensation at full replacement costs	<ul style="list-style-type: none"> Valuation methodologies and principles do not cover stocks/household goods as these are termed as "loose assets". As such they would therefore not be able to determine a methodology for determining the cash compensation for such losses as claimed by the evictees; It would be difficult to confirm that these assets were actually on site during the evictions as it is all based on what the evictees stated; Compensation of such items would also raise audit queries. 	<ul style="list-style-type: none"> In general, it would be very difficult to justify payments on these assets without any evidence or proof especially during audits; Finance department to make such payments due to lack of laws or regulations to back-it up. KeNHA would have to re-look at this issue after consultation with their legal officers; 	<ul style="list-style-type: none"> Cash compensation as follows; <ul style="list-style-type: none"> For those with documentation validated during verification, an equal value will be compensated For those lacking documentation, compensation will be based on the mean average of the documented enumerated losses of assets in the CAP
	Residential building cum business structure	Compensation at full replacement costs	<ul style="list-style-type: none"> Not applicable in Kenya context as there is no law that considers compensation due to loss of income 	<ul style="list-style-type: none"> There was no evidence of income one was earning and it would not be possible to compensate based on the figures claimed by the evictees; Plausible records include income tax returns which can be verified under the law; Supports the inclusion of Kenya Revenue Authority (KRA) in this exercise to assist in the verification of the claims. 	<ul style="list-style-type: none"> Cash compensation will be based on a calculated average loss of income over a six month period <ol style="list-style-type: none"> Where income may be verified, compensation will amount on that equal value Where income may not be verified, compensation's calculation will be based on the mean average of the documented income losses in the CAP Where structure owners-cum-business operators compensated so far have also experienced loss of income, KeNHA will assess any difference between the compensation provided under the 15% disturbance allowance and the respective entitlement referring to the loss of income for the structure owner and accordingly rectify any gaps in this regard. In terms of longer-term livelihood restoration measures, evictees will be involved in the preparation of the livelihood restoration plan under the RAP and will be entitled to benefit from it. Once RAP compensation measures are launched, and the clearance of the section is due, these business operators who have remained on-site will be given adequate notice (minimum 1 month) to vacate the land/premises 	
Moral and psychological damage	Monthly income payment for loss of business, rents, etc. from the day of forced eviction until full remedial compensation has been paid. This does not include the payment they will receive for being finally resettled (this aspect will be handle separate in the RAP)	Hardship allowance for moral and psychological damage(Amount to be	It may be better to consider counselling services since moral and psychological	It may be wise to engage local Non-Governmental Organisations (NGOs) or CSOs to	Three sessions of group counselling to be offered as follows;	
Structure Owners	Moral and psychological damage	Hardship allowance for moral and psychological damage(Amount to be	It may be better to consider counselling services since moral and psychological	It may be wise to engage local Non-Governmental Organisations (NGOs) or CSOs to	Three sessions of group counselling to be offered as follows;	

Category of Evictees	Loss	Proposed Corrective Action as per the Lenders guidelines	Feedback from NLC	Feedback from KeNHA	Proposed Action
	due to forced eviction	determined)	damage may be a challenge to put monetary value to it.	assist in training or counselling the evictees on use of compensation funds.	<p>a. Before compensation</p> <p>b. During compensation</p> <p>c. After compensation</p>
	Expenses which arose as direct consequence to the forced evictions incident, incl. loan servicing	Compensation of all expenses, which arose due to the forced eviction, (rent of a new house, administrative costs to replace papers lost due to forced eviction, any other costs resulting from the forced eviction, loan taken to re-establish business/home, transportation to meetings related to forced eviction, medical costs, legal counselling, etc.)	Not Applicable	Those with evidence especially on medical cost should be refunded.	Monthly instalment for six month period subject to verification of impact borne.
Tenant	Tenancy in affected residential building use	Compensate all cost related to moving plus transaction costs and if the rent is higher than before the difference to the previous rent for a determined time span.	Compensation for tenants is only considered for those with long-term leases as proof that relocation would have a direct impact on their income. In such cases, NLC computes loss of income and provides compensation to such tenants. However, in this case, the evictees are unlikely to have long terms leases or any proof of rental payments.	<ul style="list-style-type: none"> It would be difficult to offer cash compensation to tenants without proof of tenancy Categorize the tenants into two groups of those with proof of tenancy (i.e. long term lease) and those without proof of tenancy. As such, for the case of those with proof of tenancy, NLC would compute loss of income and provide compensation to such tenants, those without proof of tenancy, KeNHA and NLC would agree on how to mitigate the tenant. 	<ul style="list-style-type: none"> An intermediate livelihood plan of cash compensation and site retention for business operators, at their own risk, until RAP kicks in. Cash compensation will be based on a calculated average loss of income over a six month period <ul style="list-style-type: none"> Where income may be verified, compensation will amount on that equal value Where income may not be verified, compensation's calculation will be based on the mean average of the documented income losses in the CAP Where structure owners-cum-business operators compensated so far have also experienced loss of income, KeNHA will assess any difference between the compensation provided under the 15% disturbance allowance and the respective entitlement referring to the loss of income for the structure owner and accordingly rectify any gaps in this regard. In terms of longer-term livelihood restoration measures, evictees will be involved in the preparation of the livelihood restoration plan under the RAP and will be entitled to benefit from it. Once RAP compensations are paid in full and livelihood restoration measures are launched, and the clearance of the section is due, these business operators who have remained on-site will be given adequate notice (minimum 1 month) to vacate the land/premises.
	Tenancy in affected residential building use and business use				
	Equipment, Material, Assets, Merchandise	Compensation at full replacement costs	<ul style="list-style-type: none"> Valuation methodologies and principles do not cover stocks/household goods as these are termed as "loose assets". As such NLC would therefore not be able to determine a methodology for determining the cash compensation for such losses as claimed by the evictees; 	<ul style="list-style-type: none"> In general, it would be very difficult to justify payments on these assets without any evidence or proof especially during audits; It would be difficult to authorise the KeNHA's Finance department to make such payments due to lack of laws or regulations to back-it up. As such KeNHA would have to re-look at 	<ul style="list-style-type: none"> Cash compensation as follows; <ul style="list-style-type: none"> For those with documentation validated during verification, an equal value will be compensated For those lacking documentation, compensation will be based on the mean average of the documented

Category of Evictees	Loss	Proposed Corrective Action as per the Lenders guidelines	Feedback from NLC	Feedback from KeNHA	Proposed Action
	Loss of Income	Monthly income payment for loss of business, from the day of forced eviction until full remedial compensation has been paid. For tenancy of businesses. This does not include the payment they will receive for being finally resettled (this aspect will be handle separate in the RAP).	<ul style="list-style-type: none"> It would be difficult to confirm that these assets were actually on site during the evictions as it is all based on what the evictees stated; Compensation of such items would also raise audit queries. <p>No comment was made on this matter</p>	<p>this issue after consultation with their legal officers;</p> <ul style="list-style-type: none"> There was no evidence of income one was earning and it would not be possible to compensate based on the figures claimed by the evictees; Plausible records include income tax returns which can be verified under the law; Supports the inclusion of Kenya Revenue Authority (KRA) in this exercise to assist in the verification of the claims. 	<p>enumerated losses of assets in the CAP</p> <ul style="list-style-type: none"> Considering that the evictees were operating Cash compensation will be based on a calculated average loss of income over a six month period <ul style="list-style-type: none"> Where income may be verified, compensation will amount on that equal value Where income may not be verified, compensation's calculation will be based on the mean average of the documented income losses in the CAP Where structure owners-cum-business operators compensated so far have also experienced loss of income, KeNHA will assess any difference between the compensation provided under the 15% disturbance allowance and the respective entitlement referring to the loss of income for the structure owner and accordingly rectify any gaps in this regard. In terms of longer-term livelihood restoration measures, evictees will be involved in the preparation of the livelihood restoration plan under the RAP and will be entitled to benefit from it. Once RAP compensations are paid in full and livelihood restoration measures are launched, and the clearance of the section is due, these business operators who have remained on-site will be given adequate notice (minimum 1 month) to vacate the land/premises Three sessions of group counselling to be offered as follows; <ul style="list-style-type: none"> Before compensation During compensation After compensation <p>Monthly instalment for six month period subject to verification of impact borne</p> <ul style="list-style-type: none"> One month cash compensation in lieu of notice, based on established minimum wage as per the Kenyan Law
	Moral and psychological damage due to forced eviction	Provide a hardship allowance	<p>It may be better to consider counselling services since moral and psychological damage may be a challenge to put monetary value to it.</p> <p>It would therefore be difficult to set a compensation amount on expenses that arose due to demolitions.</p>	<p>It may be wise to engage local Non Governmental Organisations (NGOs) or CSOs to assist in training or counselling the evictees on use of compensation funds.</p> <p>Those with evidence especially on medical cost should be refunded.</p>	
	Expenses which arose as direct consequence to the forced evictions incident, incl. loan servicing	Compensate all expenses, which arose due to the forced eviction, (administrational costs to replace papers lost due to forced eviction, any other costs resulting of the forced eviction, loan taken to re-establish business/home transportation to meetings related to forced eviction, medical costs, etc.) Monthly income until new work has been found or maximum until full remedial compensation has been paid.			
Employee	Loss of income due to loss of employment	Monthly income until new work has been found or maximum until full remedial compensation has been paid.	<p>The main challenge raised was the lack of precedent setting in compensation under evictions that would act as a guide. Considering how challenging it is for structure owners the challenges are higher for tenants and employees.</p>	<p>No cash compensation would be accorded to this category of evictees, but rather some form of mitigation measure such as avenues of employment opportunities during implementation of the road project and inclusion in the skills empowerment training opportunities in the project</p>	

2.2 Promoting Livelihood Restoration

From the analysis of the entitlements provided in Table 2.1 above, the following action is considered for promoting livelihood restoration.

2.2.1 Compensation and Site Retention

The evictees will be compensated and allowed to operate in the same site until project updated RAP is implemented. Those whose structures were demolished will be advised not to rebuild on the same space. Others already operating in the area will continue doing so without any disruption. This action is deemed best since road reserve along the entire stretch has been occupied and there are plans to compensate the PAPs along the road.

KeNHA will therefore permit evictees to remain on the road reserve until the updated RAP is implemented.

2.3 Relevant Stakeholders for CAP Implementation

The following stakeholders were identified during the audit and can be of relevance during CAP implementation;

Table 2.2: List of Relevant Agencies for CAP Implementation

S/N	Organization	Relevant Department	Role
1	KeNHA	Design & Construction Planning and Environment	Implementing Agency
2	National Land Commission	Valuation and Taxation	Valuation and compensation of impacts
3	EIB/AfDB/KfW	Project teams	Project Financiers
4	Ministry of Interior	DCC Jomvu Chief Miritini Location, Assistant Chief Jomvu Kuu Sub location	Verification and Dispute resolution
5	Committee of Evictees	Committee of Evictees	Reception of grievances/disputes
6	Local CSOs	Haki Yetu, Rapid Response Team	Monitor implementation

3 CORRECTIVE ACTION PLAN

3.1 Introduction

3.1.1 General Information

This CAP is established to provide a roadmap for ensuring that the livelihoods of evictees return to ex-ante levels until the project RAP's implementation kicks in. This CAP is equally expected to outline a timeframe for implementation of the proposed corrective action at the earliest possible time.

This CAP is expected to be aligned with the provisions of the project's RAP. It is therefore expected that there will be a seamless integration between this CAP and the updated RAP currently under preparation.

3.1.2 Review of Available RAP Report

The *Resettlement Action Plan: Preliminary and Detailing Engineering for the Dualling of Mombasa-Mariakani (A109) October 2014*; recognizes informal traders as among the Project Affected Persons (PAPs). As such, the entitlement matrix proposed therein identifies loss of asset, income and livelihoods as forms of impact affecting the evictees. In this regard, the entitlement matrix recommends cash compensation, indirect beneficial mitigation measures as well as additional assistance to these evictees.

3.1.3 Review and Update of the RAP and its Implications on the CAP

In parallel with the Lenders' review of the Draft RAP, KeNHA has embarked upon updating the RAP document to include effective and sustainable livelihood restoration measures for affected street hawkers and informal stand keepers.

Eligible evictees within this CAP will also fall within PAPs in the Project RAP. However, the timing of the two undertakings is distinct, in that this Report precedes the updating of the RAP.

As such, for this CAP, a lot of focus was put on discussions and feedback with key informants specifically the Lenders' representatives and KeNHA as well as NLC to try and establish actions that are likely to be as close as possible to the expected principles of the updated RAP. KeNHA has committed to pursue continuity between the two documents and the Terms of Reference of the respective assignments (CAP elaboration and RAP revision) reflect as much.

This CAP has also put emphasis of future engagement of the eligible evictees to provide timely access to information during the CAP implementation as well as proposals to promote participatory grievance management from grassroots level and meaningful consultation.

3.2 Proposed Corrective Actions

Based on the audit findings and discussions on the corrective actions for the evictions, the following are the recommendations under this CAP.

3.2.1 Loss of Land

Land occupied by PAP's prior to the demolitions is a road reserve owned by KeNHA and hence no claim on loss of land can be deemed as legal. However, update of RAP is currently on going which will provide appropriate entitlement to the PAPs along the road reserve.

Proposed Plan

- No compensation on those who claim to own sections of the land where structures were constructed.

3.2.2 Loss of Structures

All the 117 structures have been valued and their entitlements computed. The Corrective Action as per the Lenders guidelines proposes compensation at 'full replacement cost' for loss of business structure, residential house, including other structures associated with affected structure. The valuation report developed by the Land and Asset Valuer, was based on the market value principles. Kenyan Law recognizes that a 'just compensation' must be granted to the owner for the loss of structures.

Proposed Action

- Cash compensation based on market value including 15% disturbance allowance.

Table 3.1 Proposed Compensation for loss of structures

Payments for	Total Estimate of loss	Amount already paid	Balance to be paid
Loss of structures	42,725,530	32,956,995	9,768,535

Refer to *Schedule I* of the full compensation matrix for the case by case computations (See Appendix IV).

3.2.3 Loss of Equipment, Material, Assets, Merchandise

Initial proposal by Lenders was compensation at full replacement costs. Based on discussion with stakeholders, it was apparent that valuation methodologies and principles do not cover stocks and household goods as these are termed as "loose assets".

Proposed Action

- For those with documentation validated during verification, an equal value will be compensated
- For those lacking documentation, compensation will be based on the mean average of the documented enumerated losses of assets in the CAP.

Table 3.2 Proposed Compensation for loss of Assets

Payments for	Total Estimate of loss	Amount already paid	Balance to be paid
Loss of assets	3,224,325	NIL	3,224,3259

Refer to *Schedule I* of the full compensation matrix for the case by case computations (See Appendix IV).

3.2.4 Loss of Income

Lenders propose a monthly income payment for loss of business, rents, etc. from the day of forced eviction until full remedial compensation has been paid. This payment does not include the payment they will receive for being finally resettled under the updated RAP. This proposal by lenders is not applicable in Kenyan context as there is no law that considers compensation due to loss of income.

Proposed Action

- Cash compensation based on a calculated average loss of income over a six month period;
 - Where income may be verified, compensation will amount on that equal value
 - Where income may not be verified, compensation's calculation will be based on the mean average of the documented income losses in the CAP
 - Where structure owners-cum-business operators compensated so far have also experienced loss of income, KeNHA will assess any difference between the compensation provided under the 15% disturbance allowance and the respective entitlement referring to the loss of income for the structure owner and accordingly rectify any gaps in this regard.
- In terms of longer-term livelihood restoration measures, eligible evictees will be involved in the preparation of the livelihood restoration plan under the RAP and will be entitled to benefit from it.
- Once eligible RAP compensations are paid in full and livelihood restoration measures are launched, and the clearance of the section is due, these business operators who have remained on-site will be given adequate notice (minimum 1 month) to vacate the land/premises

Table 3.3 Proposed Compensation for loss of Income

Payments for	Total Estimate of loss	Amount already paid	Balance to be paid
Loss of income/business	16,537,788	NIL	16,537,788

Refer to *Schedule I* of the full compensation matrix for the case by case computations (See Appendix IV).

3.2.5 Moral and psychological damage

Lenders propose a hardship allowance for moral and psychological damage. NLC and KeNHA consider counselling services since it is challenge to put monetary value to moral and psychological damage.

Proposed Action

- Three counselling sessions to be offered as follows; One before, another during compensation and last one after compensation.

3.2.6 Tenants on Loss of Rent

Lenders initial proposition was that tenants should receive compensation on all cost related to moving plus transaction costs and if the rent is higher than before the difference to the previous rent for a determined time span. However, the Law only considers those with long-term leases as proof that relocation would have a direct impact on their income. It would be difficult to offer cash compensation to tenants without proof of tenancy.

Proposed Action

- Cash compensation of two months' rent.

Table 3.4 Proposed Compensation for loss of Rent

Payments for	Total Estimate of loss	Amount already paid	Balance to be paid
Loss of rent	1,249,800	NIL	1,249,800

Refer to *Schedule I* of the full compensation matrix for the case by case computations (See Appendix IV).

3.2.7 Employees

Lenders propose monthly income until new work has been found or maximum until full remedial compensation has been paid. Challenge raised under this category of evictees was the lack of a precedent for compensation. KeNHA on the other hand felt that cash compensation would not be accorded to this category of evictees, but rather some form of mitigation measure such as avenues of employment opportunities during implementation of the road project and inclusion in the skills empowerment training opportunities in the project

Proposed Action

- One month cash compensation in lieu of notice, based on established minimum wage as per the Kenyan Law.

Table 3.5 Proposed Compensation for Employees

Payments for	Total Estimate of loss	Amount already paid	Balance to be paid
Employees	930,000	NIL	930,000

Refer to *Schedule I* of the full compensation matrix for the case by case computations (See Appendix IV).

3.3 Verification Process and way forward

KeNHA has already made payment to 83 structure owners who were found to be consistent as outlined in the audit report. The valuation methodology was based on the market value with an additional 15% as disturbance allowance factored in the compensation value. However, there are a number of items/ losses that were not included in the valuation. Those additional payments have been factored and they will be made in the next phase of payments.

In this regard, the verification process during additional payment to be undertaken should not only be guided by the PAP list developed but as well insist on the evidence of a legal identification by the PAP prior to disbursement of compensation.

Table 3.1 below presents items that are considered as already compensated (**Marked ✓**) and those that should be included in the second phase for compensation (**marked as ✕**);

Table 3.6: Compensation yet to be paid

Category of Evictees	Loss	Compensation made
Structure Owners	Loss of structures	✓
	Equipment, Material, Assets, Merchandise	✕
	Loss of Income	✕
	Psychological damage due to forced eviction	✕
Tenant	Loss of Rent	✕
	Equipment, Material, Assets, Merchandise	✕
	Loss of income	✕
	Psychological damage due to forced eviction	✕
Employee	Loss of income due to loss of employment	✕
	Psychological damage due to forced eviction	✕

3.4 Entitlement Matrix

A summary of the entitlements are presented in Table 3.2.

Table 3.7: Entitlement Matrix

Loss	Category of Evictees	Entitlement
Land	Informal occupiers/users	<ul style="list-style-type: none"> No compensation
Business structure (kiosk, eateries, workshop, rental property, etc.);	Structure Owners	<ul style="list-style-type: none"> Cash compensation based on the market value including a 15% disturbance allowance
Residential Structure	Tenants abruptly suffering disrupted tenancy	<ul style="list-style-type: none"> Cash compensation of two month's rent
Residential building cum business structure	Asset owners	<ul style="list-style-type: none"> Cash compensation as follows; <ul style="list-style-type: none"> For those with documentation validated during verification, an equal value will be compensated For those lacking documentation, compensation will be based on the mean average of the documented enumerated losses of assets in the CAP
Equipment, Material, Assets, Merchandise	Business operators	<ul style="list-style-type: none"> An intermediate livelihood plan of cash compensation and site retention for business operators, at their own risk, until RAP kicks in. Cash compensation will be based on a calculated average loss of income over a six month period <ul style="list-style-type: none"> Where income may be verified, compensation will amount on that equal value Where income may not be verified, compensation's calculation will be based on the mean average of the documented income losses in the CAP Where structure owners-cum-business operators compensated so far have also experienced loss of income, KeNHA will assess any difference between the compensation provided under the 15% disturbance allowance and the respective entitlement referring to the loss of income for the structure owner and accordingly rectify any gaps in this regard. In terms of longer-term livelihood restoration measures, evictees will be involved in
Loss of Income		

Loss	Category of Evictees	Entitlement
	Landlords	<p>the preparation of the livelihood restoration plan under the RAP and will be entitled to benefit from it.</p> <ul style="list-style-type: none"> • Once RAP compensations are paid in full and livelihood restoration measures are launched, and the clearance of the section is due, these business operators who have remained on-site will be given adequate notice (minimum 1 month) to vacate the land/premises. • Cash compensation will be based on a calculated average loss of income over a six month period <ul style="list-style-type: none"> ○ Where income may be verified, compensation will amount on that equal value ○ Where income may not be verified, compensation's calculation will be based on the mean average of the documented income losses in the CAP ○ Where structure owners compensated so far have also experienced loss of income, KeNHA will assess any difference between the compensation provided under the 15% disturbance allowance and the respective entitlement referring to the loss of income for the structure owner and accordingly rectify any gaps in this regard.
Hardship and moral and psychological damage due to forced eviction	All evictees	<ul style="list-style-type: none"> • One month cash compensation in lieu of notice, based on the established minimum wage • Training on financial management: a one-off, full-day training will be arranged by KeNHA for all evictees
Expenses which arose as direct consequence to the forced evictions incident, incl. Loan servicing	All evictees	<ul style="list-style-type: none"> • Three sessions of group counselling to be offered as follows; <ul style="list-style-type: none"> ○ Before compensation ○ During compensation ○ After compensation • Monthly instalment for six month period subject to verification of impact borne

3.5 Institutional Arrangements for CAP Implementation

KeNHA will be responsible for implementing the CAP in conjunction with other stakeholders such as the National Lands Commission (NLC) and the Deputy County Commissioner Jomvu Sub County. Institutional arrangement was established during stakeholder consultations. Coordination between the different parties is necessary for effective implementation of this CAP.

This section provides the institutional organizations and their responsibilities in the implementation of the CAP.

3.5.1 CAP Steering Committee (CSC)

The steering committee will constitute the following members from KeNHA:

- Project Coordinator-Chairperson;
- Project Sociologist;
- Project Land surveyor;
- Project finance Manager.

This committee will work closely with the National Lands Commission for advice during CAP implementation process.

The roles and responsibilities of the steering committee will include, but not limited to:

- Overall implementation of the compensation program as per the CAP schedule and facilitating inter-departmental co-operation within KeNHA and external organizations;
- Effecting necessary policy, administrative and financial decisions and actions, necessary for the successful implementation of the CAP;
- Facilitation of timely release of necessary funds to the CAP implementation committee for implementation of the compensation program, as per the approved implementation schedule;
- Delegating responsibility and powers to CAP implementation committee, KeNHA staff proposed to carry out implementation/any appointed representative from KeNHA, as required, for smooth implementation of this CAP;

3.5.2 CAP Implementation Committee (CIC)

- Project Sociologist - Chair
- Project Surveyor
- Community Liaison Officer
- Project Land Valuer
- Finance Officer
- Legal officer

The tasks of this committee shall be as follows:

- Payment of cash compensation to evictees;
- Regular meetings to report on the progress of the implementation exercise;
- Management of impediments to the implementation of the CAP;
- Overall management and monitoring of the CAP;
- Ensuring that all evictees are informed about their entitlements;
- Prepare weekly internal monitoring progress reports for the CAP Steering Committee.

3.5.3 Community Liaison Office (CLO)

There will be a CLO stationed at the DCC's office during the entire period of CAP implementation.

Duties of the CLO will include but not limited to;

- The CLO will perform community engagement activities as well as coordination of grievance redress.
 - He/she will provide liaison between CIC and grievance management committee Manage arising community matters
 - Liaise with the DCC to ensure that grievances are tracked, reported and feedback given accordingly. .
-

3.6 CAP Grievance Management Mechanism

3.6.1 General Information

A grievance is a perceived or actual concern or problem raised by an individual or group that may give ground to a complaint. KeNHA will work proactively to prevent grievances through developing a channel where all queries are responded to within the earliest possible timeframe.

3.6.2 Objectives of the CAP Grievance Mechanism

The objectives of the CAP grievance management mechanism are to:

- Provide evictees and any other organisation with a clear process for raising grievances;
- Allow evictees or any person/organization the opportunity to raise comments/concerns anonymously/in secret through a well-established channel;
- Structure and manage the handling of comments, responses and grievances, and allow monitoring of effectiveness of the mechanism; and
- Ensure that comments, responses and grievances are handled in a fair and transparent manner.

(See Appendix 3) for the Terms of Reference for the Proposed Grievance Resolution Management Committee

3.6.3 Expected Grievances

The grievances expected to arise during CAP implementation may include but not limited to:

- Disputes between separated spouses on who should receive compensation;
- Disputes among co-owners on sharing of the compensation package;
- Emerging disputes over ownership of the affected structure. Similar cases were identified and recorded during the audit as presented in the Audit Report;
- Emerging cases of 'new' evictees claiming compensation. These cases may emerge from persons claiming they were not aware of all the previous discussions and surveys since the evictions;
- Disputes arising from the compensation payment process or the compensation packages offered.

3.6.4 Proposed Grievance Management Committee

A sixteen (16 No) member grievance management committee will be formed. The committee will comprise the following members:

- Deputy County Commissioner (DCC), Jomvu –Chairperson of GMC;
- KeNHA's Community Liaison Officer (CLO) – Secretary

- Twelve community representatives: Four (4 no) representatives from each of the three villages (Kwa Jomvu Madafuni, Narcol and Ngamani Voi). The representatives should be from each of the following groups: structure owners, tenants (business and household), and employees). Gender balance must be observed in the selection of these members;
- Two religious leaders (Islamic and Christian representatives).

The committee will have access to advisors and relevant professionals from the following government agencies:

- National Lands Commission;
- Gender and Social Services;
- Partners among the civil society active in the project area, preferably Haki Yetu;

In the event of grievances only the representatives of the affected village will be present. In addition, the only advisors that will be present at any one hearing, are those that are required for a particular grievance under consideration. As such, it is not expected that all the community representatives and advisors mentioned above will be present for every single grievance hearing.

Logistical facilitation of these advisors to attend meetings is covered under this CAP.

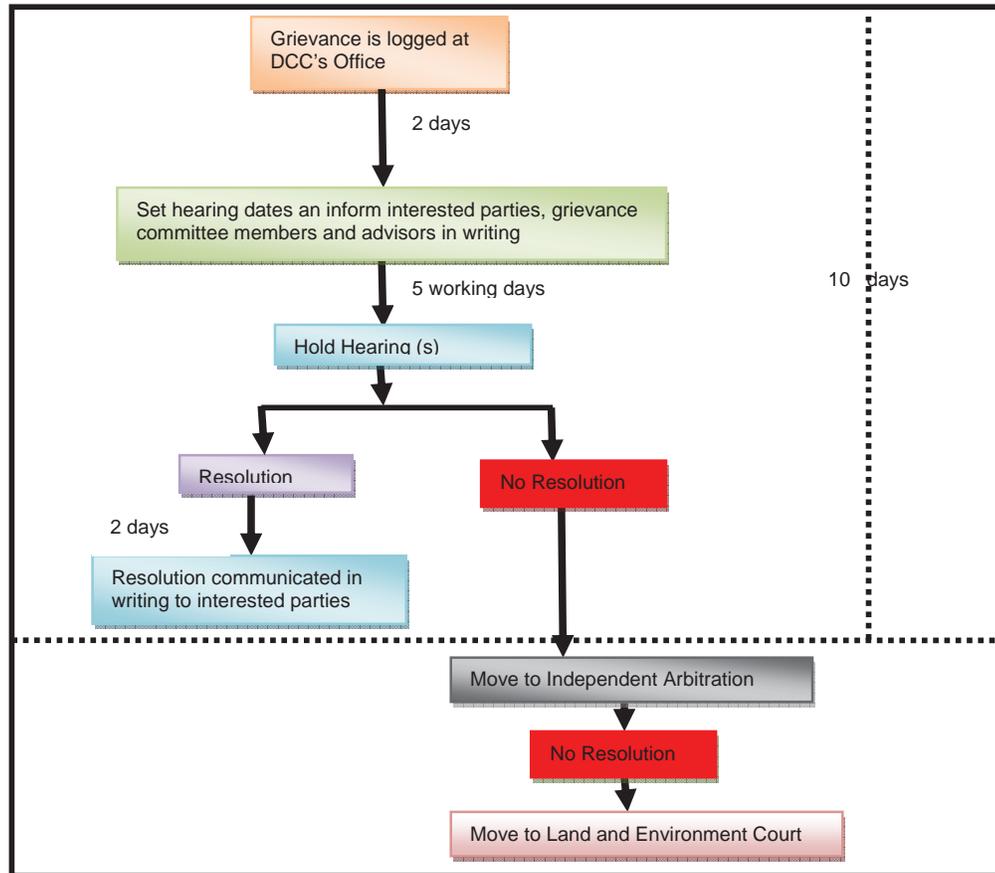
3.6.5 Procedure for Grievance Handling

Grievance will be handled in the following steps:

1. Complaints or grievance must only be made through the Chief's office at Miritini, or Assistant Chief's office at Jomvu kuu or at the Deputy County Commissioner (DCC) Jomvu Office. This approach is adopted so that only genuine complaints are registered. Complainants may register their grievance either as an individual or as a group;
2. Complainants are registered as grievances in the Grievance and Comments Logging Form (and are labelled before they are forwarded to the DCC who is the Grievance Mechanism Committee (GMC) chair.
3. DCC then invites all the GMC members within two days to inform them about the registered grievance.
4. All relevant parties are informed of the date of the hearing through a written notice. The notice should have a minimum of five (5 No) working days between the delivery of the notice and the actual hearing;
5. A copy of the complaint should be delivered to the CAP Implementation Committee immediately it is received by the DCC's Office for their information;
6. The Grievance Committee then holds the hearing as per the notice;
7. The Grievance Committee will communicate its ruling to the affected persons and the CIC within two (2 No) working days;
8. If no resolution is met or the aggrieved is not satisfied with the judgement, the case may be moved to independent arbitration as advised by the National Lands Commission. In following with the Kenyan Eviction Guidelines, this may require inputs by the Kenya National Human Rights Commission;
9. If no resolution is met after independent arbitration, the case may be moved to the Land and Environment Court.

Figure 3-1 below shows a summary of the proposed mechanism.

Figure 3-1 Flow chart of Grievance Redress Mechanism



3.7 CAP Implementation Schedule

For a smooth implementation process the following activities will need to be undertaken as specified in Figure 3.2:

- Drawing up and issuance of GMC TOR;
- Launch of KeNHA procurement for close-down audit service provider (KeNHA leads contracting, Lenders advise, KfW grant utilisation). Contract to be awarded by end November 2016;
- Disclosure of the Audit and CAP Reports in Mombasa to PAPs;
- Clearance from Lenders (CAP report);
- Financial Training;
- CAP Implementation;
- Counselling
- Grievance management and resolution of cases;
- Close-down audit.

An outline of a proposed implementation schedule is as presented in Figure 3-2 below.

Figure 3-2: CAP Implementation Schedule

Activities	PERIOD																							
	Aug-16				Sep-16				Oct-16				Nov-16				Dec-16				Jan-17			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Week																								
Drawing up and issuance of GMC TOR																								
Launch of KeNHA procurement for close-down audit service provider (KeNHA leads contracting, Lenders advise, KfW grant utilisation). Contract to be awarded by end November 2016.																								
Disclosure of the Audit and CAP Reports in Mombasa to PAPs																								
Clearance from Lenders (CAP report)																								
Financial Training																								
CAP Implementation																								
Counseling																								
Grievance management and resolution of cases																								
Close-down audit.																								

3.8 Estimated Costs for CAP Implementation

Table 3.8 to 3.10 below shows a summary of entitlements payments already made, entitlement payments to be made and the estimated additional costs for CAP Implementation.

Table 3.8 Summary of Payment Made

No	Item	Amount (in Kshs)
I	Payments to 83 structure owners	32,956,995

Table 3.9 Summary of Payments to be made

No	Item	Estimated Amount (in Kshs)	Remarks
I	Payments to 33 additional structure owners	11,126,453	Refer to <i>Schedule I</i> of the full compensation matrix (See Appendix IV)
II	Payments to Tenants	13,743,007	
III	Payments to Employees	930,000	
IV	Additional Amount for the 83 structure owners initially paid	5,319,636	Refer to <i>Schedule II</i> of the full compensation matrix (See Appendix IV)
V	Cheques that were not paid due to inconsistencies	828,250	Refer to <i>Schedule III</i> of the full compensation matrix (See Appendix IV)
Total payments to be made to PAP's		31,947,347	

Table 3.10 Estimated Additional Cost for CAP Implementation

No	Item	Estimated Amount (in Kshs)
I	Total payments to be made to PAP's	31,947,347
VII	Counselling and training services	300,000
VIII	Facilitation of GRM committees	1,000,000
IX	CAP Exit Audit	600,000
Additional Total Cost for CAP Implementation		33,847,346

4 MONITORING AND EVALUATION OF CAP

4.1 Background

Monitoring and Evaluation (M&E) are practical tools which should form an essential part of good management practice. Monitoring is an internal project activity designed to provide constant feedback on the progress of a project, the problems it is facing, and the efficiency with which it is being implemented. Evaluation, on the other hand, is mainly used to measure project outcome and help in the selection and design of future similar projects.

Monitoring and Evaluation are designed to provide project management, with timely and operationally useful information on how efficiently each stage of the project is operating, the degree to which intended impacts are being achieved and the lessons for future projects.

4.2 Monitoring the CAP Implementation Inputs

This will be done through performance monitoring which aims at assessing the extent to which CAP inputs are being used in accordance with the approved budget and timetable. It will also gauge whether the intended outputs are being produced in a timely and cost-effective manner.

In the monitoring of the CAP implementation inputs KeNHA will employ the use of quantitative surveys and direct observation to collect data. Results of the surveys will be compared with the set objectives to check if the implementation team is achieving its targets.

4.3 Monitoring the CAP Implementation Process

The purpose of Process Monitoring is to provide feedback on the efficiency and effectiveness of the CAP delivery system. Areas of particular importance are:

- The analysis of how engagement activities are perceived by the target population;
 - The effectiveness of the communication and organizational linkages between the CAP implementers and the target stakeholders;
 - The costs incurred during CAP implementation vis a vis the expected and realised outputs of the CAP process.
-

4.4 Methods of Monitoring the Efficiency of the CAP Implementation Process

4.4.1 Monitoring the overall efficiency of CAP Implementation

The evaluation by KeNHA will include a descriptive analysis of factors such as the following:

- Achievement of CAP objectives;
- Satisfaction of participating stakeholders with the overall co-ordination of the CAP program;
- Effectiveness of communication actions and problem-solving mechanisms;
- Effectiveness and efficiency of monitoring and evaluation systems;

4.4.2 Developing summary indicators

The following will be key indicators used by KeNHA in this comparative analysis:

- Achievement of CAP objectives;
- Actual costs incurred as compared with budgeted amounts;
- Accessibility to the target stakeholders;
- Flexibility and adaptability.

The above indicators will be reviewed separately and then combined to produce an overall index of project efficiency.

4.4.3 Indicators of the efficiency of individual CAP activities

Special criteria can be applied to each component but it is also useful to develop a set of indicators which can be used for comparative purposes, as presented below:

- Speed of CAP implementation in comparison with the planned schedule of activities;
- Cost of implementation as compared to the original estimates;
- Dispute handling procedures effected and effectiveness.
- Psychosocial interventions effected
- Responsiveness of stakeholders in comparison with the expected achievements;
- Accessibility to the target population;
- Replicability of the procedures and design.

4.5 Impact Evaluation

Two main approaches that will be used by KeNHA for the quantitative estimation of project impacts include:

4.5.1 Estimation of net impacts

This approach is to compare the conditions of benefits of the CAP with what they would have been if the CAP had not been implemented.

4.5.2 Comparison of 'effectiveness' of 2 or more alternative strategies

This approach will be used to compare the effects of alternative strategies as developed or evolved during the CAP evaluation process to determine which produces the greatest benefits.

4.6 Tools for Participatory Monitoring and Evaluation

4.6.1 Quantitative surveys

One of the most common methods for obtaining information on how a project is operating is to design a questionnaire and to apply it to a sample of project participants. The questionnaires can be issued periodically or at the end of the CAP activities.

KeNHA will design a questionnaire containing the following types of information (among many others):

- Information to find out how evictees and stakeholders have been participating in the CAP implementation process;
- Evictees perceptions on the CAP implementation activities and processes (efficiency, timeliness, relevance etc);
- Changes which the CAP implementation process has produced.

This information can be compared over time with the previous information collected through-out the CAP implementation process. It can also be used to determine changes and trends that may have outside influences such as political situations, project related impacts etc.

4.6.2 Focus Group Discussions

Participants of an FGD drawn from various groups can be a good source of data for the M&E process. The participants can be sensitised on the goals and objectives of CAP then asked to discuss specific issues with regard to the efficacy and effectiveness of the CAP. An active FGD can also be used to identify bottlenecks to the CAP implementation process from their perspective hence assist in identification of root causes of inefficiencies or challenges being faced during CAP implementation.

4.7 Reporting

4.7.1 Reports

Quarterly reports will be prepared and presented to the Manager, Design and Construction Department. All these reports must be transmitted to the Director General for approvals.

The report should include (but not limited to):

- Progress on activities in CAP implementation and RAP compliance conducted during the period;
- Meetings with evictees and stakeholders;
- Registration of grievance, if any;
- Plans for the next week and long term plans.

4.7.2 Final Reports

Final report providing an updated CAP results will be prepared. This report will provide all payments made, Summary of grievances and resolutions. The report should also include a section on the performance and efficacy of the CAP vis a vis budgetary and resource constraints. It should also highlight lessons learnt and propose necessary corrective actions for adoption for any future similar assignment.

5 RECOMMENDATIONS

The following recommendations need to be observed, for a successful implementation of CAP;

1. **Access to information by all stakeholders:** Information must be relayed to stakeholders to enable them make an informed decision towards proper implementation of this CAP. Information regarding compensation package, any decision arrived at higher levels, that are relevant to CAP implementation should be relayed to the final beneficiaries (evictees). Any delay may cause unnecessary gap that can be filled with rumours hence affecting the general progress.
2. **Access to Consultation:** Consultation between evictees, KeNHA and NLC should be encouraged. Information dissemination meetings should be organized whenever there is a need to inform the public about the progress. This will enable stakeholders get prompt updates on the progress of the CAP.
3. **Grievance Mechanism:** The GRC should be effectively facilitated to enable it undertake its mandate.