KENYA HIGHWAYS NATIONAL AUTHORITY (KeHNA)  
ABBREVIATED  
RESettlement Action Plan  

Bachuma Gate-Maji ya Chumvi section of the Nairobi- Mombasa road (A109)  

Conducted by  
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February, 2011
**List of Acronyms**

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARAP</td>
<td>Abbreviated resettlement Action plan</td>
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<tr>
<td>GOK</td>
<td>Government of Kenya</td>
</tr>
<tr>
<td>IRP</td>
<td>Involuntary Resettlement Policy</td>
</tr>
<tr>
<td>KeHNA</td>
<td>Kenya Highway National Authority</td>
</tr>
<tr>
<td>MRPWH</td>
<td>Ministry of Roads, Public Works and Housing</td>
</tr>
<tr>
<td>PAPs</td>
<td>Project Affected Persons</td>
</tr>
<tr>
<td>RMFLF</td>
<td>Roads Maintenance Fuel Levy Fund</td>
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<tr>
<td>RoW</td>
<td>Right of Way</td>
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</table>
Glossary of Terms

**Abbreviated Resettlement Action Plan (ARAP):** For projects in which the number of people to be displaced with a loss of assets or restriction of access to assets is small (less than 200 persons will experience resettlement effects), an abbreviated resettlement plan (ARAP) is prepared.

**Compensation:** Payment in cash or in kind for an asset or a resource that is acquired or affected by a project at the time the asset needs to be replaced.

**Involuntary resettlement:** Resettlement is involuntary when it occurs without the informed consent of the displaced persons or if they give their consent without having the power to refuse resettlement.

**Cut – off date:** The date the enumeration begins. Persons occupying the project area after the cut-off date are not eligible for compensation and/or resettlement assistance. Similarly, fixed assets (such as built structures, crops and trees) established after the date of completion of the assets inventory or an alternative mutually agreed date will not be compensated.

**Displaced persons:** Persons who are affected by the involuntary taking or clearing of land or 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.

**Involuntary resettlement:** Resettlement is involuntary when it occurs without the informed consent of the displaced persons or if they give their consent without having the power to refuse resettlement.

**Land expropriation:** Process whereby a public authority, usually in return for compensation, requires a person, household, or community to relinquish rights to land that it occupies or otherwise uses.

**Project-affected person:** Any person who, as a result of the implementation of a project, loses the right to own, use, or otherwise benefit from a built structure, land (residential, agricultural, or pasture), annual or perennial crops and trees, or any other fixed or moveable asset, either in full or in part, permanently or temporarily.
Resettlement Action Plan (RAP): The document in which a project sponsor or other responsible entity specifies the procedures that it will follow and the actions that it will take to mitigate adverse effects, compensate losses, and provide development benefits to persons and communities affected by an investment project.

Resettlement assistance: Support provided to people who are physically displaced by a project. Assistance may include transportation, food, shelter, and social services that are provided to affected people during their relocation. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray the expenses of a transition to a new locale, such as moving expenses and lost work days.

Structure owner PAPs: Project Affected Persons who own structures within the project area.

Tenant PAPs: Project Affected persons who lease either residential or business premises within the project area.

Relocation Action Plan (RAP): The document in which a project sponsor or other responsible entity specifies the procedures that it will follow and the action that it will take to mitigate adverse effects to compensate losses and provide development benefits to persons and communities affected by an investment project.

Resettlement assistance: Support provided to people who are physically displaced by a project. Assistance may include transportation, food, shelter and social services that are provided to the affected people during their relocation. Assistance may also include a cash allowance that compensates affected people for the inconveniences associated with resettlement and defray the expenses of a transition to a new locale such as moving expenses and lost work days.

Stakeholders: Any and all individuals, groups, organizations, and institutions interested in and potentially affected by a project or having the ability to influence a project.

Vulnerable groups: People who by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage, or social status may be more adversely affected by resettlement than others and who may be limited in their ability to claim or take advantage of resettlement assistance and related development benefits.
EXECUTIVE SUMMARY

1.1 Background

Kenya Highways National Authority (KeHNA) of the Ministry of roads, Public Works and Housing (MoRPWH) has commissioned Eco Plan Management Limited to carry out a Resettlement Action Plan of the rehabilitation and reconstruction works for Bachuma Gate-Maji ya Chumvi section of the Nairobi- Mombasa road (A109). The project road covers a distance of 53.4 km and is located in the coast province.

the project road is part of a wider on–going Nairobi- Mombasa road Rehabilitation project (NMRRP). Essentially the planned rehabilitation and overlay works will entail (i) Additional surface on the existing 7m wide bitumen surfaced road, (ii) Adding 2m wide shoulder, (iii) Improving drainage by installing larger drainage structures (iv) Possible road realignment in small section near townships and (v) Construction of parking bays in Samburu and Mackinnon road townships. Funding for the project will be from roads maintenance fuel levy fund (RMFLF).

2.0 REQUIREMENTS FOR AN ABBREVIATED RESETTLEMENT PLAN

The World Bank’s Involuntary Resettlement Policy (IRP) Operational Policy (OP) 4.12 requires that environmental and social impacts of all project it supports, be mitigated according to operational polices that spell out the principles and planning methods for mitigation work. The World Bank’s IRP applies whenever property must be acquired, or it use modified, for a project, and that acquisition or modification results in the loss of income, residence or access to resources, either permanent or temporary and whether the occupation is legal or illegal. Resettlement of project affected persons (PAPs) in the project site will therefore be carried out in accordance with laws, regulations and guidelines for Resettlement/Land Acquisition Policy Framework of the Government of Kenya and World Bank’s Operational Policy (O.P) 4.12, which has resulted in the preparation of this abbreviated RAP.

2.1 Justification of Abbreviated Resettlement Action Plan

World Bank’s (OP 4.12) allows that “for projects in which the number of people to be displaced with a loss of assets or restriction of access to assets is small (less than 200 persons will experience resettlement effects), an abbreviated resettlement plan (ARP) should be prepared. The displacement of land use activities in the Mackinnon Road, Meli Kubwa trading centre, Mgalani trading centre, Taru Township, Samburu Township and Kasima Lwenya trading centres along the Bachuma Gate- Maji ya Chumvi of Nairobi – Mombasa Road (A109) - 53.4 kms project road meets these conditions.
3.0 POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK

The ARAP has been prepared in accordance with laws, regulations and guidelines for Resettlement/Land Acquisition Policy Framework of the Government of Kenya and World Bank Operational Policy (O.P 4.12). Where there is a gap between Kenya law and the World Bank policy, the World Bank policy shall apply in this ARAP.

The relevant national and local laws, regulations and guidelines are the following:

a. The Constitution of Kenya Section 70
b. The Land Acquisition Act Chapter 295
c. Physical Planning Act 1996 Cap 386
d. Physical Planners Registration Act 1996
e. The Co-operative Act

4.0 PLANNING PRINCIPLE

In order to achieve the underlying objectives of the project (i.e. the PAPs derive maximum benefit), the planning process considered public education, stakeholder sensitization and evaluation of project impacts.

4.1 The main objectives of this Abbreviated Resettlement Action Plan are:

- To raise the awareness of the project and its consequences among the public in general and those who will be directly affected by it in particular
- To estimate the costs necessary for resettlement/land acquisition
- To prepare a Resettlement Action Plan (RAP) that sets out strategies and schedules to mitigate adverse effects. The RAP sets the parameters and establishes entitlements for project affected people (PAP), the institutional framework, mechanisms for consultation and grievance resolution, the time schedule and budget, and proposed monitoring and evaluation system. The agreed entitlement package includes both compensation and measures to restore the economic and social base of those affected. It addresses the requirements of the Government of Kenya (GoK) and the World Bank for land acquisition and resettlement.

5.0 SOCIO-ECONOMIC SURVEY OF AFFECTED POPULATION

Thirty four PAPs (34): eighteen (18) permanent and temporary structure owners, four (4) tree owners and twelve (12) tenants who lease the structures were identified along the road corridor which is settled at the trading/township centres of including: Mackinon Road,
Matope, Kinango Boboni, Taru, Samburu Township. The table below shows some of the areas affected and their population characteristics.

Note: The PAPs whose structures need to be moved are 18 PAPs, 4 PAPs who will need compensation of trees and crops. There are 12 tenants who allowances for moving their properties.

<table>
<thead>
<tr>
<th>No</th>
<th>Township/settlement area</th>
<th>Population</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Male</td>
<td>Female</td>
<td>Children</td>
<td>Total</td>
<td>Houses</td>
</tr>
<tr>
<td>1.</td>
<td>Mackinon Road</td>
<td>4</td>
<td>3</td>
<td>16</td>
<td>23</td>
<td>7</td>
</tr>
<tr>
<td>2.</td>
<td>Taru</td>
<td>9</td>
<td>4</td>
<td>87</td>
<td>10</td>
<td>13</td>
</tr>
<tr>
<td>3.</td>
<td>Matope</td>
<td>5</td>
<td>1</td>
<td>9</td>
<td>15</td>
<td>6</td>
</tr>
<tr>
<td>4.</td>
<td>Samburu</td>
<td>5</td>
<td>-</td>
<td>-</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>5.</td>
<td>Kinango</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>6.</td>
<td>Boboni</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>26</strong></td>
<td><strong>8</strong></td>
<td><strong>116</strong></td>
<td><strong>60</strong></td>
<td><strong>34</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Percentage (%)</strong></td>
<td>76.5</td>
<td>23.5</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The area traversed by the road has a total population of 34 PAPs. Majority of the affected population is the youth who have charcoal businesses structures along the road.

Women are organized in groups of Traders who are involved in promoting economic empowerment of women through the processing and marketing of farm produce.

Sixty percent (60%) of the population in the settled areas are involved in small business and agriculture. Males dominate in Quarrying and retail business whereas the females are more prominent in retail and petty trading. Other forms of employment include charcoal sales and water vending services.

Significant historical and cultural land marks within the project site are a Mosque and, Tsavo East National Park but no negative impacts are expected since this a rehabilitation of existing road.

A total of 18 PAPs (Males and Females) were identified whose structures are to be demolished. The structures comprise buildings, kiosks, temporary structures, sheds and trees.
6.0 VALUATION PROCEDURES

To be described as a project affected person (PAP), your property or activity must fall within the Right of Way (RoW) on either side (right hand side or left hand side) from the centreline of the road as indicated on the copy of the location plan of the project area. All activities being carried out in the right-of-way which existed prior to their being marked for dislocation are to be compensated for. Those eligible for compensations are occupants (tenants and land owners) of properties that will be demolished.

Vulnerable people who will be considered include: i) Women and children who are at risk of being deprived of productive assets such as land as a result of compensation being paid to the male household heads; ii) People suffering from illness; and iii) Orphans, widows and the elderly.

All properties affected by construction and rehabilitation have been valued and assessed according to laid down procedure. Details of extent of dislocation and compensation due PAPs for affected properties are provided in the main report.

Buildings and structures to be affected by construction were identified. A compensation valuation of all affected properties was carried out to assess commensurable values. However only PAPs registered during the baseline survey were considered to be eligible for either the compensation or supplementary assistance. In other words the date of completion of baseline survey, 07th February,2011, was the cut-off date for receipt of compensation or any assistance. The cut-off date was established after survey and census of PAPs ended.

7.0 COMPENSATION AND OTHER ASSISTANCE

Land taking typically entails compensation for land, houses, business and other structures on that land, as well as other assistance in order to mitigate the adverse consequences that affect people and communities when they give up property for public good. The form of resettlement agreeable to the PAPs for both the permanent properties and temporary structures affected by the road project is rehabilitation with monetary compensation. The process of mitigating the project impacts on PAPs will therefore involve only rehabilitation, where the PAPs will continue to live and carry on their livelihood in the project communities. It will not involve physically relocating the PAPs by the KeHNA. Therefore the option for resettlement site identification, selection and preparation for relocation is not envisaged.

Compensation in the Bachuma Gate–Maji ya Chumvi Road section is mainly skewed towards cash compensation for structures (housing, businesses and gardens/farms) which will be affected considering that there is no extra land being acquired for road works The PAPs
prefer cash compensation. The project-affected people are therefore those who have encroached on the Road reserve. Cash compensation has been adopted as the mitigation measure at full replacement cost rates.

8.0 ENTITLEMENT MATRIX

Acquisition of land for the project will adversely affect the livelihood of persons who live, work or earn their living on the land that will be acquired for the project.

Before the commencement of the project, there needs to be in place a mechanism for compensation of Project Affected Persons (PAP) to avoid household economic difficulties that will result due to loss of residential houses or business profits derived from operating within the affected buildings.

For the purpose of this report and bearing in mind that the land to be repossessed for the project is a road reserve, the affected persons can be adequately defined as follows:

- Persons who have a right in structures (owners of the buildings)
- Persons who use the structures or persons whose businesses, occupation or habitat are adversely affected or
- Persons whose standards of living are adversely affected as a consequence of resettlement activities.

Therefore, all those persons who are affected regardless of their legal status concerning the affected structures should be considered as Project Affected Persons (PAP). This is shown in Table 8.1 in the main report.

9.0 PUBLIC CONSULTATIONS

During the baseline socio-economic data collection from project affected persons in the project site on the Bachuma Gate–Maji ya Chumvi of Nairobi – Mombasa Road (A109) - 53.4 kms February 2011, consultations were held with individual PAP. During these consultations, the impacts of the project and proposed mitigation measures were explained to them and they individually gave the assurance that they will cooperate to ensure smooth implementation of the project. The full list of PAPs is in Table 9.1.

10.0 GRIEVANCE PROCEDURE

Cash compensation will be paid to all PAPs whose permanent or temporary structure is to be demolished. Should a PAP refuse the compensation suggested by the relevant valuation authority, litigation is settled by the courts.
Each individual PAP has the right to refuse the compensation rate proposed and take his case to court if he/she finds the compensation to be inadequate and unfair under replacement cost; however in the event of disagreement, the affected party may first seek recourse through KeHNA which has set up a Grievance Redress Committee under PMU for that purpose. The PAP is allowed to engage his/her own valuer (at his own cost) to determine the compensation due. The valuer and the Grievance Committee together with the relevant valuation authority then together will negotiate a settlement. If the PAP is still not convinced with what has been proposed, as stated above, he/she can take the case to the court for redress.

11.0 MONITORING AND EVALUATION

The Policy Planning and Monitoring and Evaluation Directorates of the Ministry of Roads and Public Works will co-ordinate all monitoring activities. Internal monitoring of the PMU will be undertaken by the KeHNA under the supervision of Ministry of Roads and Public Works, Relevant Valuation Board and the relevant Environmental Protection Agency to ensure that the PMU follows the implementation schedules and principles of the ARAP.

12.0 ESTIMATED COST OF ARAP

The overall cost for compensation under this RAP is **Ksh 27,722,000.00** which excludes cost for administration, monitoring and evaluation. The Government of Kenya will meet the cost of the RAP implementation.

Table 13.1: Estimate of Compensation and Resettlement of Bachuma Gate- Maji ya Chumvi of a section of Nairobi – Mombasa Road (A109).

<table>
<thead>
<tr>
<th>Settlement</th>
<th>Buildings</th>
<th>Kiosks</th>
<th>Wooden Structure</th>
<th>Shed</th>
<th>Trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mackinon Road</td>
<td>7</td>
<td>7</td>
<td></td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Taru</td>
<td>13</td>
<td>13</td>
<td></td>
<td></td>
<td>17</td>
</tr>
<tr>
<td>Matope</td>
<td>5</td>
<td>5</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Samburu</td>
<td>5</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kinango</td>
<td>2</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boboni</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>21</td>
</tr>
<tr>
<td><strong>Total No.</strong></td>
<td><strong>32</strong></td>
<td><strong>32</strong></td>
<td><strong>1</strong></td>
<td><strong>1</strong></td>
<td><strong>21</strong></td>
</tr>
</tbody>
</table>

Estimated Cost According to the market rates and the plinth area of the property.

<table>
<thead>
<tr>
<th></th>
<th>Buildings</th>
<th>Kiosks</th>
<th>Wooden Structure</th>
<th>Shed</th>
<th>Trees</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1500 per</td>
<td>1500</td>
<td>1200 per</td>
<td>10,000 per mature tree</td>
<td></td>
</tr>
<tr>
<td></td>
<td>structure</td>
<td>structure</td>
<td>structure</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
13.0 IMPLEMENTATION SCHEDULE

The implementation schedule for major activities relating to both permanent and temporary structures is presented in Table 14.1.

14.0 DISCLOSURE

This Resettlement Action Plan will be disclosed by Kenya Highways Authority (KeHNA) which will make copies available at its head offices and at its website and copies distributed to the project affected persons, the press and the offices of the wale District/County overseeing the site. KeHNA will also disclose this Resettlement Action Plan electronically through its website prior to processing the project.

15.0 CONCLUSION

Construction of the road will greatly improve transportation between Bachuma Gate- Maji ya Chumvi bridge in particular. With the implementation of mitigation measures such as this ARAP, the overall social impacts of the project will be minimal. The project will also offer significant socio-economic opportunities for communities and the population of the area, as well as other diverse benefits at the Kwale district, Regional, National and International level.
# TABLE OF CONTENTS

List of Acronyms .................................................................................................................. ii
Glossary of Terms .................................................................................................................. iii

EXECUTIVE SUMMARY .................................................................................................... v

1.0 INTRODUCTION ............................................................................................................. 1
  1.1 Background ..................................................................................................................... 1
  1.2 The Project Location and Affected Site ....................................................................... 1

2.0 REQUIREMENTS FOR AN ABBREVIATED RESETTLEMENT PLAN ....................... 1
  2.1 Justification of Abbreviated Resettlement Action Plan ............................................... 2

3.0 POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK ........................................... 2
  3.1 The Constitution of Kenya ......................................................................................... 2
  3.1.1 Expropriation of Land in Kenya ............................................................................ 3
  3.1.2 Expropriation of land for urban development in Kenya .................................... 3
  3.2 Procedures under Chapter 295 of the “Land Acquisition Act” .................................. 3
  3.3 The Physical Planning Act (1996) ............................................................................ 4
  3.4 The World Bank’s Involuntary Resettlement Policy (OP 4.12) .................................. 4
  3.4.1 Policy Objectives ................................................................................................. 4
  3.5 Institutional Framework ............................................................................................. 5
  3.5.1 Actors involved in the Road Sector ...................................................................... 6

4.0 PLANNING PRINCIPLE ............................................................................................... 7

5.0 ENVIRONMENTAL AND SOCIO-ECONOMIC SURVEY ......................................... 7
  5.1 Environmental Base Line Information ...................................................................... 7
  5.1.1 Rainfall and Climate ............................................................................................ 7
  5.1.2 Topography and Geology ................................................................................... 8
  5.1.3 Water Resources and Drainage ........................................................................... 9
  5.1.4 Vegetation ............................................................................................................ 10
  5.1.5 Livestock and wildlife ....................................................................................... 10
  5.1.6 Land Use ............................................................................................................ 10
  5.1.6.1 Population ................................................................................................... 11
  5.1.6.2 Economic activities ...................................................................................... 12

5.2 SOCIO-ECONOMIC SURVEY OF AFFECTED POPULATION .................................. 13
  5.2.1 Level of Education ............................................................................................. 14
  5.2.2 Income Levels .................................................................................................... 14
  5.2.3 Type and nature of affected Structure .................................................................. 14
1.0 INTRODUCTION

1.1 Background

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1.2 The Project Location and Affected Site

The improvement of this corridor will involve funding of works namely rehabilitation and reconstruction of the road segment between: Bachuma Gate-Maji ya Chumvi of Nairobi-Mombasa Road (A109) - 53.4 kms. The affected sites are mainly the township built up areas of Mackinnon Road, Meli Kubwa trading centre, Mgalani trading centre, Taru Township, Samburu Township and Kasima Lwenya trading where human settlements have encroached on the road reserve.

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Framework of the Government of Kenya and World Bank’s Operational Policy (O.P 4.12), which has resulted in the preparation of this abbreviated RAP.

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3.0 POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK

The RAP has been prepared in accordance with laws, regulations and guidelines for Resettlement/Land Acquisition Policy Framework of the Government of Kenya.

Where there is a gap between Kenya law and the World Bank policy, the World Bank policy shall apply in this ARAP.

The relevant national and local laws, regulations and guidelines are as follows:

a. The Constitution of Kenya Section 70
b. The Land Acquisition Act Chapter 295
c. Physical Planning Act 1996 Cap 386
d. Physical Planners registration Act 1996
e. The Co-operative Act
f. Valuers Act Cap 532,

3.1 The Constitution of Kenya

Section 70 of the Constitution of Kenya recognizes and protects the right to private property including land. However, Expropriation of land is supported by the doctrine of eminent domain. In Kenya, the right is entrenched in the constitution under Section 75(1) i.), Which provides that the Government can take possession of private land if this is necessary in the interest of town planning among other public interests, or if the development and utilization of the said land is to promote public benefit.
3.1.1 Expropriation of Land in Kenya

Section 75 allows for the expropriation of private property on condition that
a) The development and utilization of the property will promote public benefit among other things.
b) The necessity for expropriation is great enough to justify any hardship caused to any persons
c) Law for prompt payment of full compensation makes the provision

3.1.2 Expropriation of land for urban development in Kenya

Expropriation in this context refers to the taking away of private land and landed property for public purposes by the government with or without the owners consent subject to the law of eminent domain, which stipulates prompt and adequate compensation among other things. In Kenya “setting apart” for unregistered Trust Land and “Compulsory acquisition” for all registered private lands are the terms commonly used.

Expropriation of land is a very important aspect in urban land management in that it is the instrument by which land is availed for various urban needs e.g. housing, industrial, infrastructure purposes or town planning. In Kenya expropriation is provided for in the constitution under section 75 for private land and sections 117 and 118 for unregistered Trust Land. But the Constitution only gives general guidelines. The detailed procedures for acquisition are elaborated under the “Land acquisition Act” in Chapter 295 for private land and chapter 288 for unregistered Trust Lands. “Trust Land” refers to that land that is still held under African customary tenure. The title to this land is said to vest in the County Council in trust for its inhabitants, hence the term “Trust”

3.2 Procedures under Chapter 295 of the “Land Acquisition Act”

Procedures for expropriation of land under Cap.29 of the Land Acquisition Act stipulates that a formal request be submitted to the” Commissioner of Lands” by the benefiting authority, e.g. a Municipal Council in case of urban areas. Any other public body or Government may request for acquisition this way. The Commissioner will then forward the application to the Minister in charge of lands. If the Minister is convinced that the land is required for public purpose, he writes to the Commissioner to that effect, and directs him to acquire the land (Section 6(1)). The Commissioner will then give “Notice of Intention” to acquire the land (section 6(2)) in the “Kenya Gazette” side by side with the “Notice of Inquiry”. The “Notice of Intention” must mention the public body or the public purpose for which the land is to be acquired. The “Notice of Inquiry” mentions places and fixed dates when persons interested in the subject land are to submit their claims to the Commissioner of Lands or his appointee (a “Valuation Officer” also known as “Collector of compensation”) according to Section 9.
Meanwhile the Collector of Compensation is supposed to inspect the said land and value it for compensation. After the inquiry the Collector will issue and award depending on his own assessment and the representations of interested parties as submitted at the inquiry (Section 10 and 11).

3.3 **The Physical Planning Act (1996)**

This Act provides for the preparation of land use plans in urban areas for all parts of the country, except for areas exempted by the Minister from time to time. A Resettlement Action Plan for the PAPs falls under Local Physical Development Plans in Section 24(1) – 24(5) generally, and as elaborated under Action Plan in particular.

3.4 **The World Bank’s Involuntary Resettlement Policy (OP 4.12)**

The World Bank’s IRP outlines the conditions under which the World Bank will fund a project if it displaces persons or affects their social and economic well being.

3.4.1 **Policy Objectives**

The objective of the Bank’s resettlement policy is to ensure that population displaced by a project receives benefits from it. The policy has the following key objectives:

- To avoid involuntary resettlement where feasible, or minimize resettlement impacts where population displacement is unavoidable, exploring all viable project designs. Particular attention must be given to socio-cultural considerations, such as cultural or religious significance of land, the vulnerability of the affected population, or the availability of in-kind replacement for assets, especially when they have important intangible implications. When a large number of people or a significant portion of the affected population would be subject to relocation or would suffer from impacts that are difficult to quantify and to compensate, the alternative of not going ahead with the project should be given a serious consideration;

- To ensure that displaced people receive resettlement assistance, preferably under the project, so that their standards of living, income earning capacity, and production levels are improved;

- To provide explicit guidance to Bank staff and to the borrowers on the conditions that need to be met regarding involuntary resettlement issues in Bank operations in order to mitigate the negative impacts of displacement and resettlement and establish sustainable economy and society; and
• To set up a mechanism for monitoring the performance of involuntary resettlement programs in Bank operations and remediing problems as they arise so as to safeguard against ill-prepared and poorly implemented resettlement plans.

Community participation in planning and implementing resettlement should be encouraged. Appropriate patterns of social organization should be established, and existing social and cultural institutions of resettlers and their hosts should be supported and used to the greatest extent possible. Resettlers should be integrated socially and economically into host communities so that adverse impacts on host communities are minimized. The best way of achieving this integration is for resettlement to be planned in areas benefiting from the project and through consultation with the future hosts. Land, housing, infrastructure, and other compensation should be provided to the adversely affected population, indigenous groups, ethnic minorities, and pastoralists who may have usufruct or customary rights to the land or other resources taken for the project. The absence of legal title of land by such groups should not be a bar to compensation.

According to World Bank’s IRP, the resettlement plan should include measures to ensure that displaced persons are:

• Informed about their options and rights pertaining to resettlement;
• Consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives and
• Provided prompt and effective compensation at full replacement cost for losses
• Provided assistance (such as moving allowances) during relocation, and
• Provided with residential housing, or housing sites, or as required agricultural sites for which a combination of productive potential, location advantages and other factors is at least equivalent to the advantages of old sites.

Where it is necessary to achieve the objectives of the resettlement plan, it should also ensure that displaced persons are:

• Offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standard of living; and
• Provided with development assistance in addition to compensation measures, such as land preparation, credit facilities, training, or job opportunities.

3.5 Institutional Framework
3.5.1 **Actors involved in the Road Sector**

The Government of Kenya (GOK) transport policy provides for continued improvements to the nation’s rural and urban road network. The Ministry Roads and Public Works are responsible for formulating policies and overall strategies on roads and vehicular transport. The Bachuma Gate- Maji ya Chumvi of Nairobi – Mombasa Road (A109) - 53.4 kms road project fall within the jurisdiction of KeHNA.

The others are, Ministry of Finance, Ministry of Lands and Settlement (Physical Planning Department), Ministry of Roads, Public Works and Housing, Ministry of Local Governments. The Local Authorities involved are, Town Council and Community Based Organizations.

These Institutions make decisions about the policy direction of the project and subprojects. The execution of the project is delegated to the project coordination office constituted by sector specialties such as the Roads Department of the Ministry of Roads, Public Works and Housing and Department of Physical Planning Ministry of Lands and Settlement and supported by a technical advisory body made up of the experts such as Chief Engineer Roads, Director of Surveying and the Chief Valuer. The members of the advisory body are composed of directors of relevant ministries. Project operations regarding resettlement/rehabilitation will be coordinated and monitored by the coordination office. The Kwale District Town Council will greatly facilitate this process.

The Ministry of Lands delegates the management of land in the districts to the District Land Boards and Land Committees, while the Commissioner of Lands manages land belonging to the Government of Kenya.

The main functions of the District land Board are to:

- Keep and allocate land which is not owned by anyone in the district
- Assist in recording, registering and transferring of rights or claims on land
- Make and keep up to date a list of compensation rates for the loss or damage to crops, houses and other property.
- Revisit the lost of rates of compensation on every year.
4.0 PLANNING PRINCIPLE

In order to achieve the underlying objectives of the project (i.e. the PAPs derive maximum benefit), the planning process considered public education, stakeholder sensitization and evaluation of project impacts.

4.1 The main objectives of this Abbreviated Resettlement Action Plan are:

- To raise the awareness of the project and its consequences among the public in general and those who will be directly affected by it in particular
- To estimate the costs necessary for resettlement/land acquisition
- To prepare a Resettlement Action Plan (RAP) that sets out strategies and schedules to mitigate adverse effects. The RAP sets the parameters and establishes entitlements for project affected people (PAP), the institutional framework, mechanisms for consultation and grievance resolution, the time schedule and budget, and proposed monitoring and evaluation system. The agreed entitlement package includes both compensation and measures to restore the economic and social base of those affected. It addresses the requirements of the Government of Kenya (GoK) and the World Bank for land acquisition and resettlement.

5.0 ENVIRONMENTAL AND SOCIO-ECONOMIC SURVEY

5.1 Environmental Base Line Information

5.1.1 Rainfall and Climate

The climate of the project area consists of Arid to Semi-Arid zones, which are influenced by two monsoon wind systems. The area falls within the coastal hinterland rainfall regime which is characterized by two rainy seasons; the long rains from March to May and short rains from November to December, both occurring at the change of monsoons. The two dry seasons in January - February and June - September are clearly defined, but still each month receives between 3% and 6% of the yearly rainfall. The average annual rainfall of the area is 500mm. Temperatures are fairly hot. Mean monthly maximum temperatures ranges from around 27°C to 32°C. Mean monthly minimum temperatures range from around 10°C to around 19°C. Diurnal and seasonal variations in temperature are slight. The diurnal range of the average
temperature is about 10°C, while the seasonal range is only about 5°C. Absolute maximum
temperature is not excessive, and temperatures above 40°C are extremely rare.
Evaporation rate in the area is high, with the average annual potential evaporation ranging
from 2100-2400mm.

5.1.2 Topography and Geology

The terrain of the project area is rolling to undulating. The surface levels generally fall
eastwards towards the coast and lies at about 397m at Mackinnon Road, 366m at Taru and
305m at Samburu and 244m on the Mnago Dunguni hills just before Maji ya Chumvi. The
physiography consists of non-dissected erosion plains which are flat to gently undulating
areas with very broad interfluves alternating with shallow bottom lands or valleys.

The geology of the project area ranges from pre-Cambrian schist and gneisses of the
Basement system to Permo-triassic shales, sand stones and conglomerates. The latter
sediments are collectively called the Duruma sandstones.

The Basement system rocks underlie the area from the start of the project to Mackinnon Road.
They consist of various gneisses, migmatites, granulites and calcareous rocks comprising a
series of metamorphosed sediments. The basement system rocks of the project area consist
more specifically of various horn blonde gneisses and biotite schist and migmatites, with
quartz-feldspar pegmatite lenses.

Duruma sandstone series comprise a series of sedimentary rocks from permo-triassic times
and lay unconformably on the basement system rocks with a gentle dip towards the south-
east. The series consists of three major lithological divisions, but within the project area, two
groups of beds belong to it:- the taru grits and the Maji ya Chumvi beds.

Taru grits or lower Duruma sandstone series date from Permian and probably Upper
Carboniferous times and consist of various arkose and sandstone groups. The arkose is
typically coarse grained and may contain up to 50% feldspars. The sandstones vary in texture
and composition. The Taru grits are a fluvialite formation derived directly from the
basement system rocks further west. They are dominantly composed of the true Arkoses of
grit and sandstone grade. The taru grits underline the area from Mackinnon Road to
Samburu.

Maji ya Chumvi beds date from lower Triassic times and form part of the middle Duruma
sandstone series. They consist of carbonaceous shales interbedded with siltstones. These rock
types often contain free salts, resulting in springs and rivers with brackish or saline water.
The Maji ya Chumvi beds are slightly unconformable to the Taru grits. Yellow rippled sandstones overlie the grits, passing by alteration into thin-bedded carbonaceous muddy sandstones and gritty shales. They are abruptly succeeded by soft blue shales with quartzite and calcareous siltstones and the heighest beds are irregularly bedded micaceous sandstones. The base of the lower Maji ya Chumvi beds is the top of the highest bed of the Taru grits. Within the project area the Maji ya Chumvi beds underlay the area from around Manjewa to Maji ya Chumvi.

The lower Maji ya Chumvi beds consist of soft yellow sandstones, which at some places is intercalated with hard, blue, banded flagstones. Above the soft yellow sandstones, carbonaceous shaly flags and gritty shales, with occasional thick bedded, hard, green siltstones and mud crack patterns are present.

Above the lower Maji ya Chumvi beds are the upper Maji ya Chumvi beds. The upper Maji ya Chumvi beds consist of yellow and white quartzite layers which are intercalated with the soft blue micaceous shales. The soft yellow sandstones are thin bedded fine to medium in grain and are variably well or unevenly bedded, the latter type being more micaceous and containing pyroclastic and dendritic form. The arenaceous beds are well-bedded and crossed by closely spaced joints which divide them into rectangular blocks. Such blocks litter the ground in great numbers. In the Maji ya Chumvi River bed these blocks are widespread.

5.1.3 Water Resources and Drainage

There are no permanent rivers crossing the road in its entire length. Maji ya Chumvi river is also seasonal. Water is a major limiting commodity for wildlife, livestock and human population in the area.

The project is within the Drainage Area 3, drained primarily by the Athi and Sabaki rivers. To the north of Road A109 runs the Voi (Goshi) river with its source in the Tsavo National Park and discharging its water into the Indian Ocean at Kilifi. To the south of Road A109 run the Mutamboni, Nyangoni and Maji ya Chumvi rivers which join together south of Mariakani to become the Mwachi river, discharging its water into the Indian Ocean at Port Reitz. Maji ya Chumvi River crosses Road (A109) just beyond the lower end of the project area at Maji ya Chumvi.

The general slope of the land is in the West-East direction rather than North-South across the road. The project area therefore does not have major drainage problems and the structures serve only localized surface run-offs. No evidence of the major drainage structures being overtopped or under performing was found.
5.1.4 Vegetation
Natural vegetation of the area is largely dry savannah woodlands dominated by acacia and commiphora species. From around Samburu to the end of the road, the vegetation changes to coastal woodlands with conspicuous presence of uvaria spp. and euphoria candelabrum.

5.1.5 Livestock and wildlife
The project road starts from an entry point into one of Kenya’s largest national parks; Tsavo east national park. The park has wildlife resources of great tourist attraction. Often, wildlife move beyond park boundaries on to the road and other development structures.

The area is mainly arid and semi-arid (ASAL) with very limited agricultural crop production. Livestock provides the livelihood base for the population of the area. There being no permanent rivers, water ponding for livestock and wildlife is critical.

5.1.6 Land Use
The land use in the project area includes national park, and semi-permanent cultivation and grazing. The main crops are maize, pigeon peas and some cassava. The road runs through the national park from Bachuma to Mackinnon Road but both sides of the road are fenced and no significant impacts are envisaged.

The townships along the road include; Mackinnon Road Township, Meli Kubwa trading centre, Mgalani trading centre, Taru and Samburu town, Kasima Lwenya and these are the settled areas.

Besides the national park, agriculture and livestock keeping, there are a number of other land uses around Bachuma Gate. There are a few shops and public institutions including Mwanatibu railway station at Km 2+375, and Kenya Agricultural Research Institute at km 4+400.

Mackinnon Road Township and its environs extend between about Km 9+300 to Km 11+800. It serves business and residential premises, as well as public institutions including police post, mosque, polytechnic, MOR&PW camp and shops. There is also a railway station at Km 13+550.

Meli Kubwa trading centre, extending from around Km 15+200 to Km 16+000, is also settled with a number of shops and is linked to other trading centres including Canada and Kilimbasi.
Mgalani trading centre extends from about Km 18+400 to Km 19+500. It is developed with business and residential premises and it has a number of shops. It also has some public facilities and institutions, including playground and a primary school.

Taru Township extends from about Km 24+400 to Km 24+900. It is settled and developed with several business shops and residential premises. Besides the business facilities, there is a secondary school, primary school and a railway station within the township. There is a commercial rock quarry run by Crescent Construction Company at Km 25+330.

Samburu Township extends from about Km 38+700 to Km 40+300. It is settled and developed with several shops and residential premises. It also houses a number of public institutions, including MOR&PW camp, police station, provincial administration offices, churches, Non-Governmental Organisations, and both primary and secondary schools. It has major links to Kinango town, and Silaloni town.

Between Taru and Samburu, there are also other forms of land use, including farming, mainly sisal farming with Taru sisal estate between Km 27+600 and Km 28+800. There is also Kenya pipeline corporation oil pumping station at Km32+748 and a railway station at Km 33+400.

Kasima Lwenya trading centre extends from around Km 49+200 to Km 49+300 and it is settled. It has a few shops and residential premises. The other land use activities within the centre are charcoal selling and rock quarrying for masonry stones in Kaloleni quarry in the outskirts of the centre. There is a primary school near the centre. There is also a commercial hard stone quarry (Zaire quarry) at km 50+000.

5.1.6 Social- economic environment

5.1.6.1 Population

The road passes through area with very low population traditionally regarded as wildlife dispersal areas, which is too dangerous for human settlement. For this reason, the steadily growing population is concentrated in town and on the road sides at Mackinnon road, Taru and Samburu.

Human settlement is much more scattered around the section from Samburu to Maji ya Chumvi River bridge in this section, The Duruma ethnic community have concentrated settlements, particularly in Samburu and Silaloni divisions.
5.1.6.2 Economic activities

A part from trickle down benefits from tourism, livestock is the main source of income for the bulk of the population of the area. There is increasing cultivation for subsistence in samburu and silaloni divisions. No cash crop has been developed in the area apart from sisal grown by large scale farmer.

Plate 1 Charcoal Business along the project site

Plate 2 Advertisement poster for mining products along the corridor
5.2 SOCIO-ECONOMIC SURVEY OF AFFECTED POPULATION

Thiry four PAPs (34): eighteen (18) permanent and temporary structure owners, four (4) tree owners and twelve (12) tenants were identified along the road corridor which is settled at the trading/township centres of including: Mackinon Road, Matope, Kinango Boboni, Taru, Samburu Township. Table 5.2 shows some of the settlement areas and their population characteristics.

Table 5.2 Communities and their Population Characteristics.

<table>
<thead>
<tr>
<th>No</th>
<th>Township/settlement area</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Male</td>
</tr>
<tr>
<td>1.</td>
<td>Mackinon Road</td>
<td>4</td>
</tr>
<tr>
<td>2.</td>
<td>Taru</td>
<td>9</td>
</tr>
<tr>
<td>3.</td>
<td>Matope</td>
<td>5</td>
</tr>
<tr>
<td>4.</td>
<td>Samburu</td>
<td>5</td>
</tr>
<tr>
<td>5.</td>
<td>Kinango</td>
<td>2</td>
</tr>
<tr>
<td>6.</td>
<td>Boboni</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>26</td>
</tr>
<tr>
<td></td>
<td>Percentage (%)</td>
<td>76.5</td>
</tr>
</tbody>
</table>

Conducted by Eco Plan Management Limited
The area traversed by the road has a total population of 34 PAPs. Majority of the affected population is the youth who have charcoal businesses structures along the road.

Women are organized in groups of Traders who are involved in promoting economic empowerment of women through the processing and marketing of farm produce.

Sixty percent (60%) of the population in the settled areas are involved in small business and agriculture. Males dominate in Quarrying and retail business whereas the females are more prominent in retail and petty trading. Other forms of employment include charcoal sales and water vending services.

Significant historical and cultural land marks within the project site Mosque and, Tsavo East National Park.

A total of 34 PAPs (Males and Females) were identified whose structures are to be demolished. The structures comprise buildings, kiosks, temporary structures, sheds and trees.

5.2.1 Level of Education

PAPs without any formal education accounted for over 13% while those with primary education accounting for 56%, hence a majority of over 69.5% of the PAPs have Primary education and below. PAPs with Secondary education accounted for 26% of the respondents while the remaining 4.6% were educated to College level and above. This analysis indicates that there is a higher likelihood of high poverty and vulnerability in this road section.

5.2.2 Income Levels

Considering the competing household needs vis a vis the income levels, the majority of over 65% of the PAPs could be termed as being poor hence the need to consider cushioning mechanisms to avoid destabilizing such households further.

5.2.3 Type and nature of affected Structure

Majority of 65% of the affected structures are Kiosks, 20.3% houses while 14.6 are shops. Over 50% of the above structures have earth floors, 40.6% earth walls, 20% metal sheet walls, 46.6% wooden doors, 53.4% wooden windows, 70.9% Galvanized Corrugated Iron (GCI) Sheets roof and 18.2% makuti roofs. Overall, majority of the structures are temporary.
5.2.4 Rate of how property is affected

The survey shows that over 83.5% of properties will be wholly affected while 16.5% will be partially affected, but will be in unusable condition. Overall, the surveyed properties will require 100% compensation considering that those partially affected will have nearly no salvage value.

5.2.5 Preferred mode of Compensation

The survey sought to find out preferred modes compensation as a way of developing popular and PAPs driven compensation mechanisms. A majority of over 72% of PAPs preferred cash compensation so that the seek relocation services in the market place, 22% preferred relocation, 4% land and 2% wanted cash and land compensation. The choice of the mode of compensation to PAPs in this region will largely be influenced by the nature of tenure on land being used of which the majority of over 83.5% are squatters on the road reserve and most likely qualify for cash compensation for structures lost and disturbance allowance.

5.2.6 Public services and infrastructure

Social infrastructure services along the road include schools, health units, churches/mosques and markets while other infrastructure services include water, and energy sources.

5.3 PROJECT IMPACTS AND THEIR MITIGATION

The goal of the project is to improve social welfare and enhance living standards of the Kenyan people through an efficient road transport network. However, the Northern Corridor transverses through diverse land uses with different modes of production, which include: agriculture, urban areas, mining, and wildlife and tourism zones among others. Therefore, its rehabilitation and reconstruction is expected to have a widespread positive impact on overall the socio-economic status and livelihoods of the road users, project-affected people (PAPs) as well as the economy.

5.3.1 Types of Impacts

As mentioned above, the long-term objective of the project is to enhance the livelihoods of the citizens of Kenya. However, project operations will also have adverse impacts, which will be mitigated apparel with project implementation. The main economic activities in the project area that will be affected include: current agricultural productivity, marketing of
agricultural produce, food production, production of cash crops, informal sector non-farm and jua kali income generating activities, and the general level of employment (and unemployment). Other impacts on the northern corridor will be in terms of; loss of buildings and income, loss of land, loss of public utility.

Components for which land acquisition and resettlement are required are:
- General road improvement which will affect people who have businesses located along road reserves
- People settled on areas which will be affected by construction works during the construction process
- Agricultural activities on road reserves, which support livelihoods that will be displaced particularly by road works.

Cut off dates was essential in the process of drawing up lists to ensure that ineligible persons do not take the opportunity to claim eligibility. The **cut-off date** for this project was determined as February 06th, 2011, making anyone who makes a claim for loss of land or any assets after this date to be ineligible for expropriation/compensation.

*Plate.4 Affected petrol station*
5.3.2 Mitigation Measures

5.3.2.1 Cash for Compensation
In order to arrive at a mitigation plan, the PAPs have been involved in the decision-making process whereby they have been informed about their options and rights pertaining to resettlement namely:

- House for House compensation
- Building materials provided as form of compensation
- Cash for compensation
- A combination of any of the above.

Compensation in the Bachuma Gate–Maji ya Chumvi Road section is mainly skewed towards cash compensation for structures (housing, businesses and gardens/farms) which will be affected considering that there is no extra land being acquired for road works. The PAPs prefer cash compensation. The project-affected people are therefore those who have encroached on the Road reserve. Cash compensation has been adopted as the mitigation measure at full replacement cost rates.
6.0 VALUATION PROCEDURES

6.1 Introduction

This chapter presents valuation procedure of estimates of assets and other costs to the people who will be affected and the mode of restitution that can be followed.

6.2 Eligibility Criteria for Project Affected Persons

To be described as a project affected person (PAP), your property or activity must fall within the RoW on either side (right hand side or left hand side) from the centreline of the road as indicated on the copy of the location plan of the project area. All activities being carried out in the right-of-way which existed prior to their being marked for dislocation are to be compensated for. Those eligible for compensations are occupants (tenants and land owners) of properties that will be demolished.

Vulnerable people who will be considered include: i) Women and children who are at risk of being deprived of productive assets such as land as a result of compensation being paid to the male household heads; ii) People suffering from illness; and iii) Orphans, widows and the elderly.

All properties affected by construction and rehabilitation have been valued and assessed according to laid down procedure. Details of extent of dislocation and compensation due PAPs for affected properties are provided in appendix.

Buildings and structures to be affected by construction were identified. A compensation valuation of all affected properties was carried out to assess commensurable values. However only PAPs registered during the baseline survey were considered to be eligible for either the compensation or supplementary assistance. In other words the date of completion of baseline survey, 06th February, 2011, was the cut-off date for receipt of compensation or any assistance. The cut-off date was established after survey and census of PAPs ended.

6.3 Consultation

Consultations were held with all PAPs with permanent structures within the RoW on issues of their compensation. All properties that fall within the right of way have been captured with measurements as well as construction details.
Survey of affected persons was initiated to collect data and at the same time to inform PAPs about the project. A compensation valuation of all affected properties was carried out in 07th, February 2011 to assess commensurable values.

Plate.6 Taking measurements of a temporary structure

Plate.7 Consulting the youths
6.4 Valuation Process/Methodology

Valuation of lost assets has been made at their Replacement Cost. This is in line with the provisions of the Operational Policy (OP) 4.10 on Involuntary Resettlement and the World Bank Handbook for preparing a resettlement action plan both of which require that PAPs should be assisted to improve their standards of living or at least to be restored to their pre-displacement levels.

The affected households lack legal claim for land ownership. In the valuation process, the element of land value has been omitted and the individual structure values given in isolation. This is as shown in the table below.
Table 6.4 Valuation Process

<table>
<thead>
<tr>
<th>Asset</th>
<th>Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings</td>
<td><strong>Steps</strong></td>
</tr>
<tr>
<td></td>
<td>➢ A detailed inventory of all persons, possession, assets and stock requiring resettlement is made.</td>
</tr>
<tr>
<td></td>
<td>➢ Accurate and real valuation of dwellings is undertaken.</td>
</tr>
<tr>
<td></td>
<td>➢ Determination of compensation package according to valuation carried out.</td>
</tr>
<tr>
<td></td>
<td>➢ Provision of temporary shelter if necessary.</td>
</tr>
<tr>
<td></td>
<td><strong>Recommendations</strong></td>
</tr>
<tr>
<td></td>
<td>➢ KeNHA to provide compensation for affected families</td>
</tr>
<tr>
<td>Lost business profits and employee earnings</td>
<td>Compensation to be paid on loss of business profit according to valuations and audited results of the enterprises monthly income.</td>
</tr>
</tbody>
</table>

6.5 Modes of Restitution

Owners of permanent structures whose properties are affected by the project are protected by law and would receive adequate compensation for their properties.

If the property owner is not satisfied with the KeHNA offer he/she has the option of employing a private valuer of his/her choice to reassess the property and submit the same to the relevant Valuation Board for consideration and final determination of the value of the property. The determined figure by the Valuation Board is then communicated to the KeHNA for payment to the beneficiaries.

In situations where the beneficiary is still not satisfied with the amount of compensation payable to him, he is at liberty to seek redress at the courts. However, the property cannot be demolished until the issue is resolved.
6.6 Grievances and Redress Procedure

Cash compensation will be paid to all PAPs whose permanent or temporary structure is to be demolished. Should a PAP refuse the compensation suggested by the relevant valuation authority, litigation is settled by the courts.

Each individual PAP has the right to refuse the compensation rate proposed and take his case to court if he/she finds the compensation to be inadequate and unfair under replacement cost; however in the event of disagreement, the affected party may first seek recourse through KeHNA which has set up a Grievance Redress Committee under PMU for that purpose. The PAP is allowed to engage his/her own valuer (at his own cost) to determine the compensation due. The valuer and the Grievance Committee together with the relevant valuation then together will negotiate a settlement. If the PAP is still not convinced with what has been proposed, as stated above, he/she can take the case to the court for redress.

The objective of the grievance procedure stated above seeks to address the following:

- Provide PAPs with avenues for making compliant or resolve any dispute that may arise during the course of land, structure and any assets acquisition, including the process of moving homes;
- Ensure that appropriate and mutually acceptable corrective actions are identified and implemented to address complaints;
- Verify that complainants are satisfied with outcomes of corrective actions; and avoid the need to resort to judicial proceedings.

If appropriate, the individual grievances and corrective actions will be received in the light of the project policy and procedures to determine if any changes to the current system are warranted. This review will aid in avoiding similar grievances in the future. The Grievance Redress Committee comprises of representatives from the RAP implementation team which is the Project Management Unit of KeHNA.

7.0 Compensation and Other Assistance

Land taking typically entails compensation for land, houses, business and other structures on that land, as well as other assistance in order to mitigate the adverse consequences that affect people and communities when they give up property for public good. The form of resettlement agreeable to the PAPs for both the permanent properties and temporary
structures affected by the road project is rehabilitation with monetary compensation. The process of mitigating the project impacts on PAPs will therefore involve only rehabilitation, where the PAPs will continue to live and carry on their livelihood in the project communities. It will not involve physically relocating the PAPs by the KeHNA. Therefore the option for resettlement site identification, selection and preparation for relocation is not envisaged.

(a) Squatters owning structures

For compensation the squatters are to be compensated at full replacement value for structures, relocation to resettlement site with payment for site rent. There will also be payment of lieu wages while rebuilding and a disturbance cost. Majority of PAPs fall under this category. They will receive the same treatment as the private property owners as regards compensation.

(b) Tenants

Tenants will receive assistance for the disturbance they are undergoing as a result of the project. (Equivalent to 6 months rent and is a lump sum cash payment) they will also receive a moving allowance. He is also to be compensated for the assets that cannot be moved. Tenants will not be given new housing plots in the new site. This will be dealt on a case-by-case basis.

(c) Loss of perennial and annual crops

All PAPs with crops or trees will be given notice to harvest if possible. The GoK will compensate them also for the replacement value of the lost assets as set out.

(d) Vulnerable groups

The criteria of those who fall below a monthly household income of Kshs. 4,000 have a substandard housing and are women headed households, orphaned families and elderly PAPs. Most PAPs fall under the category of squatter structure owner (residential or business) or tenant and will receive the compensation and allowance allocated for those groups.

In addition they will;

    a. Receive building material in lieu of a grant of Kshs. 10,000 per household to help build a higher standard replacement unit at the resettlement site
b. Need some assistance to join the Co-op, but that will be considered on a case-by-case basis.

c. PAPs of Vulnerable groups will receive assistance in the form of vocational training programmes and income generating schemes. In income generation, vulnerable groups will be encouraged to form their own CBO through which members will own equity capital that will be supported through income generating projects of their own choice.

All PAPs will be given relocation assistance as already mentioned. The following assistance will be available where applicable

i. Business will receive a cash payment equivalent to 15% of total value of affected property lost opportunity loss of income due to disturbance.

ii. All residential structures and business owners and tenants will receive a moving allowance each. A lump some cash payment equivalent to 15% of total value of lost property for transportation of household belongings, business stock and salvaged building material. Mixed use residential and business households receive one allowance.

iii. If there is need for temporary accommodation for some of the PAPs whose structures are in the way of the foundation work being done by the contractor, temporary location will be found for the PAPs on a case-by-case basis.

7.1 Income Restoration

The proposed project will impact negatively on the ability of the PAPs to continue meeting their daily needs. The current operating businesses within the affected areas will have to be completely shut down resulting in economic displacement. Income restoration mechanisms must therefore be put in place by the concerned authorities to ensure that the PAPs benefit from the project and their standards of living improve or at least is restored after the project impact.

The project management needs to be committed to income restoration beyond actual compensation to affected families. Income levels of the concerned households must be determined.

We recommend the following procedure for income restoration activity:-

- Analysis of economic activities of all affected households to determine their needs
8.0 ENTITLEMENT MATRIX

Acquisition of land for the project will adversely affect the livelihood of persons who live, work or earn their living on the land that will be acquired for the project.

Before the commencement of the project, there needs to be in place a mechanism for compensation of Project Affected Persons (PAP) to avoid household economic difficulties that will result due to loss of residential houses or business profits derived from operating within the affected buildings.

For the purpose of this report and bearing in mind that the land to be repossessed for the project is a road reserve, the affected persons can be adequately defined as follows:-

- Persons who have a right in structures (owners of the buildings)
- Persons who use the structures or persons whose businesses, occupation or habitat are adversely affected or
- Persons whose standards of living are adversely affected as a consequence of resettlement activities.

Therefore, all those persons who are affected regardless of their legal status concerning the affected structures should be considered as Project Affected Persons (PAP).
### Table 8.1: Entitlement Matrix

<table>
<thead>
<tr>
<th>Type of Loss</th>
<th>Entitled Person</th>
<th>Legal Entitlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main structure totally affected</td>
<td>Owners of structures including kiosks and stalls who are not legal owners of the structure</td>
<td>Compensation of the entire structure at replacement cost as determined by the concerned appraisal committee.</td>
</tr>
<tr>
<td>(Commercial/Residential)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tenants</td>
<td></td>
<td>Rent allowance equivalent to one month rent of occupied house.</td>
</tr>
<tr>
<td>Renters of affected shops</td>
<td></td>
<td>Transitional allowance to cover for their computed income loss during the period that their businesses are not operating.</td>
</tr>
<tr>
<td>Crops and trees</td>
<td>Crop and trees owners</td>
<td>Compensation to affected crops at market rates.</td>
</tr>
</tbody>
</table>

### 9.0 PUBLIC CONSULTATIONS

#### 9.1 Project Affected Persons

During the baseline socio-economic data collection from project affected persons in the project site on the Bachuma Gate- Maji ya Chumvi of Nairobi – Mombasa Road (A109) - 53.4 kms February 2011, consultations were held with individual PAP. During these consultations, the impacts of the project and proposed mitigation measures were explained to them and they individually gave the assurance that they will cooperate to ensure smooth implementation of the project. The full list of PAPs is as below.
Table 9.1: Consultation with Project Affected Persons

<table>
<thead>
<tr>
<th>Issues Discussed</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Proposed road alignment;</td>
</tr>
<tr>
<td>b. Effects of project on properties falling within the RoW;</td>
</tr>
<tr>
<td>c. Environmental concerns for flora and fauna;</td>
</tr>
<tr>
<td>d. Effects of project on existing utilities;</td>
</tr>
<tr>
<td>e. Pedestrian-vehicular conflicts during construction and operation;</td>
</tr>
<tr>
<td>f. Resettlement and compensation process;</td>
</tr>
<tr>
<td>g. Means of evaluation of compensation; and</td>
</tr>
<tr>
<td>h. Grievance redress mechanism</td>
</tr>
</tbody>
</table>

List of PAPs Consulted to be found in Project Files.

9.2 Future Consultations

These will be held prior to the payment of compensations to the individual PAPs. They will be notified about compensations due them and where to collect the compensation. They will also be notified of the start date of civil works.

10.0 CONFLICT RESOLUTION AND GRIEVANCES

A committee known, as the Resettlement Action Plan Committee (RAPC) will be formed to handle grievances. The consultant will also assist in the formation and the initial operations of RAPC.

The members of the committee will be as follows
- One representative form Kwale District/ Town Council
- One representative from DO or Chief
- Two PAP representative and 2 non PAP representatives

Representative from a local Community Based Organization (CBO) will be involved as an independent body in the implementation of RAP. The Consultant will link the CBO with the RAPC during on-site briefings
10.1 Grievance Procedure

The RAPC will be the grievance handling body. Every grievance must be recorded and communicated to the monitoring body (Consultant/Roads Department) for action or just for recording purposes. Once compensation and relocation are complete, all grievances after that will be expected to result from the normal settling process at the new site. Problems associated with this process are expected to be social and economic in nature and may be addressed by Project Affected People area Forum (PAP-AF). The PAP-AF will be used to pass grievances from the PAP community up to the RAPC.

Community Based Organizations will be formed to reinforce community networks and ensure the survival of individual PAPs and the community as a whole, especially during the first two years at the new site.

They therefore have avenues for redressing their grievances effectively at the project level without resorting to complicated formal channels, so that the progress of the project is maintained.

11.0 MONITORING AND EVALUATION

Some of the risks that will be associated with resettlement in this case is impoverishment and destitution caused by inappropriate spending of compensation money by some heads of households. This practice of profligate spending of compensation money by the head of households, at the detriment of other members of the household, is common practice and should be expected in this resettlement plan. Other risks involve the breaking up of social cohesion and loss of access to community facilities.

Consultants will be assigned to carry out the monitoring and evaluation stage to strengthen consistency and follow-up of the whole project process. The Consultant will work on an advisory role for the three bodies above and report regularly to the Roads Department. Consultants already have an established rapport with the local communities and provide an objective sounding board for the PAPs to relate concerns to the Roads Department. The Consultant will also work closely with the appropriate community organizations, such as the RAPC, PAPs-SHG, PAP-AF. Continuous evaluation is necessary for the identification of problems and difficulties occurring after the process of implementation. Monitoring and evaluation will pay special attention to vulnerable groups, such as the aged and women headed families. Baseline data from socio-economic survey and census of the PAPs will be

Conducted by Eco Plan Management Limited
used as the control data measuring improvements or deterioration of the PAPs relocation site after displacement.

Monitoring will focus on:

- Information about PAPs post compensation and entitlement spending
- Relevance of relocation RAP implementation timetable to what actually took place moving out of the site.
- Content of grievances, efficiency of procedures and accountability in handling the grievance
- Use of compensation money for those who “invested” it in profit-making enterprises.
- Site conditions, progress in the construction for residential and business at the site.

11.2 Indicators for Monitoring

11.2.1 Performance Indicators

Monitoring and evaluation will be done focusing on the following key performance indicators:

(a) Travel time:

The implementation of the project will go a long way in reducing the time spent traveling on the road.

(b) Vehicle operating costs

Road conditions contribute substantially to higher transport costs, due to higher vehicle operating costs. After the project implementation, mobility efficiency is expected to increases with reduced travel time as well as the fuel consumption for the cars using the corridor. The rate of replacement for vehicle spare parts will also reduce, as the vehicles will not be subject to poor road conditions currently being experienced in the corridor.

(c) Fares

The improved road will allow for more trips for the public transport vehicles but with lower vehicle operating costs resulting to considerably lowering fares. Greater accessibility will also open up other routes which were previously not served by passenger transport operators.
(d) Prices of goods

A market survey will be carried out to find out the effect of improved road conditions and provision of road side amenities along the corridor. Access to other production areas will increase availability of goods and the effect of this will be reduction in prices of goods. This accessibility will also strengthen competitive trading as there will be greater trade opportunities, locally and outside the corridor.

(e) Markets emerging along the road

New businesses will start along the roads, due to increased accessibility.

(f) Land use developments

It will be expected that more land use development will occur near the road. New schools, hospitals and recreational areas will need other supporting infrastructure (such as telephones, electricity, water etc) and will therefore increase the already existing infrastructure and service base along the corridor. Interviews with developers and Local authorities approving land use will assist in evaluating this.

(g) Land values

Improvement of road conditions indeed increases accessibility to trade areas such as the port and other activity areas (schools and recreation areas). This will in turn increase the land development potential along the corridor hence increased land values. To determine the effect on land value, interviews will be conducted with land agents and landowners to establish changes in land values.

(h) Types of goods in the market

It’s expected that a greater variety of goods will be found in markets along the improved corridor sections as a result of improved access to more production areas as well as more markets. Greater variety and quantity of goods found in markets could play a major role in lowering overall cost of produce. This evaluation will be done by use of market survey tools.

(i) Earning levels
Developments in the form of industries and businesses along the project sections of the corridor are expected to reduce the rate of unemployment in the area.

12.0 ESTIMATED COST OF RAP

The population affected by this project, includes people occupying land on the road reserve in violation of Kenyan laws. These groups of people; who are often referred to as squatters, are not entitled to compensation for loss of land under the International Finance Corporation policy. However, they are entitled to compensation for any improvement made to the land as well as to resettlement assistance if they occupied the project area before an established cut-off date.

The estimated compensation sum has excluded the value of land, due to it being designated as a road reserve and therefore no individual has a legal ownership claim on any part thereof. However, the values assume a standard permanent house, even when it is temporary, to comply with the requirement of the provision of International Finance Corporation (IFC) handbook for preparing resettlement action plan, which outlines that PAPs should be assisted to improve their standards of living or at least to restore them to their pre-displacement levels.

In our opinion, the total cost for compensation and resettlement for permanent and temporary structures amounts to approximately Kshs 27,512,000.00. The cost for trees amounts to Ksh 210,000. This should be a provisional figure to act as a guide. A final figure for compensation should be determined after the road reserve has been properly demarcated to reflect the exact number of structures and businesses to be affected by the demolition.

The overall cost for compensation and resettlement for permanent and temporary structures and resettlement for permanent and temporary structures and trees under this RAP is Ksh 27,722,000.00 which excludes cost for administration, monitoring and evaluation.
Table 13.1: Estimate of Compensation and Resettlement Bachuma Gate - Maji ya Chumvi of Nairobi – Mombasa Road.

<table>
<thead>
<tr>
<th>Settlement</th>
<th>Buildings</th>
<th>Kiosks</th>
<th>Wooden Structure</th>
<th>Shed</th>
<th>Trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mackinon Road</td>
<td>7</td>
<td>7</td>
<td></td>
<td></td>
<td>4</td>
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<tr>
<td>Taru</td>
<td>13</td>
<td>13</td>
<td></td>
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<td>17</td>
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<tr>
<td>Matope</td>
<td>5</td>
<td>5</td>
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<td>1</td>
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<tr>
<td>Samburu</td>
<td>5</td>
<td>5</td>
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<tr>
<td>Kinango</td>
<td>2</td>
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<td>Boboni</td>
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<tr>
<td>Total No.</td>
<td>32</td>
<td>32</td>
<td>1</td>
<td>1</td>
<td>21</td>
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</tbody>
</table>

Estimated Cost According to the market rates and the plinth area of the property.

<table>
<thead>
<tr>
<th></th>
<th>Buildings</th>
<th>Kiosks</th>
<th>Wooden Structure</th>
<th>Shed</th>
<th>Trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL (Kshs)</td>
<td>-</td>
<td>25,945,100</td>
<td>1,566,900</td>
<td>210,000</td>
<td></td>
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</tbody>
</table>
13.0 TIME SCHEDULE AND MONITORING PROGRAM

Time scale for the resettlement process is estimated to take one year. This takes into account important variables such as resolution of conflicts and grievances; cash flow from GoK/KeHNA to the consultant monitoring of the resettlement process. Time schedule and summary of activities is presented in table below.

<table>
<thead>
<tr>
<th>Activities</th>
<th>Months</th>
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<tr>
<td></td>
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<tr>
<td>Organization and start-up</td>
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<tr>
<td>Set up RAPC verification and compensation committee</td>
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<tr>
<td>Set up district payment centers</td>
<td></td>
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<tr>
<td>Deposit of lists of PAPs in the district and verification</td>
<td></td>
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<tr>
<td>Compensation of PAPs GoK/Department of Roads disbursement of funds to the contractor</td>
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<tr>
<td>Issue of notice of eviction</td>
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</table>

Conducted by Eco Plan Management Limited
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<thead>
<tr>
<th>Task</th>
<th>Week 1</th>
<th>Week 2</th>
<th>Week 3</th>
<th>Week 4</th>
<th>Week 5</th>
<th>Week 6</th>
<th>Week 7</th>
<th>Week 8</th>
<th>Week 9</th>
<th>Week 10</th>
<th>Week 11</th>
<th>Week 12</th>
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<tbody>
<tr>
<td>to PAPs accompanied by payment</td>
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<tr>
<td>Resolution of conflicts and Grievances</td>
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<tr>
<td>Relocation of PAPs</td>
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<tr>
<td>Monitoring</td>
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<tr>
<td>Progress quarterly field reports to the Roads Department</td>
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</tbody>
</table>
14.0 DISCLOSURE

This Resettlement Action Plan will be disclosed by Kenya Highways Authority (KeHNA) which will make copies available at its head offices and at its website and copies distributed to the project affected persons, the press and the offices of the wale District/County overseeing the site. KeHNA will also disclose this Resettlement Action Plan electronically through its website prior to processing the project.

15.0 CONCLUSION

Construction of the road will greatly improve transportation between Bachuma Gate–Maji ya Chumvi bridge in particular. With the implementation of mitigation measures such as this ARAP, the overall social impacts of the project will be minimal. The project will also offer significant socio-economic opportunities for communities and the population of the area, as well as other diverse benefits at the Kwale district/county, regional, national and International level.
16.0 REFERENCES


APPENDIX

1. PAPs Compensation List

The list of PAPs to be compensated and valuation of buildings are in project files.
2. Data Collection Tool

*Questionnaire No……………..*

**Eco Plan Management Limited** team of experts is conducting an assessment for **Kenya National Highways Authority** (KeNHA) to enable us determine and prepare a framework for compensation to the people affected by the Rehabilitation and Overlay Design of **Bachuma Gate-Maji ya Chumvi (A 109 Road).**

Name of Property Owner………………...

ID No.
County/District…………………….. Location…………………………
Division…………………….. Sub location…………………………
Interviewer…………………….. Date…………………………

1.0 Bio-data

<table>
<thead>
<tr>
<th>Gender</th>
<th>Age How old is...[Name] in Years</th>
<th>No. of Dependents</th>
<th>Disability</th>
<th>Marital Status</th>
<th>Education What is the highest Level of education</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Male</td>
<td></td>
<td></td>
<td></td>
<td>1. Disabled</td>
<td>1. Primary</td>
</tr>
</tbody>
</table>

2.0 Employment/ Source of Income. (What the person does for a living)………………………………………………………………………………

*Other Sources of Incomes for the past one year*

<table>
<thead>
<tr>
<th>Sources of Incomes for the past one year</th>
<th>✓ (Tick appropriately)</th>
<th>Sources of Incomes for the past one year</th>
<th>✓ (Tick appropriately)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Farming</td>
<td></td>
<td>6. Others (Specify)</td>
<td></td>
</tr>
</tbody>
</table>
2. Livestock Rearing
3. Formal employment
4. Casual employment
5. Business

### 3.0 For crops and trees affected

<table>
<thead>
<tr>
<th>Type of Crop</th>
<th>Area Affected</th>
<th>No trees affected</th>
<th>Maturity stage</th>
<th>Estimated Value per tree/crop</th>
<th>Total value</th>
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### 4.0 Social Structures. Is the Person Close to the following Social Structures

<table>
<thead>
<tr>
<th>Social Structures</th>
<th>Distance (km)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary School</td>
<td></td>
<td></td>
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<tr>
<td>Secondary School</td>
<td></td>
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<tr>
<td>H/Centre</td>
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<tr>
<td>Road</td>
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<tr>
<td>Water Point</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Historical Sites</td>
<td></td>
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</tbody>
</table>

39
### 4.0 Social Structures. Is the Person Close to the following Social Structures?

<table>
<thead>
<tr>
<th>Others (Specify)</th>
<th></th>
</tr>
</thead>
</table>
### TABLE.5 Census of people (Socio-economic Characteristics of Families)

<table>
<thead>
<tr>
<th>Household Number</th>
<th>Name of household head</th>
<th>Number of persons per Household</th>
<th>No. of children &lt;18 years of age</th>
<th>No. of Adults +60 years of age</th>
<th>No. of students</th>
<th>Sources of income</th>
<th>Place of work or study and distances</th>
<th>Means of transport to place of study/workplace</th>
<th>Comments</th>
</tr>
</thead>
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</tbody>
</table>
### TABLE 6: Property (Goods and Assets Affected)

<table>
<thead>
<tr>
<th>Household Number</th>
<th>Name of Household Head or Business Owner</th>
<th>Description of Houses and Constructions</th>
<th>Uses of the property (housing, economic activity, other)</th>
<th>Level of effect (total, partial, minimum)</th>
<th>Tenure status (titled owner, owner without documents, tenant, share cropper, etc.)</th>
<th>Employment status of all adults</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
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TABLE 7: Socio-economic Characteristics of Business.

<table>
<thead>
<tr>
<th>Business number</th>
<th>Name of Business Owner</th>
<th>Age of business Owner</th>
<th>Type of activity</th>
<th>No. of employees</th>
<th>Monthly income averages</th>
<th>Destination of production</th>
<th>Place of selling</th>
<th>Duration of existence of business in affected location</th>
<th>Comments</th>
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</table>
3. ARAP Site Map
4. **List of PAPs Consulted**, The List of PAPS consulted in project files.

<table>
<thead>
<tr>
<th><strong>Issues Discussed</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>i. Proposed road alignment;</td>
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<tr>
<td>j. Effects of project on properties falling within the RoW;</td>
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<tr>
<td>k. Environmental concerns for flora and fauna;</td>
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<td>l. Effects of project on existing utilities;</td>
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<td>m. Pedestrian-vehicular conflicts during construction and operation;</td>
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<td>n. Resettlement and compensation process;</td>
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<tr>
<td>o. Means of evaluation of compensation; and</td>
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<td>p. Grievance redress mechanism</td>
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</table>

<table>
<thead>
<tr>
<th><strong>List of PAPs Consulted</strong></th>
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<tbody>
<tr>
<td>A total of 34 PAPs were consulted. For confidentiality their names and contacts are in project files.</td>
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</tbody>
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