

AFRICAN DEVELOPMENT BANK GROUP



MANAGEMENT RESPONSE

TO

THE COMPLIANCE REVIEW REPORT

OF

THE INDEPENDENT RECOURSE MECHANISM (IRM)

RELATING TO

MOMBASA - MARIAKANI HIGHWAY IMPROVEMENT PROJECT
LOT-1: MOMBASA-KWA JOMVU SECTION

COMPLAINT NUMBER: RQ 2018/1

COUNTRY: KENYA

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LIST OF ACRONYMS

ADB	:	African Development Bank Loan
ADF	:	African Development Fund
AfDB	:	African Development Bank
BCRM	:	Bank Compliance Review Unit
CAP	:	Corrective Action Plan
CLO	:	Community Liaison Officer
CSO	:	Civil Society Organization
EA	:	Executing Agency
EIB	:	European Investment Bank
E&S	:	Environmental and Social
ESDD	:	Environmental and Social Due Diligence
ESIA	:	Environmental and Social Impact Assessment
ESMP	:	Environmental and Social Management Plan
FRAP	:	Full Resettlement Action Plan
GoK	:	Government of Kenya
GRM	:	Grievances Redress Mechanism
IRM	:	Independent Recourse Mechanism
ISS	:	Integrated Safeguards System
KeNHA	:	Kenya National Highways Authority
KfW	:	Kreditanstalt für Wiederaufbau (German Development Bank)
MAP	:	Mediation Action Plan
M&E	:	Monitoring and Evaluation
MMHP	:	Mombasa-Mariakani Highway Project
NEMA	:	National Environment Management Authority
NLC	:	National Land Commission
OS	:	Operational Safeguards
PAP	:	Project Affected Person
PIU	:	Project Implementation Unit
RAP	:	Resettlement Action Plan
RoW	:	Right of Way
SEP	:	Stakeholder Engagement Plan
USA	:	United States of America

SUMMARY

On 11 March 2015, the Board of Directors of the African Development Fund (ADF) approved the Mombasa-Mariakani Highway Improvement Project (MMHP) financing for UA80 million (approximately 104 million USA Dollars) representing about 42.2% of the project total costs. The Project is co-financed by the German Development Bank (Kreditanstalt für Wiederaufbau - KfW) (22.2%), the European Investment Bank (EIB) (22.2%), the Africa Infrastructure Trust Fund (8.9%) and a counterpart contribution by the Government of Kenya of 4.5%. The initial implementation period was five years (2015-2020) with an additional maintenance period of five years, following the completion of the civil works. The project completion date was later extended to 2nd November 2023. The project is nearing completion, estimated to be 96% complete. The project is located within the coastal city of Mombasa, in Mombasa County. Lot 1 of the Mombasa – Mariakani Highway Improvement Project is an 11.4 km stretch of a road running from Mombasa to Kwa Jomvu. The objectives of the project include: (i) to improve free flow of traffic by upgrading the carriageway from the current 2 and 4 lanes to 6 lanes; (ii) to enhance safety by introducing interchanges, grade separators, underpasses and overpasses; (iii) to segregate traffic by separating traffic by providing service lanes/roads; and (iv) to improve pedestrian safety by provision of footpaths and footbridges.

In 2017 and 2018, the Independent Recourse Mechanism (IRM) of the African Development Bank (AfDB) received three complaints relating to the Mombasa-Mariakani Highway Project (MMHP) from representatives of the Project Affected Persons (PAPs) along the road corridor at Bahati, Birikani, Bangladeshi and Kwa Jomvu in Mombasa. The complaints were received on 27th December 2017, 21st August 2018 and 28th August 2018 respectively. The three complaints raised issues about compensation and resettlement, touching on forcible evictions and demolition of houses without adequate compensation, problems about valuation of assets, lack of resettlement assistance, omission of some PAPs' names in the final list for compensation, non-disclosure of the RAP to the PAPs, and other documents to the PAPs, and compensation for only 1 month's loss of income for business operators associated with CAP compensation and failure to respond to complaints received via the Grievance Redress Mechanism (GRM). They also alleged no responses received from the Grievances Redress Mechanism (GRM) and threats to the PAPs. The social issues related to violation of the Policy on Involuntary Resettlement of the AfDB, the Operational Safeguards No. 2 (OS2). The IRM considered that the three complaints met the registration criteria and combined them as one Complaint because they raised similar issues and registered it on 26 December 2018 to be handled through a Problem-Solving Exercise. One group of the PAPs, through their representative asked that the Complaint be handled through Compliance Review as well.

The IRM initially focused on Problem-Solving Exercise which they started in 2020 with KeNHA and the three Complainants representing 126 PAPs. The exercise was concluded in November 2021, with the three representatives of the Complainants and KeNHA agreeing to a Mediation Action Plan (MAP) to be implemented from December 2021 until March 2022. In accordance with IRM Operating Rules and Procedures of July 2021, and considering that one group of the Complainants had requested that the Complaint be handled through compliance review as well, the case was transferred to IRM's compliance review function after the closure of the Problem-Solving exercise. The complaints raised by the Complainants relate to concerns about the Project's approach to involuntary resettlement, which they claim violated the provisions of AfDB's Integrated Safeguards System (ISS), notably; OS2 on Involuntary Resettlement: Land Acquisition, Population Displacement and Compensation and which has resulted in harm and socio-economic losses to the Complainants. They further alleged that

since the beginning of the Project, they had engaged with KeNHA, the Project promoter, to address their concerns but that they had not received satisfactory responses from KeNHA. They also stated that although they brought these issues to the attention of AfDB Management, they had not received a response. The allegations raised by the PAPs in the three Complaints include: (i) **Allegation No. 1:** The PAPs were experiencing forced evictions and demolition of houses and business premises without compensation; (ii) **Allegation No. 2:** Unfair/inadequate compensation involving low compensation values; (iii) **Allegation No. 3:** Inadequate resettlement assistance; (iv) **Allegation No. 4:** The absence of details/breakdown of the valuations that were given in the compensation awards, and what items were covered by the compensation amount received by the PAPs; (v) **Allegation No. 5:** Erroneous exclusions from the final list of those entitled to compensation prepared by the National Lands Commission; (vi) **Allegation No. 6:** Non-disclosure of project information and inaccessibility to copy of the Full Resettlement Action Plan and the road map to enable them to see the boundaries of the road reserve (Right of Way); and (vii) **Allegation No. 7:** Failure by KeNHA to implement the Corrective Action Plan (CAP) as had been agreed with the PAPs.

This Management Response addresses these allegations.

1. INTRODUCTION

1.1. Background

1.1.1. The Government of Kenya through the Kenya National Highways Authority (KeNHA) is implementing the dualing of the Mombasa – Mariakani Road Project; which is implemented in two sections/ lots:

- i. Lot 1: Mombasa – Kwa Jomvu (11.4km) financed by the African Development Bank (AfDB) and,
- ii. Lot 2: Kwa Jomvu – Mariakani (30.3km) financed by the German Development Bank (KfW) and the European Investment Bank (EIB).

1.1.2. The Board of Directors of the African Development Fund (ADF) approved, on 11 March 2015, a loan of UA 80 million representing about 42.2% of the project total costs. The Project is co-financed by the German Development Bank (Kreditanstalt für Wiederaufbau - KfW) (22.2%), the European Investment Bank (EIB) (22.2%), the Africa Infrastructure Trust Fund (8.9%) and a counterpart contribution by the Government of Kenya (4.5%). The initial implementation period was five years (2015-2020) with an additional maintenance period of five years under the watch of KeNHA, following the completion of the civil works.

1.1.3. The project is located within the coastal city of Mombasa, in Mombasa County. Lot 1 of the Mombasa – Mariakani Highway Improvement Project is an 11.4 km stretch of a road running from Mombasa to Kwa Jomvu. The objectives of the project include: (i) to improve free flow of traffic by upgrading the carriageway from the current 2 and 4 lanes to 6 lanes; (ii) to enhance safety by introducing interchanges, grade separators, underpasses and overpasses; (iii) to segregate traffic by separating traffic by providing service lanes/roads; and (iv) to improve pedestrian safety by provision of footpaths and footbridges.

1.1.4. In 2017 and 2018, the Independent Recourse Mechanism (IRM) of the African Development Bank (AfDB) received three complaints relating to the Mombasa-Mariakani Highway Project (MMHP) from representatives of the Project Affected Persons (PAPs) along the road corridor at Bahati, Birikani, Bangladeshi and Kwa Jomvu in Mombasa. The complaints were received on 27th December 2017, 21st August 2018 and 28th August 2018. The three complaints raised issues about compensation and resettlement, touching on forcible evictions and demolition of houses without adequate compensation, problems about valuation of assets, lack of resettlement assistance, omission of some PAPs' names in the final list for compensation, non-disclosure of the RAP to the PAPs, no responses received from the Grievances Redress Mechanism (GRM) and threats to the PAPs. The social issues related to violation of the Policy on Involuntary Resettlement of the AfDB, the Operational Safeguards No. 2 (OS2). The IRM considered that the three complaints met the registration criteria and combined them as one Complaint because they raised similar issues and registered it on 26 December 2018 to be handled through a Problem-Solving Exercise. One group of the PAPs, through their representative asked that the Complaint be handled through Compliance Review as well.

1.1.5. The IRM started the Problem-Solving exercise in 2020 with KeNHA and the three Complainants representing 126 PAPs. The exercise was concluded in November 2021, with the three representatives of the Complainants and KeNHA agreeing to a Mediation Action Plan (MAP) to be implemented from December 2021 until March 2022. In accordance with IRM Operating Rules and Procedures of July 2021 and considering that one group of the Complainants had requested that the Complaint be handled through compliance review as well, the case was transferred to IRM's compliance review function after the closure of the Problem-Solving exercise.

1.2. The Project

1.2.1. The Mombasa-Mariakani Highway Project (MMHP) is an important section of the Northern Corridor, which links the port of Mombasa in Kenya with the land-locked eastern and central African countries of Uganda, Rwanda, Burundi and the Democratic Republic of Congo as well as South Sudan and Ethiopia. The road is situated in Mombasa and Kilifi Counties of Coastal Kenya. It involves upgrading the 41.7 km of the MMHP to a dual carriage, including construction of drainage structures, grade separated junctions, pedestrian foot bridges across the road safety features, walkways, street lighting, environmental and social mitigation measures. It also includes the maintenance of the road for five years post completion of the works.

1.2.2. The Project aims at improving the movement and transport of import and export goods; improving passenger traffic along the northern corridor by decongesting the traffic to and from the Port of Mombasa; improving economic and social welfare of people living in urban, peri-urban and rural areas; improving the level of service and reducing travel times; and improving road safety and increasing accessibility to Mombasa, the port and international airport.

1.2.3. The Project Implementing Unit (PIU) is the Kenya National Highways Authority (KeNHA). The Project has four components, namely road construction civil works; consulting services and training; institutional support and compensation and resettlement. The Project is divided by the Government into two lots as follows: Lot 1: Mombasa – Kwa Jomvu (11.4km) financed by ADB, which is subject of the this Complaint; and Lot 2: Kwa Jomvu – Mariakani (30.3km) financed by EIB and KfW, and which is subject to EIB's Environment and Social Standards. At the time of writing this report, construction works on Lot 1 were about 95% complete, whereas physical construction works on Lot 2 had not yet commenced.

1.2.4. The Project is classified, according to the Bank's Integrated Safeguards System (ISS), as Category 1 due to its high social risks and significant impacts that include disruption of urban activities likely to be experienced during construction, involuntary resettlement and loss of business premises for certain socio-economic groups, in particular poor and vulnerable groups along the road corridor. To address the issue of physical and economic displacement, a Full Resettlement Action Plan (FRAP) was prepared and was reviewed and cleared by the Safeguards and Compliance Department of the Bank, with its implementation being the responsibility of KeNHA, in collaboration with the National Land Commission (NLC).

2. COMPLAINTS/FINDINGS/RECOMMENDATIONS

2.1. The complaints raised by the Complainants relate to concerns about the shortcomings in the implementation on the resettlement action plan (RAP) by the Borrower, which they claim violated the provisions of AfDB's ISS, notably; OS2 on Involuntary Resettlement: Land Acquisition, Population Displacement and Compensation and which has resulted in harm and socio-economic losses to the Complainants. They further alleged that since the beginning of the Project, they had engaged with KeNHA to address their concerns but they had not received satisfactory responses from KeNHA. They also stated that although they brought these issues to the attention of AfDB Management, they had not received a response.

2.2. The issues raised by the Complainants relate primarily to compensation and resettlement and include:

- i. **Allegation No. 1:** The PAPs were experiencing forced evictions and demolition of houses and business premises without compensation.
- ii. **Allegation No. 2:** Unfair/inadequate compensation involving low compensation values.
- iii. **Allegation No. 3:** Inadequate resettlement assistance.

- iv. **Allegation No. 4:** The absence of details/breakdown of the valuations that were given in the compensation awards, and what items were covered by the compensation amount received by the PAPs.
- v. **Allegation No. 5:** Erroneous exclusions from the final list of those entitled to compensation prepared by the National Lands Commission.
- vi. **Allegation No. 6:** Non-disclosure of project information and inaccessibility to copy of the Full Resettlement Action Plan and the road map to enable them to see the boundaries of the road reserve (Right of Way).
- vii. **Allegation No. 7:** Failure by KeNHA to implement the Corrective Action Plan (CAP) as had been agreed with the PAPs

3. KEY CONSIDERATIONS

It is important to note that following the receipt of the complaints by various co-financiers, a lot of efforts have been put in to address the complaints as follows:

- i. A Fact-Finding Mission by all the lenders was conducted between 15th and 20th August 2017. During the mission, meetings were held with various key stakeholders. The mission's activities were, however, curtailed due to high political temperatures in the country at the time as this was election period. The mission met KeNHA (the Executing Agency), senior administrative officials in Mombasa and Civil Society Organizations involved in the project.
- ii. KeNHA stationed, on a full-time basis, a senior sociologist as a Community Liaison Officer (CLO) on the project.
- iii. A Joint Lender's Mission was conducted between 6th and 15th August 2018. The intention of the mission was to evaluate the status of implementation of the Resettlement Action Plan (RAP), the Corrective Action Plan as well as assessing issues related to a complaint letter by the Civil Society Organizations. The mission held meetings with senior officials of KeNHA (the Executing Agency), the National Treasury, the National Land Commission, Civil Society Organizations, PAPs, the contractor, supervising consultant among several other key stakeholders.
- iv. The Grievances Redress Mechanism (GRM) has been enhanced through the formation of Multi-Stakeholder Committee which is an independent grievances resolution committee supporting the project on dispute resolutions.

4. MANAGEMENT RESPONSE TO THE ALLEGATIONS AND IRM FINDINGS AND RECOMMENDATIONS

The Bank has complied with its own policy and procedures during preparation and implementation of the project. Contrary to the allegations on non-disclosure of the RAP, the RAP was disclosed through the link: Kenya - Mombasa Mariakani Road Upgrading Project - RAP - 11 2014. <https://www.afdb.org/en/documents/document/kenya-mombasa-mariakani-road-upgrading-project-rap-11-2014-50292>

Implementation support missions have regularly been carried out to ensure that the Borrower is complying with the financing agreement, including all the relevant legislations, policies, rules and procedures. The aide-memoires and records substantiate the Bank efforts in assisting the Borrower to fully comply with their obligations. During recent Supervision Missions, there has been direct engagement with the PAPs. Minutes of such engagements are available as evidence for reference.

Management would like to inform the Board that the above and previous concerns raised by PAPs and CSOs have been discussed extensively with KeNHA, the PAPs and CSOs over the last 4 years and relevant actions have been taken and clarifications provided on various issues that concern the PAPs and the CSOs. The Authority to Pay (ATP) the remaining PAPs has been received and KeNHA has confirmed that KES 570,311,816 will be paid to PAPs by the end of June 2024. KeNHA has committed to the Bank that the remaining KES 309,360,469 will be paid by end of July 2024. What will be left will be the court cases that will be settled once the court cases are concluded.

Significant progress has also been made on the concern for non-compensation of PAPs. To-date, 529 PAPs out of 618 PAPs have been compensated and have signed the award acceptance forms as evidence of agreement to the property values given. It has been confirmed by KeNHA that a reasonable chunk of the remaining PAPs will be compensated by end of June 2024 since the money has already been disbursed. The PAPs who will not be paid during this time, will be paid by end of July 2024. Some of the PAPs are government institutions notably KRA, KPA, KPC who gave an early consent for works to proceed as they wait for the payments to be processed. The cost estimates for compensation includes the cost of compensating the said institutions. Additionally, there are PAPs who could not be compensated because there are ongoing court cases. However, they were included in the total cost of compensation. During the mediation and review of PAPs in Lot 2 project, which is yet to commence, about 40 PAPs were moved from Lot 2 to Lot 1 for compensation.

Table 4.1 below is a response to the various issues raised with details on actions KeNHA and Management have taken to address them.

Table 4.1: Management Response to the allegations and IRM findings

ALLEGATION	IRM FINDINGS	MANAGEMENT RESPONSE
No. 1: The Project has involved forced evictions and demolition of properties without compensation	The IRM found that the Bank was non-compliant with OS1 and OS2. IRM concluded that whereas forced evictions have been addressed via the Corrective Action Plan (CAP), there is a lack of evidence of the Bank working with the borrower to curtail encroachment, which increases the risk of further forced evictions The IRM also noted that there was failure to resolve the issue with delayed compensation payments which provides an incentive for PAPs to move close by within the road reserve which increases the risk of further forced evictions.	The case of forced eviction occurred in 2015 when the project had not started, and it was carried out under another program which was not part of this project. The Executing Agency has put a lot of efforts to secure the project corridor and to avoid additional encroachment into project corridor. The bidding documents have a bill item to delineate the road corridor by erecting boundary posts along the project corridor. A map detailing the parcels of land affected and boundaries of the right of way was prepared and is available. KeNHA has also established a unit dealing with road reserve protection known as Road Reserve Protection Unit. It is also worth noting that KeNHA has restrained on any further demolitions/evictions even in instances where awards and evacuation notices were issued until the affected PAPs have moved. Following compensation, PAPs are given notices to vacate after a given period of time. Regarding Compensation: The Management, in conjunction with the Borrower, has been monitoring closely to ensure compensation is timely and effected in full, before relocation. The compensation is per the evaluation which is full replacement cost for structures at current market rates. PAPs are paid an additional 15% of the compensation value to pay for other costs and relocation assistance. Regular Monitoring: It is important to note that the Bank has provided regular guidance and support on matters of compensation and other safeguards requirements through monthly reviews of the Safeguards Monitoring Reports and also through desk reviews and Supervision (physical and virtual) Missions¹ (During the COVID -19 pandemic, the team carried out virtual supervisions. The Bank did ensure KeNHA had a senior sociologist permanently stationed on the project. The Bank staff do engage the PAPs during Supervision Missions. Evidence is available to this effect. Management confirms that the Bank expertise is utilized in review of adopted design of transport projects on all aspects including planning and sustainability.
	Integrated Urban Planning and Road Development	

¹ <https://afdb-my.sharepoint.com/:b:r/personal/z.tessema-afdb.org/Documents/Desktop/Missions/Supervision%20missions/Nov%202022%20Supervision%20Mission/Signed%20AM%20transport%20projects%202023.pdf?csf=1&e=XrOY.dj>.

ALLEGATION	IRM FINDINGS	MANAGEMENT RESPONSE
No 2: The Project has provided unfair/inadequate compensation involving low compensation values	IRM findings indicate that there was non-compliance with OS2 due to delays in compensation payments which are an acknowledged fact that has resulted in harm to the affected PAPs. IRM further noted that long delays in delivering the compensation have the additional consequence of inflation-related depreciation of the awards. This makes it still harder for PAPs to relocate and successfully re-establish their livelihoods. There is no evidence that the Bank took sufficient steps to resolve this issue	The Bank's Urban Development Expert joins project preparation and appraisal missions since his recruitment. As per the clarifications from the Borrower, the delay in compensation payment has been an issue in the project due to a number of reasons. Cases pending at the court not only cannot be treated by the Bank's IRM, but cannot be compensated until the tribunal has made a final decision. Other reasons include delay in processing the payment by the National Land Commission (NLC) either due lack of the necessary documents expected of PAPs property/land ownership disagreements, among or again due to pending court cases. This forced KeNHA to adopt innovative ways to ensure that the construction works proceed in areas where there are no PAPs as well as prioritize areas for payment where there are more vulnerable PAPs. None-the-less, KeNHA has confirmed conclusion of compensation by the end of July 2024. Despite numerous challenges, the GoK/KeNHA worked towards ensuring the PAPs were paid their dues. About 529 PAPs have already been compensated out of 618 PAPs. The original number listed in the RAP was 507 PAPs. To date, KeNHA has released to NLC about KES 5,015,582,711.82 out of which KES 4,445,270,894.95 (87%) have already been paid out to PAPs. Most of the balance outstanding is as a result of pending court cases and for some PAPs whose ownership documentation are in the process of being straightened out including succession cases. The remaining PAPs will be compensated by end of July 2024, except, possibly where we have court cases that can only be compensated after the cases are concluded. It has to be noted that (i) Government institutions to be compensated, such as Kenya Revenue Authority (KRA) and Kenya Ports Authority (KPA) permitted project works to proceed as they wait for the payments to be processed. The cost estimates for compensation includes the cost of compensating the said institutions; (ii) there are areas whose access have been hindered by various court cases. This has also stopped the compensation for the same areas. However, they were included in the total cost of compensation; and, (iii) some of the PAPs who were to be compensated under Lot 2 have been moved to Lot 1. They are yet to be compensated as a result of the late arrangements. These factors contributed to the discrepancy between the project progress and the percentage of PAPs payment.

ALLEGATION	IRM FINDINGS	MANAGEMENT RESPONSE
	IRM also did note that whereas the compensation amounts of some PAPs were reviewed and increased when complaints were lodged with the NLC, the adjustment process has been perceived by many PAPs as arbitrary with some PAPs seemingly obtaining additional awards, which in the eyes of those who did not complain, this undermined their confidence in the process and confirmed the perception that assets were not properly valued in the first place.	The Management has advised KeNHA to take steps to ensure that the NLC discloses compensation packages to each individual PAP before the issuance of payments to manage expectations and restore PAPs perceptions and trust. Management ensured that KeNHA disclosed all project documents including the RAP and its non-technical annex to the PAPs. KeNHA has also prepared and published a fact sheet on the project. Valuation process as provided in the laws of Kenya (which are in tandem with the ISS requirements) is to be done by NLC. The valued assets were disclosed to the affected PAPs². This includes a breakdown of all items to be compensated and are discussed with the affected PAPs. The disclosure is accompanied by explanations on how the valuation is done and how the values are arrived at. Upon issuance of individual awards, each PAP is made aware that they have the option of not signing if he/she is not in agreement with the amount or sign up if he/she agrees to the amount provided. It is worth noting that during reconnaissance of affected property, NLC does conduct further public sensitization to the affected PAPs outlining the process and the rights of the PAPs because this is done during the RAP preparation. The fact that PAPs have a right to complain and request for re-evaluation indicates that the process is transparent. The outcome of the reevaluation might increase or decrease the original award. It is only upon acceptance of the awards that compensation is issued. To further sensitize PAPs on valuation procedures, KeNHA convened a valuation clinic in November 2018 in which NLC was invited to give a detailed explanation on how valuation was undertaken. The final valuation is a preserve of the National Land Commission. Further to this each individual complainant had a chance for review of their valuation. A total of 276 complainants participated. The Bank has worked closely with the borrower through the National Treasury and KeNHA to ensure that adequate financial resources are allocated for community relations and resettlement supervision. Management has also ensured that KeNHA permanently stations a senior sociologist on the project to work as community liaison officer as part of enhancing understanding between the PAPs and the project. This was arrived at as part of enhancing

² ([http://www.afdb.org/fileadmin/uploads/afdb/Documents/Environmental-and-Social-Assessments/Kenya - Mombasa Mariakani Road Upgrading Project - RAP - 11_2014.pdf](http://www.afdb.org/fileadmin/uploads/afdb/Documents/Environmental-and-Social-Assessments/Kenya_-_Mombasa_Mariakani_Road_Upgrade_Project_-_RAP_-_11_2014.pdf))

ALLEGATION	IRM FINDINGS	MANAGEMENT RESPONSE
		community engagement and information disclosure to minimize the complaints that were considered as resulting from inadequate communication and engagement.
No 3: The project has provided inadequate resettlement assistance to PAPs	IRM did find that the Bank was Non-Compliant with OS2 since there was a lack of evidence of the Bank verifying whether KeNHA was monitoring for the welfare and rights of evictees post-eviction. There is, in particular, a lack of proper monitoring in regard to the extent and effectiveness of resettlement assistance provided, which represents a non-compliance with the OS2 requirement that PAPs should be at least as well off as before or better off beyond pre-project levels.	The Bank follows closely all the activities of the project through regular progress reports and the Safeguards Monitoring reports which are received monthly, quarterly and annually, with feedback shared with the Executing Agency. The Bank team does regular follow-ups, supervises the project during regular supervision missions during which it verifies actions by the borrower/executing agency on compensation and related livelihood restoration. To-date, the EA has assisted the PAPs in conducting financial training as part of Livelihood Restoration Plan. Also Counselling services are offered. In addition to the compensation amounts, the PAPs are paid extra 15% to aid them in resettlement and restore their livelihood operations. Any payments beyond such will be illegal and outside the Laws of Kenya. An independent consultant was also assigned to prepare CAP implementation report. The CAP (https://afdb-my.sharepoint.com/:b:/r/personal/z_tessema_afdb_org/Documents/Desktop/IRM/IRM%20MM/FINAL%20CAP%20REPORT-2%20September%202016%20.pdf?csf=1&web=1&e=fC6QMf) was well prepared in consultation with all the development partners involved in the project including the Bank. As part of efforts to ensure that suitable socio-economic monitoring is conducted during RAP implementation, a project component on socio-economic monitoring includes a RAP Implementation Expert who would take the responsibility to evaluate the effectiveness of RAP implementation. This is independent to the experts in the supervision consultant. It is part of an independent consultant with the task of monitoring implementation of ESMP. As part of strengthening management of environmental and social (E&S) safeguards, KeNHA has strengthened staffing of its Environmental and Social Safeguard Department with designated staff responsible for environment and social matters for various projects not just Mombasa-

ALLEGATION	IRM FINDINGS	MANAGEMENT RESPONSE
		Mariakani Highway Project. In addition, the supervision consultant and the Contractor are required to have a designated fulltime E&S staff. Furthermore, there is an independent consultant responsible for external monitoring of resettlement activities and is undertaking ESMP monitoring and other safeguards issues. Their reports are shared with KeNHA and the Bank. During supervision missions, the Bank team holds consultations with stakeholders that include the PAPs. During such sessions, the PAPs are able to articulate issues that need to be addressed. Evidence of such engagements is available. Management has also emphasized the need for a strengthened grievance redress mechanism (GRM) at the project level. The project has a four-tier GRM through which matters linked to livelihood restoration can be raised. To improve access to the GRM, KeNHA has an operational toll-free telephone number, plus a text messaging service specific to the project. The GRM committee members have had capacity building through training.
	IRM noted that there is a lack of evidence of the Bank verifying whether the borrower was assessing the effectiveness of the PAPs livelihood restoration measures. IRM noted that there is a lack of evidence of the Bank verifying whether the Project was investigating the host areas that would receive physically and economically displaced PAPs or taking steps to ensure the Project addressed these concerns. This is particularly in relation to the identification of suitable alternative market stall sites for PAPs who had small-scale informal business within the road reserve.	This project is being implemented in a peri-urban setting where PAPs are not shifted to a discrete relocation area. The concept of host communities is therefore not applicable as the PAPs remained more or less within the same community. The PAPs are also at liberty to identify areas they want to relocate to upon receipt of their cash compensation that includes 15% disturbance and relocation support. Whereas the identification of alternative site for small business PAPs was not part of the compensation package, however, within the project, there is market construction sub-component as part of a socio-economic sub-component as an enhancement measure for the area and the PAPs will be given first priority during the location of stall occupants.
No 4: There is a lack of breakdown of valuation of impacted assets in individual compensation awards and what items were covered by the compensation amount received by the PAPs	IRM concluded that the Bank was Non-Compliant with OS2 because there was failure to ensure that compensation awards are sufficiently detailed and provide a breakdown of what is included, as required by OS2. There is a failure to ensure that compensation awards are transparent and that they correspond to the full replacement cost.	Management ensured that compensations are evaluated based on the Kenyan Laws which are in tandem with the Bank policies. The National Land Commission presents and discusses with the PAPs the detailed breakdown of valuation of impacted assets in individual compensation awards. The valuation amounts are disclosed directly to individual PAPs through the award forms, and this is accompanied by explanations on how the valuation is done and how the values are arrived at, and this includes a breakdown of all items to be compensated as contained in the detailed evaluation report which are discussed and agreed upon between NLC and the affected PAPs. The NLC also indicated that no inspection of affected assets is conducted without presence of the interested parties or their representatives. This is provided for in the law and stipulated in the RAP. PAP

ALLEGATION	IRM FINDINGS	MANAGEMENT RESPONSE
		Participation in the compensation negotiations is a legal process in Kenya through hearing during acquisition and compensation. This is a legal requirement that was gazetted before the actual activity and the commission cannot prepare any awards before this hearing process. The PAPs were also informed in advance of this process with a seven days' notice issued and awareness offered before the specific activities. Sensitization workshops for PAPs was convened by KeNHA in 2018 and this was on NLC compensation procedures in which 276 PAPs participated. The PAPs are also given an opportunity to review the individual valuation reports.
No 5: The Project has erroneously omitted the names of some of the PAPs in the final list for compensation prepared by the National Land Commission	IRM concluded that the Bank was Non-Compliant with OS2 on this allegation in the sense that there is no evidence of the Bank requiring an investigation and an update of the cadastral survey to verify the allegation of missing names. There is also no evidence of any meeting with NLC or the GoK to discuss the issue, leaving the initiative with KeNHA instead. IRM further noted that there was a failure to consider the reasons, such as poor stakeholder engagement and gaps in socio-economic monitoring as the reasons why PAPs who moved into the area after the cut-off date.	It is not under the jurisdiction of the Management to request for updating of the cadastral surveys. The census and asset inventory documented in the RAP captured all the PAPs at the time of the RAP preparation. However, there was lapse in time between the RAP preparation and the NLC valuation time during which time some people could have moved into the area hence their names could miss in the RAP report. However, the process for census was participatory through PAPs engagement and NGOs that witnessed the process. Following the validation of the claims by KeNHA, it was found that these complaints regarding missing names are cases of new entrants coming into the project area after the declared cutoff date. For cases brought to the attention of KeNHA, additional verification and investigation have been carried out to determine ownership and these were resolved. Unfortunately, it was found that cadastral surveys are not regularly updated and therefore some of PAPs may not be captured and therefore KeNHA had to rely on the census and community to determine actual owners. However, KENHA has a corridor maintenance unit responsible for the protection of the corridor. However, they are active after the commissioning of the project. This case of missing PAPS was also brought to the mediators' attention and the mediation report has been provided. Whereas technically the PAPs who move into the project areas after the cut-off dates are not eligible to compensation and are only supposed to be given notice to vacate. But the final authority on compensation lies with the NLC who compensate based what they find at inspection and not what was there at cut-off date. KeNHA has to go by the decision of the NLC who some time disregard the cut-off date by KeNHA but rather go by the dates of their inspections. Once the site has been acquired efforts by KeNHA in collaboration with the Contractor and Supervising Engineer limit the number of persons who move into the corridor. The GRM committees also help in the maintenance of the corridor during the construction period.

ALLEGATION	IRM FINDINGS	MANAGEMENT RESPONSE
		The Bank team have had close follow ups with the EA and GoK in regard to PAPs compensation and update on progress is received at least on monthly basis and also as part of Borrowers Quarterly reports. During supervision, the team conducted meetings with KeNHA, the Line Ministry, NLC and the National Treasury officials on the same. To mitigate against future encroachment KeNHA has put-up road boundary beacons along their road corridors to show extent of the road reserve and has created a Road Reserve Protection Unit (corridor Management Unit). The Corridor Management Units are also responsible for awareness creation and sensitization of communities on dangers of encroaching into the corridor
No 6: The Project has not disclosed project information and made access to the Full Resettlement Action Plan (FRAP) and the road map inaccessible to the PAPs such that they are not able to understand the project impacts. Non-disclosure of project information and inaccessibility to see the boundaries of the road reserve (Right of Way)	IRM concluded that the Bank was Non-Compliant with OS1 and OS2 on this allegation because there was a failure to ensure that the borrower provided adequate maps of the road reserve and project information to PAPs. While KeNHA made various efforts to disclose project information to the PAPs in a timely manner, the adequacy of KeNHA's approach to consultation and public disclosure, and by extension the Bank's supervision thereof, is open to question.	Management disclosed the approved RAP on (see the links above) and KeNHA regularly discloses all the project documentations. The EA availed the plans of the roads which shows the extent of the road project i.e., road reserve. Additionally, the EA through the Contractor marked the extent of the corridor on the ground using marker posts. The extent maps are available.
	IRM did also conclude that insufficient efforts were made to publicize the public consultation meetings, with some, particularly vulnerable people not aware of or unable to attend these meetings for livelihood reasons.	As a way of publicizing public consultation meetings, the EA deployed a Sociologist as a Community Liaison Officer (CLO) at the project site on full time basis, to lead the communication strategy and direct liaison with the community. The local CSOs acknowledged that this went a long way to improve communication challenges. For any meeting, a seven-day notice was always given.

ALLEGATION	IRM FINDINGS	MANAGEMENT RESPONSE
	IRM noted that while project summaries of key documents were drafted, there is no evidence of timely translations of these having been made available to PAPs. In the case of the non-technical summary of the CAP, a Kiswahili translation of the document was not issued until a full year after the CAP was disclosed	The Borrower acknowledged that the Kiswahili translation of project summaries of key documents delayed, and this was attributed to the need to finalize the documents first. However, this does not negate the fact that all the stakeholders were involved in meaningful consultation sessions where they were free to raise their concerns. The Kiswahili version was finalized and is available.
	On allegation No. 6 IRM further concludes that there is no evidence of the Bank verifying the degree to which the borrower was conducting meaningful engagement.	Management observes that the process of preparing the E&S documents for the project is led by the Borrower in line with the Country and Bank requirements which all require adequate stakeholder engagement. Through the review of these documents and the interactions during the project preparation phase, Management assesses the adequacy of the stakeholder engagement and public participation before approval of the said documents by the relevant country authorities and clearance by the Bank before disclosure by the Bank. Beyond the preparation phase, Management has also ensured that the Bank team has consistently made follow – up with the KeNHA during the implementation of this project and stressed the need for continuous stakeholder engagement. Moreover, the Bank also required the Borrower to put in place a stakeholder engagement plan to support stakeholder engagement during implementation. The stakeholder engagement plan is in place and is implemented. Through the Bank support, KeNHA strengthened its Safeguards team on the project and had a senior sociologist permanently stationed on the project whose role was to engage project stakeholders, especially the PAPs. Evidence is available of the Bank and its co-funders conducting joint missions to engage stakeholders including PAPs and CSOs among them Polish Green Network, CEE Bank watch Network, Amnesty International, Ujamaa Kenya, Transparency International, Pamoja Trust, MUHURI, Haki Africa, Rapid Response Team and Coast Women in Development. The Bank team has regularly held meetings on the progress of the project and implementation of E &S safeguards whose discussions include stakeholder engagement. The Bank has consistently received safeguards monitoring reports whose content include progress on implementation of stakeholder engagement plan. The Bank generates comments on these reports which are shared with The EA, Supervising Engineers. The Management has also ensured follow up and direct engagements with the PAP's during the Bank's Supervision Missions.
	IRM further notes that consultations have predominantly involved public meetings involving local government and the wider community. This ignores the fact that the PAPs do not trust the DCC and often means that community power	For a project that belongs and is executed by the Government, to isolate the Government from the consultation process would be unrealistic. Moreover, the project owner has the mandate to lead the consultation processes and also

ALLEGATION	IRM FINDINGS	MANAGEMENT RESPONSE
	dynamics are in evidence, which runs the risk of not all voices in the community being heard. There is no evidence of the Bank commenting on this.	provide the framework for such consultations. The Borrower confirmed that the project team has consistently and publicly announced that the Resident Engineer's office is the one that receives the PAPs' complaints and concerns. The project has complaints log mechanism to capture all complaints received for processing and coordination to relevant offices suited to handle the complaints. Additionally, there was a manned toll-free number which the residents could use to report their complaints. The Bank team has severally held separate meetings with different stakeholders. The Bank Team has been following up with KeNHA on the execution and effectiveness of these efforts during their meetings and supervisions. The GRM log indicating the number of cases reported in a month, how many have been resolved and closed and how many are pending. These logs are consistently reported monthly in the safeguards monitoring reports. The Bank reviews these reports, and comments shared with the stakeholders. The Bank staff engage directly the project affected persons during the supervision missions.
No 7: The Kenya National Highways Authority (KeNHA) has failed to implement the Corrective Action Plan (CAP) as had been agreed with the PAPs	While financial training was provided to PAPs and the PAPs concerned were aware of the GRM and its functioning, it is not clear what actions were taken in regard to the implementation of the CAP following its socialization in 2017 and 2018. This raises questions regarding the effectiveness of the CAP and the related engagement process.	The implementation of the CAP was and is closely monitored by Management in consultation with KeNHA. Following the grievances received in relation to the CAP implementation, KeNHA agreed to a mediation process where each evictee losses would be reviewed in line with an entitlement matrix by an independent team that consisted of the Ombudsman office. KeNHA and evictees also had an agreement that the decisions of the mediators would be final and, had to be respected by both parties. KeNHA has met all their obligations in relation to the CAP.
	A translated version of the non-technical summary of the Corrective Action Plan (CAP) was not available until 12 months after the CAP was disclosed in Kiswahili.	The Management agrees with this conclusion and has followed up to ensure availability of the Kiswahili version of the CAP
	There is no evidence of any investigation by the Bank into the implementation of the CAP, even though OS2 provides for a monitoring mechanism to address problems that arise.	Management has ensured regular monitoring through monthly meetings and biennial supervision missions. However, CAP implementation progress is also monitored through regular monthly reporting and safeguards implementation monitoring. As indicated earlier the Bank team holds regular meetings with the Executing Agency.
	Whereas it is understood that the CAP was implemented in accordance with the provisions set out in the Entitlement Matrix, there is no evidence of the Bank questioning the adequacy of the CAP implementation process.	Management did ensure that the CAP Entitlement matrix was developed to guide the compensation process of the evictees at Jomvu. The Bank followed and ensured that the CAP was implemented as agreed. The Bank received no complaint about this during its implementation support missions to the field.

4.2: Summary of Key Observations and Recommendations for Institutional Improvement

The IRM offers these following observations/recommendations in an effort to contribute to overall institutional learning and continuous improvement.

ISSUE	IRM OBSERVATION	APPRAISAL STAGE	MANAGEMENT RESPONSE
1. Social Specialists	The Bank did not involve RAP and social risk specialists in the appraisal process.		The Bank team included an E&S safeguards expert in the preparation and appraisal mission who was tasked with responsibility of assessing the extent of displaced/affected persons by the project and cost of relocation and adequacy of implementing the RAP report.
2. Environmental and Social Due Diligence (ESDD)	The Bank did not involve RAP and social risk specialists in the appraisal process.		The Bank mission team always includes an environmental and social safeguards expert and the ESIA and RAP all included evaluation of social aspects. This is standard practice for all category 1 and 2 projects.
3. Contextual Risk	AfDB did not commission an independent ESDD.		This is not a requirement under the ISS for public sector operations. The Bank due diligence has been and is conducted as per its mandate, responsibilities and accountabilities which are clearly stated under OSI of the ISS.
4. Implementation Focus	The appraisal process was focused primarily on project implementation and the risk of delays to the construction schedule rather than meeting with the PAPs and trying to understand the underlying reasons for the delays to compensation payments and the continued encroachment into the road reserve.		During the appraisal mission, extensive consultations were held with PAPs with the objective of understanding concerns they may have had and assess the extent to which the project addressed them. These were captured in the project appraisal report and in the Technical Annexes of the appraisal report which were informed by the ESIA and RAP processes.
5. Stakeholder Engagement	The adequacy of stakeholder engagement during the ESIA/RAP phase was not questioned. The absence of a fulsome stakeholder mapping exercise resulted in a less than complete understanding of the social context of the project and contingent social and human rights risks.		An assessment of stakeholder engagement carried out during ESIA, and RAP was carried out by the Borrower as part of the ESIA and RAP processes, and further verified and reviewed by the Bank as part of the Bank due diligence process which accompanied the review and clearance of the ESIA and RAP. Subsequent to the approval of the project, the Bank required the Borrower to prepare a comprehensive stakeholder engagement plan (SIP) which is now supporting stakeholder engagement during the implementation phase.
6. Borrower Capacity	The appraisal process paid insufficient attention to the borrower's capacity to implement the FRAP in a meaningful way, especially that of the NLC.		The Bank team assessed the Borrower's capacity for implementation of RAP report. We have to recall that this was and is not the first project for KeNHA to implement a RAP on. SEcveral other projects have had successful implementation of the RAP by the same agencies responsible for this project. The E&S safeguard team of KeNHA has significantly improved in capacity for RAP implementation. The Bank in consultation

ISSUE	IRM OBSERVATION	MANAGEMENT RESPONSE
		with other development partners has put in efforts to enhance the capacity of NLC. Efforts have been put in place to strengthen the implementation of RAP including capacity building for KeNHA and NLC, and addition of experts as part of project team such as social safeguards specialists, gender specialists, and a resettlement specialist
7. Monitoring	The Bank signed off on the ESIA/FRAP provision for KeNHA to be in charge of RAP monitoring, without an independent RAP monitoring mechanism in place.	RAP implementation, as well as all the other E&S measures, is the responsibility and accountability of the Borrower as always clarified in the financing agreement. The RAP provided a clear process for compensation and relocation, to be facilitated by the relevant Government agencies which have long experience on matters of compensation and the necessity for an independent RAP monitoring mechanism was not initially considered necessary for this project. However, additional RAP monitoring was done by an Independent Consultant hired under the project who provided reports on the status of RAP implementation. Even though the contract is managed by the EA, the Consultant is entirely independent.
1. Supervision Missions	The supervision visits have been carried out as part of multi-project missions, which means that the time available to review a project as complex as this one has been insufficient.	<i>SUPERVISION STAGE</i> This is not a unique and complex project as far as the number of affected people is concerned. The implementation support missions are undertaken as per the Bank's guidelines and as per agreed mission schedules as between the Bank and the Executing agency i.e., an average two missions annually. It should also be noted that there is regular follow up with the EA by the Project Implementation Team in regard to project implementation for each individual project. In addition, the scope of implementation support has been enhanced by the Bank receiving monthly and quarterly progress reports which are discussed with the Borrower for any required action as needed.
2. Social Specialists	The Bank did not involve RAP and social risk specialists in the supervision process. Relatedly, there is no evidence of the Bank meeting with PAPs throughout the supervision process.	The Bank supervision teams at all times include an E & S safeguards expert who is responsible for assessing the extent of implementation of the RAP and other social aspects. The Bank supervision missions have at all times included engagement with key project stakeholders, including project area communities and PAPs..
3. Independent Environmental and Social Supervision	AfDB did not commission an independent environmental and social supervision process and has relied on the borrower-led supervision process.	The Bank does not always seek commission independent environmental and social supervision process on any project. It is part of the mandate of the Bank to ensure the Borrower develops sufficient capacity to oversight projects implementation on all aspects, including on E&S compliance. Requiring commissioning of independent E&S supervision would defeat

ISSUE	IRM OBSERVATION	MANAGEMENT RESPONSE
		that noble objective. However, in addition to monitoring by KeNHA, the project has an independent consultant who is monitoring RAP implementation and obligations. The Independent Consultant was hired under the project and provides reports on the status of RAP implementation. Even though the contract is managed by the EA, the Consultant is entirely independent. The Bank has an oversight role with respect to the Consultant's delivery of this assignment.
4. Contextual Risk	Insufficient attention has been given to contextual and human rights risks, notwithstanding the potential for such issues to arise in a densely populated urban environment.	The relevant Human rights aspects for the project; such as issues of PAP compensation, PAPs resettlement facilitation, etc. In any case, the main human rights issues on this project are to do with (i) the right of the PAPs to full compensation, and for which the RAP was prepared as well as (ii) rights of workers to a safe working environment (occupational health and safety) and which is very well considered in project implementation.
5. Stakeholder Engagement	The adequacy of stakeholder engagement during the construction phase has not been questioned. It was not until 2018, three years after the Bank approved the loan, that a proper SEP and stakeholder mapping exercise was undertaken. There is no evidence whether the Bank verified whether and how the SEP has been implemented. Much of the information necessary to appreciate the impact of the road project was made available to stakeholders. This was done through KeNHA and/or the lender websites during the disclosure period. This is not conducive to meaningful engagement, which is premised on the provision of timely and relevant project information, including adequate maps, to local and affected stakeholders.	The development of the ESIA and RAP for the project involved a significant level of stakeholder engagement. Whereas there was no specific stakeholder engagement plan (SEP) at that time, the necessity for one was informed by the RAP implementation challenges that occurred during RAP implementation. Some of the social safeguards measures on stakeholder engagement such as GRM, public consultations were in place and being implemented even as the SEP was being reviewed and approved. KeNHA has also continuously put in deliberate efforts to avail information to the public and stakeholders through the RE's office on project site, NEMA offices, local government offices, brochures, toll free number, among others. In addition, the project team, led by the sociologist and community liaison officer were at hand to provide and explain the project to stakeholders upon request. Stakeholder engagement and communication processes are monitored and evaluated regularly by the Bank team. Independent M & E consultancy is included as one of the project components to be responsible for monitoring of E & S safeguards which includes the effectiveness of SEP implementation. Lesson learnt going forward, all category 1 project like this one will be required to prepare comprehensive Stakeholder Engagement Plans (SEPs) to facilitate project level stakeholder engagement on a continuous basis.
6. Borrower Capacity	The supervision process has paid insufficient attention to borrower capacity to implement the RAP. This is especially the case with regard to the NLC, with the Bank relying on KeNHA to address identified capacity issues.	The capacity of the borrower was assessed and found to be acceptable. The EA followed the laid down guidelines and policy of the GoK and the Bank in the preparation and disclosure of the RAP at the same time respecting the privacy and ensuring integrity and mitigation against risks associated with disclosure of their financial details in the public domain. The approved project RAP clearly itemised the expected losses incurred by the individual PAPs and the corresponding values for compensation

ISSUE	IRM OBSERVATION	MANAGEMENT RESPONSE
		attributed to these losses. The compensation is carried in accordance with the guiding principles stipulated in the entitlement matrix which was part of the RAP. NLC is the only body mandated by law of Kenya to undertake compensation of public land. The Bank is also conducting clinics on E & S issues to the executing agency periodically. KeNHA has increased the number of safeguards team members, KeNHA has additional staff for environmental, social and gender as well as safety and resettlement assistance. NLC capacity is also assessed and reviewed during supervision mission. Currently, the NLC through the support of one of KeNHA's recent Project, the Horn of Africa Development Project has incorporated a capacity building for the institution and training on resettlement planning and implementation.
7. Grievance Redress Mechanism	Whereas the Grievances Redress Mechanism was enhanced through the formation of Multi-Stakeholder Committee, as an independent grievance resolution committee supporting the project on dispute resolutions, there is no evidence of the Bank verifying the effectiveness of the local GRM and Multi-Stakeholder Grievance Redress Committee, or responding to the claim by the complainants that the Committee is biased as it includes the DCC who is not trusted by the Complainants.	Management ensured that the Bank team continuously undertakes the mandatory bi-annual implementation support missions to the field on this project, and these have provided opportunity to interface with various issues of concern to the PAPs, including the operations of various GRMs. This is in addition to reviewing of the complaint logs and the resolution of the complaints in addition to reviewing the environmental and social safeguards implementation monitoring reports produced monthly detailing the various safeguards issues monitored regularly. During the supervision, the Bank team does and assess and verifies the adequacy of the GRM and its implementation. It is important to note that the GRM is tied to the National system and the membership will include national government and county government officers at location and sub-county levels. DCC have a national mandate for constitutional resolution a role that is recognized by the Kenya Justice system. A review of the GRM was undertaken by the co-financiers and certain recommendations to enhance the access and rebuild trust in the existing GRM were raised which included a review of the SEP to rebuild trust, reconstitution and retraining of the GRM members, vetting of the GRM members from the communities, ensuring correct and consistent availability of RAP information among the PAPs. KeNHA was able to prepare additional IEC materials that were made available to the communities and PAPs. A fulltime liaison was availed to ensure the right information is consistently available among the PAPs.

5. CONCLUSIONS

The Bank complied with its own E&S safeguards policy requirements procedures during the preparation and has maintained compliance during the project implementation.

The Bank provides regular E&S safeguards implementation support through the following:

- Conducting monthly virtual implementation support meeting to discuss pending E&S safeguards compliance issues; training on compliance aspects as required by the PIU E&S safeguards staff; follow-up and assessment of the implementation progress of recommendations and actions from previous reporting periods.
- Review and clearance of the E&S safeguards implementation periodic reports. The reports delivered every month are intended to provide the Bank as well as the Borrower time to identify and address E&S issues before they are severe. The review process provides additional guidance on areas requiring attention, especially if they represent persistence E&S noncompliance issues.
- Implementation support missions. Biennial Implementation support missions have been regularly carried out to ensure that the Borrower is complying with the financing agreement, including all the relevant legislations, policies, rules, and procedures, as well as the E&S risk management measures in the ESIA and RAP. The aide-memoires and records substantiate the Bank's efforts in assisting the Borrower to fully comply with their obligations. The resulting aide memoire and back to office reports provides:
 - An assessment of the project's E&S safeguards performance with an assigned rating.
 - Follow up actions for the PIUs implementation.
 - Inform management of key E&S issues indicating measures and timeliness to resolve the issues.
- Having phone communications to discuss specific E&S issues as they arise without necessary waiting for the implementation support missions. These include the handling of reported E&S safeguards incidents such as accidents on site.

Conversely, all the BCRM relevant findings are attributable to the Borrower implementation shortcomings, principally related to finalization of compensation for project affected persons.

In view of the above, Management confirms that a lot of effort has been put in place to address the complaints received in 2017 and 2018 and findings in the IRM Compliance Review Report. The Executing Agency, KeNHA, with support from the Bank, has implanted a number of measures aimed at addressing the concerns of the Complainants. Some of the measures that have been undertaken include:

1. **Support to PAPs:** KeNHA has made deliberate effort to support PAPs such as assistance in opening bank accounts to facilitate receipt of their compensation/awards, holding/facilitation sensitization sessions to educate PAPs on NLC compensation process, and conducting finance training to enhance their finance and business management skills and also offering counselling services for their mental wellbeing. Some of the delays to compensate the PAPs is not entirely because of the Executing Agency but is also contributed to the PAPs' lack of requisite documents.
2. **Strengthening the team on the ground:** In addition to the Sociologist that KeNHA has stationed at the project site who also acts as the Community Liaison Officer,

additional support to address social challenges include staff of the Supervising Consultants (a social expert and environmental specialist), and the Contractors team (an environmental specialist, Health and Safety Specialist, a Public Relations Specialist, and a Social specialist). Communication on the ground has also greatly improved. KeNHA has a toll-free number available to facilitate reporting of complaints and/or incidents directly to the project team and a whistleblowing policy was started for Lot 1 employees.

Already most of the issues raised by the requestors have been resolved and more is still being done, particularly on sensitizing the PAPs on issues that concern them, including clarification on method of valuation that derived the compensation amounts awarded to the individual PAPs in question. It should, however, be noted that a majority of the PAPs have already received their compensation and have already vacated the project site. The cases of those who appealed to IRM are equally being resolved using the already established channels and mechanisms. For example, the Bank has confirmed from KeNHA, in writing, that a reasonable chunk of the remaining PAPs will be compensated by end of June 2024 while those who will not have been paid will be paid by end of July 2024. The 18 PAPs who were found to be missing in the list for compensation during the mediation as well as the 11 PAPs whose compensation amounts were revised upwards were compensated in February 2024 to an amount of KES 1,135,000. The Bank will continue to closely work with KeNHA and the Government of Kenya to ensure amicable resolution of the issues affecting PAPs as well as their full compensation.

Additionally, the Management would like to acknowledge that most of the issues and complaints raised are relative to this being a legacy project. Lessons learned here have helped to improve design of projects prepared by the team. Some lessons learned that have already informed the GoK/KeNHA action include: (i) KeNHA has put in place corridor management units which will be also responsible for demarcation of road reserves on major highways to avoid indiscriminate encroachment into road reserves that was partly responsible for the unfortunate demolition of properties in the un-demarcated road reserves. The Corridor Management Units will also be responsible for awareness creation and sensitization of communities on dangers of encroaching into the corridor; (ii) The GoK/KeNHA are now very clear that PAPs cannot be moved from the right of way until they have been fully compensated; (iii) KeNHA is looking into how to develop a community led other than expert led RAP planning process. With this KeNHA is currently preparing a TOR for RAP development and implementation framework for adoption in the future projects in the Authority (the Bank will follow up on this to find out how far KeNHA has gone with this); and (iv) KeNHA to also pursue the opportunity for involvement of the National Land Commission earlier in the RAP preparation other than at the implementation stage.

It is therefore, the view of the Management that the issues raised in the IRM Compliance Review Report have been addressed and ongoing measures and corrections to be undertaken by the Borrower, as per the financing agreement, are being closely followed up by the Bank team in collaboration with the Executing Agency as well as the NLC and the National Treasury. The Management is committed to continuing to engage with the Borrower and the project implementing entities (KeNHA, PIU), the PAPs and CSOs and all other stakeholders within the framework of its mandate, responsibilities, and accountability as per its policies, rules and procedures.

ANNEX 1: MANAGEMENT ACTION PLAN

Management Action Plan: For Consultation between Management, IRM and the Complainants on the Final Compliance Review Report for the Construction Works for Mombasa-Mariakani Project, Kenya.

Table 1: IRM Specific Findings and Recommendations Based on the Complaint

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
No 1: The Project has involved forced evictions and demolition of properties without compensation	Non-Compliance with OS1 and OS2 - Whereas forced evictions have been addressed via the CAP, there is a lack of evidence of the Bank working with the borrower to curtail encroachment, which increases the risk of further forced evictions. - Failure to resolve the issue with delayed compensation payments provides an incentive for PAPs to move close by within the road reserve which increases the risk of further forced evictions. - There is a lack of evidence of effective oversight by the Bank to address these issues in a timely manner.	1) Compensation: Work with the borrower to ensure compensation is timely (i.e., effected in full, before relocation), adequate, and part of a wider relocation strategy.	Management to request and clear an updated works and compensation plan providing details of the scheduling of the compensation of PAPs prior to initiation of works for a particular section. The plan should be consistent with the actual progress of, and planned construction works. Management will monitor closely and ensure that PAPs are not relocated before compensation is paid in full and the evidence of the same submitted to the Bank confirming compensation by the Borrower. Management has confirmed that KeNHA has committed to settle payments for the remaining PAPs except those with court cases will be compensated in full by end of July 2024. The Bank will continue to closely follow up and work with KeNHA and the Government of Kenya to ensure the dates are met.	KeNHA	By end of July 2024	Full compensation of the PAPs prior to initiation of works. For plots of land with ongoing court cases or under dispute, that the agreed (by the PAPs) valuation results and compensation amounts shall be set aside in an account, agreeable to the PAPs, to the PAPs, KeNHA and the Bank.
		2) Monitoring: Work with	In line with the Bank cleared	KeNHA and the	Monitoring is	No evictions will

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
	There is a lack of evidence of the Bank providing guidance to KeNHA on the conditions that need to be met regarding involuntary resettlement, and how to monitor the performance of involuntary resettlement operations, as required by OS2.	the borrower to ensure adequate post-eviction follow-up and monitoring is carried out and support to affected PAPs is extended to all compensated and resettled households, especially vulnerable groups.	works and compensation plan, and updated RAP, Management will ensure No Evictions of project affected people is carried out. KeNHA will regularly provide an update of the implementation progress of the Bank cleared works and compensation plan, in the monthly report. KeNHA will ensure Resettlement compensation funds are in the national annual budgets to avoid situations where there are delays in compensation. Verification to be done during the supervision mission. To monitor the situation of vulnerable groups, the Borrower has been instructed to include this information in the monthly E & S performance report. This includes confirmation of status of receipt of compensation entitled to them.	Project team	done monthly and biennially	occur
		3) Encroachment: Work with borrower to ensure that once PAPs are compensated, they do not return to the road reserve or encroach on other people/properties to minimize the risk of future evictions.	The Bank will continue assisting the Borrower by financing a component in the project which will enhance awareness creation and sensitization of the local community about the road reserve among other things. Road reserve beacons are	Project Team and KeNHA	Monitored monthly	Road reserves are well demarcated and properly marked

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
			being erected throughout the project roads. Verification to be done during the supervision mission. Currently KeNHA is marking and securing all road reserve lands throughout the country something that is going to help greatly in minimizing encroachment and conflicts during implementation of road projects throughout the country. Additionally, the Bank through a different project is supporting KeNHA in setting up a Road Asset Management system that will assist in the management and monitoring of the road corridors. Additionally, during the identification and appraisal mission for new projects discussions will be held with the Unit.			
		4) Engagement and Communication: Work with borrower to improve stakeholder communication and ensure ongoing and meaningful engagement occurs. This should include in particular the dissemination of information about the existing cut-off date and entitlements in the project area, so as to prevent or discourage the arrival of newcomers in the project area. Provide training and capacity building as	KeNHA has been extensively involved in awareness and sensitization through public barazas. KeNHA has also been involved in the formation of the Grievances Redress Mechanisms and in the training of Grievances Redress Mechanism Committee members. As part of public awareness and sensitization, KeNHA does involve local administration and the national government system.	Project team and KeNHA	Reports including signed minutes of the consultative meetings of such engagements and communication are provided monthly through the monthly environmental and social safeguards monitoring reports and	Effective engagements and PAPs are fully informed

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		needed.	The Bank will ensure there is a full time qualified local Community liaison officer who will be made one of the key staffs of the contractor. Additionally, the Bank will require the engagement of Community Liaison Officer for new projects. The qualifications and terms of engagement will be discussed during appraisal mission and included as component of project services. This is already incorporated in newly approved projects such as the ElWak – Rhamu project. Also in new projects, it is a requirement that the contractor and supervising engineers to be contracted have the required Environmental and Social safeguards staff inclusive of RAP Specialist to oversee the implementation of the project's ESMP and RAP The same will be verified during the Bank's supervision missions. Records will be made available as evidence of such engagement which will be conducted in line with the guidance for stakeholder engagement provided in the ISS.		through biennial supervision reports.	
		5) Contextual Risk: Carry out contextual and human rights risk analysis prior to and	There is no provision for this in the ISS. However, assessment of contextual risk	KeNHA and the project team	This will be done during the ESIA and RAP	N/A in the current case

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
		during the loan period.	will be done during the ESIA and RAP preparations and firmed up during project preparation and appraisal missions		preparations and firmed up during project preparation and appraisal missions	
		6) Integrated Planning: Use the expertise of the Bank to work with the Project to integrate road planning with sustainable urban planning and approach the road project in the wider context of sustainable urban planning and to integrate this perspective into project design.	The Bank's Urban Development Expert is joining project preparation and appraisal missions of projects involving urban settings. The expert as part of the Sector, will be part of the project team will be responsible of assessing project form urban development perspective.	PICU	This will be done during the project preparation and appraisal. It is not applicable in the phase of the current project	N/A in the current case
No 2: The Project has provided unfair/inadequate compensation involving low compensation values	Non-Compliance with OS2 - Delays in compensation payments are an acknowledged fact that has resulted in harm to the affected PAPs. - Long delays in delivering the compensation have the additional consequence of inflation-related depreciation of the awards. This makes it still harder for PAPs to relocate and successfully re-establish their	1) Valuation: Consider the difference between the valuation of assets under the Kenyan Land Act and under the provisions of OS2. Where the compensation offered falls short of what would be due under the "full replacement value" provision set out in OS2, provide top-up payments to affected PAPs.	Management require of KeNHA to provide reports confirming PAPs' compensation was done at full replacement value of the property and the current land rate at the place at the time of acquisition with resettlement assistance amount. To this end Management has confirmed that KeNHA has committed to settle payments for the remaining PAPs except those with court cases will be compensated in full by end of July 2024. Management will also ensure that PAPs are given breakdown of the compensation amounts.	KeNHA/Project team.	End July 2024	Proper breakdown of valuations
		2) Disclosure: Take steps to ensure the borrower discloses	The Management will ensure that details of the valuation	KeNHA/Project team	Compensation details were	Details of valuation provided

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
	livelihoods. There is no evidence that the Bank took sufficient steps to resolve this issue. Whereas the compensation amounts of some PAPs were reviewed and increased when complaints were lodged with the NLC, the adjustment process has been perceived by many PAPs as arbitrary with some PAPs seemingly obtaining additional awards, which in the eyes of those who did not complain, this undermined their confidence in the process and confirmed the perception that assets were not properly valued in the first place. (See paragraphs 77 & 77 of the IRM compliance Review Report).	compensation packages before the issuance of payments to PAPs to manage expectations and restore PAPs' perceptions and trust.	amounts are disclosed directly to individual PAPs through the award forms and this is accompanied by explanations on how the valuation is done and how the values are arrived at. Moreover, during inquiry, all valued assets are disclosed to the affected PAPs with a breakdown of all items to be compensated which are discussed and agreed upon between NLC and the affected PAPs. However, at the payment time, NLC has not been giving details and breakdown except the lumpsum amount. The breakdown is to be given during the ongoing mediation process. All compensations are at full replacement value, while land is valued at current market rate.		disclosed at the valuation stage. The PAPs were taken through the evaluation process and what the total compensation amount is for. This was done.	
		3) Resourcing: Work with the borrower to ensure adequate resources are allocated to community relations and resettlement supervision.	The Management is continuously working with the Borrower as recommended starting at the project appraisal stage. The RAP reports of projects include such costs. The Bank will follow up to ensure adequate counterpart allocations for compensation are included in the national budgets. This will be monitored during progress meetings and monthly reporting.	Project team/KeNHA	This was done at the appraisal and continues to be monitored monthly through environmental and social safeguards monitoring and through biennial supervision missions	N/A at the current stage

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
		4) Independent Project Supervision: Appoint an independent environmental and social consultant (IESC) to oversee the project and avoid reliance on a borrower-led supervision process.	Management will ensure that an independent E&S monitoring consultant is recruited depending on the complexity of E&S issues and the outcome of the assessment of the capacity of the executing agency. The procurement is to be done based on Bank's procurement framework. The qualification and eligibility criteria will be reviewed during clearance of the RFP. Depending on the size of the study it will be national or international shortlisting. KeNHA prepares the TOR which are reviewed by the Bank to ensure that they meet the required qualifications and standards.	Project team	This was proposed to be carried out once a year if there is need	Independent information provided
		5) Delayed Compensation: Work with the borrower to ensure that PAPs are compensated promptly and that those affected by the delays in compensation are provided with a suitable remedy, so they don't end up impoverished or worse off. Include an inflation adjustment based on the current market rate and the inflation rate over the relevant period. Where there are long delays in compensation, a complete re-evaluation may be necessary.	Management will ensure that KeNHA: • Maintains open and transparent communication channels with the PAPs on compensation processing progress. • Provides regular updates on the status of compensation, including reasons for any delays and expected timelines. • Puts in place mechanisms to implement interim relief measures for PAPs facing severe delay. • Calculates compensation	Project team	end of July 2024	N/A under current circumstances

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
			considering the inflation rate over the relevant period to ensure fairness and parity with current economic conditions. - Identifies cases where compensation delays have been prolonged and institute a fast-track process specifically designed to address these situations promptly. - Conduct periodic reviews and assessments of compensation amounts, especially in cases with significant delays, to ensure fairness.			
		6) Loan Agreement: Make contractual provisions in the loan agreement to enable the Bank to rapidly respond where there are delays in compensation and thus to ensure that PAPs do not suffer harm. Relatedly, engage early and directly with the competent national authorities to resolve issues relating to capacity constraints (e.g., by NLC) and in regard to counterpart funding.	The Bank has continued to engage in assisting on the improvement of the capacity of NLC to be able to rapidly execute compensation in a timely manner. In the loan agreements there are always conditions agreeable to both the Borrower and the Bank. It is upon fulfilment of those conditions that the Bank disburses the loan. Suspending disbursement remains an option for the Bank in case the Bank has a reason to believe that the Borrower is not fulfilling the conditions.	KeNHA/Project team	This was done during loan agreement negotiations. The Bank continues to support the capacity empowerment of NLC	Ensure contractual agreements are implemented
		7) Capacity Building: Provide support and capacity building to address capacity	The Bank continues to work with the development partner in assisting the improvement	Project team	Capacity empowerment of NLC is on-going	Improved efficiency of the National Land

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
		constraints on the part of the NLC.	of the capacity of NLC to minimize challenges of delayed PAP compensation. Improved capacity of NLC will help a great deal in improving NLC's work including valuation and compensation.		and will continuously be reported on.	Commission (NLC)
No 3: The Project has provided inadequate resettlement assistance to PAPs	Non-Compliance with OS2 - There is a lack of evidence of the Bank verifying whether KeNHA was monitoring for the welfare and rights of post-evictees in particular a lack of proper monitoring in regard to the extent and effectiveness of resettlement assistance provided, which represents a non-compliance with the OS2 requirement that PAPs should be at least as well off as before or better off beyond pre-project levels. - There is a lack of evidence of the Bank verifying whether the borrower was assessing the effectiveness of the PAPs livelihood	1) Monitoring: Work with the borrower to ensure that suitable socio-economic monitoring is conducted, including in relation to the extent and effectiveness of resettlement assistance. Carry out targeted independent (third party) monitoring to verify compliance to avoid reliance on any borrower-appointed consultant.	The Management monitors the Borrower's performance through receiving monthly environmental and social safeguard performance monitoring reports. When independent consultants are recruited, depending on the outcome of the capacity assessment of the executing agency, it is based on competitive bidding like any other component of the project using the appropriate standard documents. Independent consultants here mean those not working for KeNHA nor those associated with the contractor and the Consulting Engineer. The Bank has been monitoring the issue of the construction of the market at Mikindani that will help in the livelihood restoration of PAPs by providing additional trading space	Project team	This is being reported on monthly through the environmental and social safeguards performance reporting as well as project progress reporting	Effective compliance is realized

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
	- restoration measures. - There is a lack of evidence of the Bank verifying whether the Project was investigating the host areas that would receive physically and economically displaced PAPs, or taking steps to ensure the Project addressed these concerns.					
No 4: There is a lack of breakdown of valuation of impacted assets in individual compensation awards and what items were covered by the compensation amount received by the PAPs	Non-Compliance with OS2 - There is a failure to ensure that compensation awards are sufficiently detailed and provide a breakdown of what is included, as required by OS2. - There is a failure to ensure that compensation awards are transparent and that they correspond to the full replacement cost	1) Breakdown of Compensation Awards: In line with what EIB agreed with KeNHA and NLC in regard to Lot 2, ensure KeNHA and NLC provide breakdowns for those PAPs where compensation is still outstanding and/or contested in Lot 1 to ensure greater transparency and understanding of the award. Even if retrospective, this will help to restore PAPs' confidence in the process and provide transparency. This is essential for people entitled to compensation and those groups that may not be eligible for land-based compensation.	Management will ensure that the PAPs are given the breakdown of the compensation prior to payment of compensation where it is still outstanding... Compensations are due end of July 2024.	Project team and KeNHA	End of July 2024	Compensation details are provided
No 5: The Project has erroneously omitted the names of some of the PAPs in the final list for compensation prepared by the	Non-Compliance with OS2 There is no evidence of the Bank requiring an investigation and an update of the	1) Communication and Engagement: Work with the borrower to ensure that the dissemination of information about the cut-off date and entitlements in the project area is reinforced and thus to prevent or discourage the	These are criteria in the ToRs of RAP, and for the clearance of the RAP. Through engagement of CLO, the dissemination of information e.g. cut-off dates will be enhanced	KeNHA/Project team	Continuous. The CLO will engage the PAPs and communities every month	Information effectively provided

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National Land Commission	cadastral survey to verify the allegation of missing names. There is also no evidence of any meeting with NLC or the GoK to discuss the issue, leaving the initiative with KeNHA instead. There is a failure to consider the reasons, such as poor stakeholder engagement and gaps in socio-economic monitoring, why PAPs who moved into the area after the cut-off date	arrival of newcomers within the project area. This will involve a significant effort by the CLO(s), rather than simply relying on communication via the website or via the official Kenyan Gazette. 2) Monitoring: Work with the borrower to ensure more focused monitoring is conducted in regard to new/opportunistic arrivals, using specific key performance indicators, and that this information is shared with the lenders on a regular basis. Commission an external specialist to review the list of PAPs to ensure all eligible PAPs are included and to screen out PAPs who have moved into or encroached into the area after the cut-off date.	Management will monitor CLOSELY and ensure that a Grievances Redress System in place. All those whose names miss in the RAP are expected to submit their grievances to the GRMC. GRMCs are open and transparent systems always designed to meet different cultural environment to ensure that everyone is reached. In the GRMC we often have local leadership, KeNHA, the PAPs, Consulting Engineer and the national leadership. Projects will now engage f Community Liaison Officer who will help in liaison with community especially engagements on issues affecting PAPs Also it is a requirement that the contractor and supervising engineers to be contracted have engage Environmental and Social safeguards staff inclusive of RAP Specialist to oversee the implementation of the project's ESMP and RAP and they will help in review of PPAs lists as the NLC also	Project team	To be consulted with EA but will be reported on monthly	Road reserve boundaries clearly marked and protected

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
No 6: The Project has not disclosed project information and made access to the Full Resettlement Action Plan (FRAP) and the road map inaccessible to the PAPs such that they are not able to understand the project impacts. Non-disclosure of project information and inaccessibility to see the boundaries of the road reserve (Right of Way)	Non-Compliance with OS1 and OS2 There is a failure to ensure that the borrower provided adequate maps of the road reserve and project information to PAPs. While KeNHA made various efforts to disclose project information to the PAPs in a timely manner, the adequacy of KeNHA's approach to consultation and public disclosure, and by extension the Bank's supervision	1) Community Relations: Work with the borrower to ensure more resources are put into community relations and resettlement oversight. Involve resettlement and stakeholder engagement specialists in the supervision process early on to verify the adequacy of the stakeholder engagement and communication process.	carry out their mandate. The status and information of PAPs compensation is also to be included in the monthly E &S performance report The Bank will ensure that KeNHA involves the local national government administration as well as the county government officials and with serious mark-up protection system. The Bank will also ensure that KeNHA capacitates and trains the GRMC members as part of the information conveyance system.	Project team	Every month	Effective community engagement and free flow of information

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
	- thereof, is open to question. - There is no evidence of the Bank verifying the degree to which the borrower was conducting meaningful engagement. - Insufficient efforts were made to publicise the public consultation meetings, with some, particularly vulnerable people not aware of or unable to attend these meetings for livelihood reasons. - While project summaries of key documents were drafted, there is no evidence of timely translations of these having been made available to PAPs. In the case of the non-technical summary of the CAP, a Kiswahili translation of the document was not issued until a full year after the CAP was disclosed. - Consultations have predominantly involved public meetings involving	the future projects Resettlement and stakeholder engagement specialists will be among the key staffs of the supervision consultant for complex projects. Complex projects for purposes of clarification are those projects involving massive property and population displacement.	Project team	Continuous but month	Free flow of information	
		2) Stakeholder Communication: Work with the borrower to ensure relevant project information is provided to stakeholders on a timely basis using a variety of appropriate means and outlets rather than relying on publication in the official gazette, in the local newspaper and/or via the project website. Provide guidance and capacity building to the borrower as needed, including in relation to the CLO, who plays a vital role in the timely dissemination of project information.				Management monitors closely and ensures that going forward information is relayed to project communities as soon as it is available. Where possible the information is conveyed in locally understandable language such as Kiswahili. Project information will also be conveyed through local public gatherings known as baraza such as project description – non-technical information, non-technical summary of ESIA. The Bank has often endeavoured to engage stakeholders directly. In future the Bank will follow up closely to ensure provision of relevant information to stakeholders during supervision missions through engaging the stakeholders and through reviewing E&S reports that are produced on a monthly basis. Brochures were prepared for this project with the same objective of disseminating information. Verification will also be done

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
	local government and the wider community. This ignores the fact that the PAPs do not trust the DCC and often means that community power dynamics are in evidence, which runs the risk of not all voices in the community being heard. There is no evidence of the Bank commenting on this.		during supervision missions and the stakeholders consultations carried out will be incorporated in the aide memoire			
			Management is monitoring closely and will ensure that the non-technical summaries are translated into Kiswahili at an early stage of the project and disseminated to the local community. This will start at the project preparation and appraisal stages. As a matter of fact, this is the standard procedure that the information about the project is made available to the project communities during preparation and appraisal stages.	KeNHA and Project team	Continuous. For the current project the non-technical summary was released in Oct. 2022	Effective communication with affected project communities.
			Management can confirm that the road reserve maps are there and monitors closely to ensure that KeNHA makes available project-specific maps to stakeholders showing the extent and exact routing of the road and will be disseminated and a copy will also be kept at the project site and the EA's regional office near to the specific project. Currently KeNHA is mapping the extent of all its roads throughout the country. This is really going to help a great deal in minimizing resettlement problems during road construction.	KeNHA/Project team	Continuous. This was done but will be monitored monthly	Project Road Boundaries and extents clearly marked
		5) Consultations: Work with	Management will monitor and	KeNHA and the	Continuous but	Enhanced

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
		the borrower to ensure that consultations do not involve only public meetings and provide alternative and venues that cater to PAPs that are uncomfortable with public meetings and meetings where the government is present.	make sure that during the ESIA and RAP preparations a lot of focussed group discussions are conducted. This means separate groups of stakeholders are met separately at their separate locations where they can open up and freely express themselves. There are also key informant interviews that are held with individuals who are believed to hold very important information in the areas of the project. Management will ensure and monitor, on a monthly basis, that stakeholders and continuously engaged and consulted.	Project team	monitored monthly	consultations at all levels of stakeholders
No 7: The Kenya National Highways Authority (KeNHA) has failed to implement the Corrective Action Plan (CAP) as had been agreed with the PAPs	- While financial training was provided to PAPs and the PAPs concerned were aware of the GRM and its functioning, it is not clear what actions were taken in regard to the implementation of the CAP following its socialisation in 2017 and 2018. This raises questions regarding the effectiveness of the CAP and the related engagement process. - A translated version of the non-technical	1) CAP: Play a more active role in regard to the CAP implementation, dissemination and monitoring process. Relatedly, bring in RAP and socio-economic specialists during the supervision process to assist with this process.	This is always the case because the Bank actively follows up on all serious occurrences on the project and reviews and provides comments to all reports. If there will be a situation which requires CAP, Bank will play more active role. The Bank was involved in reviewing the TOR for the consultant recruited to review the CAP implementation. The Project team will also be involved in the implementation phase by reviewing CAP progress reports.	Project team	When required	Effective CAP implementation
		2) CAP: Going forward, in similar projects, review the execution of the compensation	If there will be a situation which requires CAP, Bank will play more active role. The	Project team	When required	Effective CAP implementation

Issue	IRM Findings	IRM Recommendation to Bank Management	Management Action	Responsible	Timeline	Outcomes of Actions
	summary of the CAP was not available until 12 months after the CAP was disclosed. - There is no evidence of any investigation by the Bank into the implementation of the CAP, even though OS2 provides for a monitoring mechanism to address problems that arise. - Whereas it is understood that the CAP was implemented in accordance with the provisions set out in the Entitlement Matrix, there is no evidence of the Bank questioning the adequacy of the CAP implementation process.	payments under the CAP. Relatedly, play a more active role in regard to the CAP implementation and monitoring process and ensure that RAP and socio-economic specialists are involved in this process.	Bank will be involved in reviewing the TOR for the consultants recruited to review the CAP implementation. The Project team will also be involved in the implementation phase by reviewing CAP progress reports. The Bank will ensure direct involvement in all CAP implementation.			

*Project team includes, among others, the Transport Engineers and the E&S safeguards Experts.