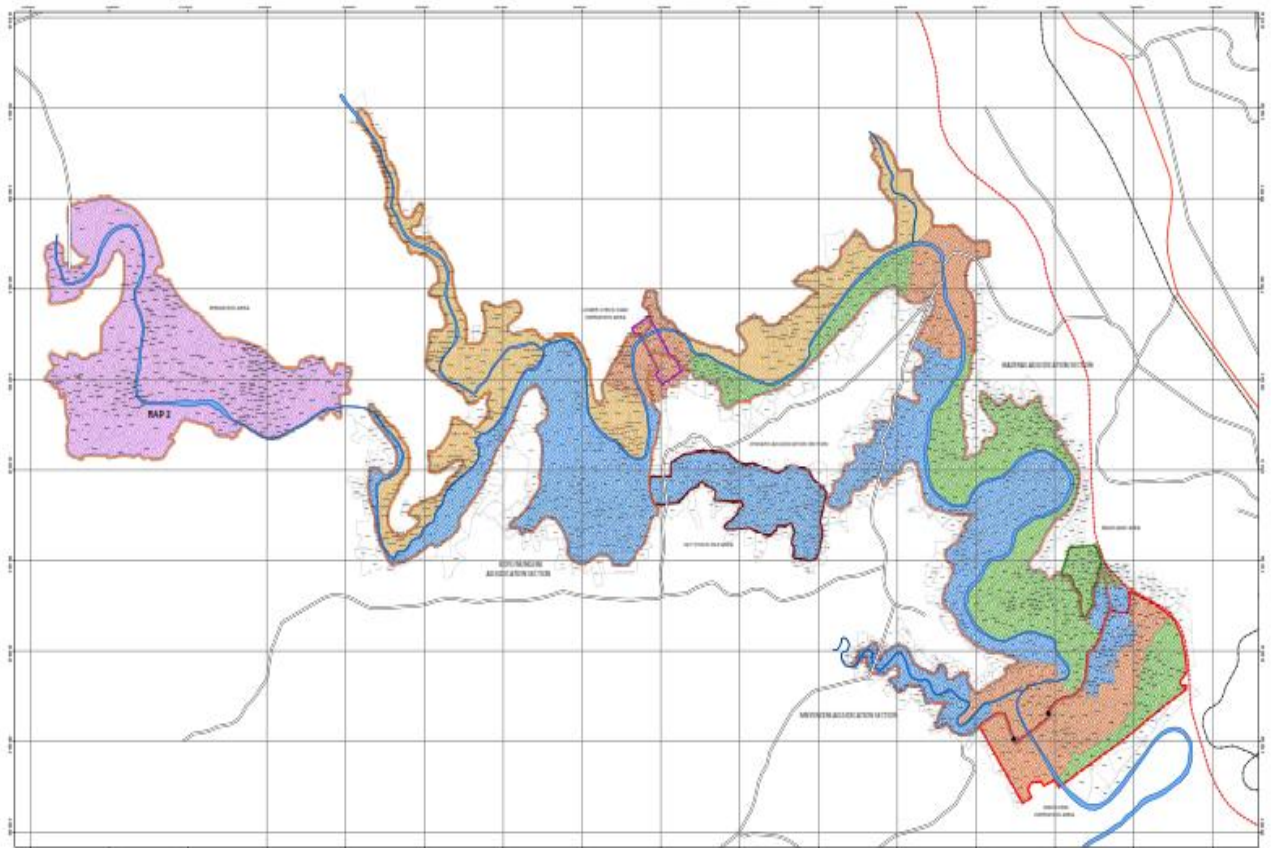


# **RESETTLEMENT ACTION PLAN (RAP)**

## **Mwache Multipurpose Dam Project RAP 2**

**MINISTRY OF WATER & SANITATION & IRRIGATION,  
KENYA**



## **Final Report – RAP 2**

**(Upper Check Dam and Irrigation Demonstration Scheme).**

**July 2021**

**KENYA WATER SECURITY AND CLIMATE RESILIENCE PROJECT (KWSCR)**

## **EXECUTIVE SUMMARY**

The Government of Kenya (GOK) has received credit financing from the World Bank in the form of International Development Association (IDA) loan to implement activities and projects under the Kenya Water Security and Climate Resilience Project (KWSCRCP). One of the potential investments identified under the KWSCRCP 2 is the Mwache Multipurpose Dam Project, a Vision 2030 flagship project, which has been given high priority by the Ministry of Water & Sanitation and Irrigation (MOWSI), Kwale and Mombasa Counties. It will be implemented through the Ministry of Water & Sanitation and Irrigation (MOWSI), State Department of Water through the Kenya Water Security and Climate Resilience Project (KWSCRCP) and Coast Development Authority (CDA).

The Coastal Region Water Security and Climate Resilience Project (KWSCRCP-2) was approved by the World Bank Board on December 16, 2014. The project development objective of the KWSCRCP 2 is to improve water security and build climate resilience, sustainably increase bulk water supply and increase access to water and sanitation in the Coastal Region by:

- Increasing the supply of bulk water to Kenya's coastal region, including Mombasa; and
- Increasing access to water in the coastal region including Mombasa,
- Developing an Irrigation Demonstration Scheme.

### **Scope of Mwache RAP Reports**

The Resettlement Action Plan (RAP) for Mwache Dam Project has been split into 4 RAP Reports i.e., RAP 1a, RAP 1b, RAP 2 and RAP 3. This is necessary for management of RAP preparation and implementation processes in view of anticipated phased construction program, the wide geographical expanse of the dam project footprint, resettlement needs/ priorities and related RAP implementation schedules. This Resettlement Action Plan (RAP) referred as RAP 2 has been prepared for Mwache Upper Check Dam and Irrigation Demonstration Scheme. Separate Resettlement Action Plans (RAP 1a and RAP 1b) have been prepared for Mwache Main Dam and Lower Check Dam project areas. RAP 1a has been approved and disclosed and is currently under implementation. RAP 1b is currently under review by the World Bank before approval and disclosure. RAP 3 will be prepared later covering areas affected by the expansion and rehabilitation of selected roads and construction of new roads around the dam.

### **Objectives of the RAP**

The overall objectives of the RAP are:

- Avoid or minimize adverse resettlement impacts including physical and economic displacement. Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits.
- Involve the Displaced persons by ensuring they are meaningfully consulted and given opportunities to participate in planning and implementing resettlement programs in accordance with the principles outlined in OP 4.12, OP 4.10, the RAP and VMGP. Refer to **Annex 14**.
- Assist Displaced persons in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.
- Mitigate adverse social and economic impacts from land acquisition by:
  - Providing compensation for loss of assets at full replacement cost;

- Ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected; and
- Improve or at least restore the livelihoods and standards of living of affected people.
- Provide additional assistance and opportunities (e.g., credit facilities, training, or job opportunities) and improve or at least restore the income-earning capacity, production levels and standards of living of economically displaced persons whose livelihoods or income levels are adversely affected;
- Provide transitional support to affected people, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living.

A Vulnerable and Marginalized Groups Plan (VMGP) for Mwache Dam was prepared by KWSCRIP, reviewed and approved by the World Bank and subsequently disclosed in 2014. The VMGP discussed OP. 4.10 requirements (including the need for Broad community support for the project) and the affected Vulnerable Group being entitled recipients of the additional project support besides compensation for directly affected assets. These aspects of the VMGP are incorporated in this RAP. Refer to **Annex 14** for the VMGP Report

## **Mwache Dam Project Components and related RAPs**

### **RAP 1**

RAP 1 covers the following areas;

1. Main dam area comprising of the;
  - Reservoir area (quarries of high potential rock material have been identified in parts of the reservoir areas for supply of dam building materials prior to the impoundment of the reservoir),
  - Base camp area,
  - Dam operational areas (raw water treatment plant and transmission pipeline, police post, clinic/health facility will be constructed within the dam operation area.)
2. Lower Check Dam including silt pile area
3. Access roads A, F & H, C, G and J

RAP 1 is further divided into RAP 1a and RAP 1b;

RAP 1a covers ALL of Priority 1 works areas i.e. the lower check dam site and quarry site areas (part of which are in Mwavumbo Group Ranch) and main dam site and some operational areas, ALL of Priority 2 areas i.e. part of main dam operational and reservoir areas and PART of Priority 3 areas (part of main dam operational and impoundment areas and part of the lower check dam reservoir areas, silt pile) and Access roads A, F, & H, C, G and J.

RAP 1b covers PART of Priority 3 i.e. the rest of the main dam and lower check dam reservoir areas all of which are within Mwavumbo Group Ranch.

### **RAP 2**

RAP 2 (this report) will cover all resettlement activities associated with the Upper Check Dam and Irrigation Demonstration Scheme areas. The design of the Upper Check Dam and Irrigation Demonstration Scheme is completed and the procurement of the works contract about to commence.

### RAP 3

RAP 3 will cover all the remaining roads; E2 (15.8km), D (2.5km), the proposed permanent diversions (3km + 1.5km) which will all be greenfield roads and roads B (5.4km) and E1 (4.2km) which are existing roads. The development of the greenfield roads will involve acquiring additional land and will be needed and constructed in preparation for impoundment of the main dam and lower check dam reservoirs while the existing roads will be upgraded.

### Location of Upper Check Dam and Irrigation Demonstration Scheme Project

The Upper Check Dam and Irrigation Demonstration Scheme project area covers two (2) administrative wards, two (2) locations and five (5) villages within Kinango Sub County. As shown on the Table A below, 4 affected villages are within Mwavumbo Group Ranch in Mwatate Location whereas 1 village is in Mtaa Location which is outside the Group Ranch. A total of 334 Project Affected Households (PAHs) and 3 Community Institutions will be affected as a result of resettlement activities and related construction activities of the Upper Check Dam and Irrigation Demonstration Scheme project. All 3 affected Community Institutions are located within Mwavumbo Group Ranch section of the Upper Check Dam and Irrigation Demonstration Scheme project while 278 of the 334 PAHs which translates 83% of all the PAHs are also located in the Ranch. This means that only 17% of the PAHs and related resettlement impacts as a result of the Upper Check Dam and Irrigation Demonstration Scheme project will be outside the Mwavumbo Group Ranch.

**Table A: Distribution of RAP 2 PAHs by Administrative Locations**

| #  | Village      | Location | Outside/ Inside Mwavumbo Group Ranch | Total PAHs | Distribution in Location% |
|----|--------------|----------|--------------------------------------|------------|---------------------------|
| 1. | Koyo         | Mwatate  | Inside Mwavumbo Group Ranch          | 28         | 8                         |
| 2. | Kisiwani     | Mwatate  | Inside Mwavumbo Group Ranch          | 49         | 15                        |
| 3. | Pemba        | Mwatate  | Inside Mwavumbo Group Ranch          | 194        | 58                        |
| 4. | Ngeyeni      | Mwatate  | Inside Mwavumbo Group Ranch          | 7          | 2                         |
| 5. | Guro         | Mtaa     | Outside Mwavumbo Group Ranch         | 56         | 17                        |
|    | <b>Total</b> |          |                                      | <b>334</b> | <b>100</b>                |

**Table B: Number of PAHs affected by Component**

| #  | Component                       | Number of PAHs |
|----|---------------------------------|----------------|
| 1. | Upper Check Dam                 | 78             |
| 2. | Irrigation Demonstration Scheme | 256            |
|    | <b>Total</b>                    | <b>334</b>     |

### Upper Check Dam

Mwache Upper Check Dam is a key subcomponent of Mwache Dam project that is located in Mtaa and Mwatate locations of Kwale County. The location is about 26 km to the west of Mombasa City accessed from Mazeras Trading Centre through an earth road. The proposed Upper Check Dam will be constructed across Ngeyeni River which is one of the tributaries of Mwache River at approximate coordinates Long. 39°25'15" E, Lat. 3° 57'12" S. The proposed Check Dam shall have two main functions; sediment management and provide water for proposed Irrigation Demonstration Scheme. The Upper Check Dam with a storage capacity estimated at 3,000,000 m<sup>3</sup> is located in the lower reaches on Mwache River about eight kilometres before exit into Indian Ocean. The Check Dam is 18m high concrete dam with a crest width of 340m.

### **Irrigation Demonstration Scheme**

The proposed Irrigation Demonstration Scheme shall cover approximately 100Ha located in the left bank of the proposed Upper Check Dam of Mwache Multipurpose dam project. The ground elevation in the demonstration scheme command area varies between El.140 to El. 109 above mean sea level. The land slope varies between 4 and 8%. The irrigation scheme will be a pumped water supply system, with water from the Upper Check Dam being pumped directly to the piped irrigation water supply system. The proposed Irrigation Demonstration Scheme will use modern drip/sprinkler micro irrigation system over the 100Ha area. The estimated irrigation water requirements for the project are estimated at 1.21 MCM annually, which is equivalent to about 50 ltrs/sec of irrigation water supply. The Irrigation Demonstration Scheme will precede the full development of an irrigation command area of 2,500Ha.

The main objective of the proposed Irrigation Demonstration Scheme is to test and determine the various aspects of irrigated agriculture. The experience gained from this scheme will help firm up the suitable technology and management model that can be recommended for adoption in the proposed command area of the Mwache Dam project.

### **Justification of RAP Review and Update**

The purpose of the Resettlement Action Plan is to identify and outline the resettlement needs and related impacts of the dam project, provide actions required to acquire land and relocate people affected by the Mwache Dam Project with provisions for livelihood restoration and grievance redress. The proposed project components related to construction of the dam requires compulsory acquisition of land and therefore leads to economic and physical displacement of persons who are within the proposed project area and therefore triggers the need for a Resettlement Action Plan (RAP) in accordance with OP. 4.12.

This RAP has been reviewed and updated and stems from the original RAP prepared in 2014 which was approved and disclosed by GOK and World Bank at that time. The 2014 RAP covered all areas which were to be affected by the main dam, lower and upper check dam components and had been identified at that time. The reasons for reviewing and updating the RAP include: -

1. Delay in implementation of the RAP prepared and disclosed in 2014 which renders the census, socio-economic data, asset inventory and valuation data, cut-off date etc. outdated. This made the data not reflective of the current situation on the ground. The fact that the time lapsed implies a possible change in number of PAHs and changes in value of assets, socio-economic status, number of structures and change of land ownership through ‘willing buyer willing seller’ purchase or inter family transfer etc.
2. In order to optimize the main dam and lower check dam operations, a design review was undertaken in 2016-2017 which triggered changes in the original dam design including among others: -
  - Increase in the main dam height from 78m to 84m hence increasing the reservoir/flood area and displacement footprint.
  - Addition of project components requiring land acquisition. These include the silt pile areas for depositing of silt that will be periodically removed from the two check dams; inclusion of access roads; inclusion of a health center and police station at the main dam operation area. The dam operation area will in future accommodate the AFD financed water treatment plant.

### **The Duruma and the overall approach to resettlement in this RAP**

All the people displaced by this project belong to the Duruma community and qualify for special consideration under the World Bank policy OP4.10 indigenous peoples. A Vulnerable and Marginalized Groups Plan (VMGP) for Mwache Dam was prepared by KWSCR, reviewed and approved by the World Bank and subsequently disclosed in 2014. Refer to **Annex 14**. As such, the preparation of this RAP has followed the principles outlined in OP4.10 and OP4.12. Specifically, OP4.10 stipulates that Bank-financed projects include measures to (a) avoid potentially adverse effects on the Indigenous Peoples' communities; or (b) when avoidance is not feasible, minimize, mitigate, or compensate for such effects. In the case of Mwache Dam, no alternative designs were able to remove the impact on the Duruma. Though in consultation with the community, measures were taken to minimize the impact on the community significant displacement remains necessary.

OP. 4.10 further stipulates that, "in exceptional circumstances, when it is not feasible to avoid relocation, the borrower will not carry out such relocation without obtaining broad support for it from the affected Indigenous Peoples' communities as part of the free, prior, and informed consultation process. In such cases, the borrower prepares a resettlement plan in accordance with the requirements of OP 4.12, Involuntary Resettlement that is compatible with the Indigenous Peoples' cultural preferences, and includes a land-based resettlement strategy. As part of the resettlement plan, the borrower documents the results of the consultation process. Where possible, the resettlement plan should allow the affected Indigenous Peoples to return to the lands and territories they traditionally owned, or customarily used or occupied, if the reasons for their relocation cease to exist."

As such, the RAP team undertook extensive consultations with the affected community to both establish broad support for the unavoidable resettlement and develop a resettlement strategy that is compatible with the cultural preferences of the affected Duruma community and includes a land-based resettlement strategy. Refer to **Chapter 5, Table 4** and **Annex 11**. The PAPs expressed desire to resettle and hence remain within the wider Mwavumbo Group Ranch area where they have created and can maintain/ access the existing socioeconomic and cultural networks. This trend has been confirmed by the Mwache PAPs in RAP 1a stating that they have sourced for resettlement land within Kinango Sub County/ and particularly in Mwavumbo Group Ranch where there is vast and sparsely populated land. This has been confirmed during the ongoing development of the individual Household plans (LRP) with PAPs affected in the approved RAP 1a areas where the RAP is currently under active implementation.

The project aimed at providing common resettlement sites where the affected communities and households could be resettled together and provided with the infrastructure and services required to effectively restore their livelihoods. Initial efforts to promote a standard land-based resettlement strategy for such communities (such as a resettlement village with accompanying farmland) was roundly rejected by the Duruma. Concerns over indiscriminate mixing of sub-clans, removal from traditional lands and commensurate loss of access to the sacred forest adjacent to the project area and a desire to share in the benefits of the dam were among the key reasons cited for rejecting this proposal.

In addition, the community cited recent bad experiences from a number of development projects in the vicinity of the project area such as SGR as a reason for wanting the autonomy afforded by cash compensation.

It was also noted by the RAP team, that efforts to develop a compensation package that accorded with the community's cultural preferences was complicated by the diverse views from within the community. While the community as a whole meets the conditions of OP4.10, traditional livelihoods and governance structures are increasingly under pressure within the community as proximity to Mombasa, access to education and diversified employment opportunities increasingly draw ever larger portions of the community away from traditional lifestyles. In these circumstances, insisting upon an exclusively land based resettlement strategy would disadvantage those members of the community with aspirations separate from the traditional lifestyle and prevent them from using their compensation money to support their new livelihood strategies.

In sum, initial field work carried out under RAP 1 studies indicated that over 99% of all project affected people covered preferred cash as compensation for lost land and assets for the reasons stated above. This was interestingly replicated during the studies and consultation held for RAP 2. This was expected since the PAPs under RAP 1 and 2 were found to have similar socioeconomic and cultural characteristics and are within same geographical neighborhood. However, cash compensation is known to carry considerable risks of impoverishment due to poor financial management for communities with land-based livelihoods strategies (and hence limited exposure to cash) such as the Duruma.

As such, the RAP team undertook extensive additional consultations to determine a path to manage these risks which respected the cultural preferences and wishes of the Duruma.

Community consultations indicated the community preferred two principle compensation strategies: self-managed relocation and assisted relocation. Self-managed relocation is essentially cash compensation to enable PAHs to select land of their choice and relocate and reconstruct themselves. Assisted relocation involves cash either being credited to the PAH or to the project team who then provide assistance in identifying new land and either rebuilding structures or providing new structures as per the individual PAHs' preferences. These strategies had the advantage of enabling the choice of locations for PAHs to self-organize.

However, as the overwhelming majority of PAHs are considered vulnerable under OP4.12 (as 85.7% of the community are below the poverty line) and under OP4.10 (as the traditional livelihood of many in the community makes them additionally vulnerable to adverse impacts of physical displacement) these options were deemed unacceptably high risk without additional precautions to ensure each PAHs resettlement strategy was achieved. As such, the team undertook additional scoping studies to determine whether the PAHs preferred strategy was feasible and to determine what additional support would help reduce the risks of community's preferred strategy.

Ultimately, it was determined that the best way to balance the communities wishes with project concerns about the risks associated with cash was to require additional conditions for the release of cash which would enable the project to track the resettlement progress of each PAH and provide additional assistance as necessary. In essence, the project would work with each household to develop a tailored livelihood restoration plan as a condition of the release of compensation under either strategy.

Livelihood restoration plans would include standard livelihoods restoration activities (such as retraining and support for establishing alternative businesses, etc.) but also assistance with land finding and purchasing of resettlement land (such as conveyancing), assistance in relocating from the compulsorily acquired land and moving structures, movable assets and other reasonable assistance as necessary. For PAHs intending to move to Mombasa, (for example) the project will follow up with each household to ensure the use of compensation is moving in the right direction. Under either scenario, compensation for lost assets and land will be released to the PAPs before displacement.

Temporary resettlement will be avoided in principle and if not avoidable, the project will provide suitable temporary housing units to the PAHs. These will either be rented within the neighboring shopping centres or semi-permanent residential houses constructed by the project on suitable project acquired land selected in consultation with PAPs. The temporary housing units will be of equivalent functional spatial use to those affected and located within defined radius/areas.

These units will be provided until the construction of the PAHs permanent houses is completed. The provision of these housing units will be in addition to their rightful compensation for all affected assets under the RAP. For the rented units, MOWSI will pay monthly rent and utility bills for the period of occupation while water, electricity and sanitation facilities will be provided at the project constructed temporary areas. The constructed resettlement areas will be fenced off to ensure the security of the PAPs. MOWSI and PAHs who will be provided with temporary housing units will enter into signed agreements.

(i) For MOWSI constructed housing: indicating where the PAH's final resettlement site/land is located and establishing a maximum time required for MOWSI to deliver their permanent housing unit/site and make it available for their occupation and providing for all necessary temporary support and subsidies; (ii) For PAHs constructing their own housing, MOWSI will try to negotiate a mutually acceptable date for definitive resettlement and where necessary offer construction support to meet the agreed deadline; in the exceptional cases where temporary relocation cannot be avoided, the PAH will be entitled to the same support as those waiting for MOWSI constructed housing until the date agreed for the final move. All subsidies will be paid until the agreed date even if the PAHs moveout ahead of schedule. Should the definitive move be delayed, rental and utilities subsidies will continue but any other subsidies will be continued only if delays are not attributable to the PAPs.

### **RAP Methodology**

Since 83 % of the resettlement activities under RAP 2 will take place within the Mwavumbo Group Ranch and 17% within Guro village in Bofu Adjudication Section, a RAP methodology similar to the one adopted for RAP 1b and RAP 1a respectively was selectively utilized to fit the particular circumstances as outlined below. In both the group ranch and the adjudication section, there was no officially surveyed and registered land where official confirmation of the surveyed and registered acreages and names of affected landowners could be done during RAP preparation. However, the Kinango Adjudication office and the Mwavumbo Group Ranch Management had records of the allotted landowners in the ongoing adjudication of Bofu Adjudication Section and a ranch members' register respectively. The allottees and the ranch members will eventually be officially registered to the particular parcels to which they have been allotted to after the entire adjudication and registration process is complete.



Full registration of the allotted parcels of land is subject to resolution of any grievances which would arise during the adjudication and subdivision process and which are resolved by adjudication and grievance committees. Therefore, during the RAP census data collection and asset inventory exercise, the RAP Consultant and MOWSI consulted and involved the Kinango land adjudication office, Kwale County Government, the Mwavumbo Group Ranch Management Committee Members and the project affected persons.

The aim of this consultation and engagement was to authenticate claims to the affected land and hence document the true ownership of landholders and occupiers and owners of the developments done on such unregistered land for the purpose of valuation and planning for compensation under the RAP.

The RAP was therefore prepared in four stages.

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

- a) Feasibility Study and Detailed Design Reports for Mwache Dam
- b) Mwache Dam Resettlement Action Plan prepared in 2014
- c) Mwache Dam Resettlement Action Plan (RAP 1a) prepared in 2019
- d) Vulnerable and Marginalized Group Plan
- e) Relevant Kenyan legal documents including;
  - Constitution of Kenya,
  - Land Act,
  - Land Registration Act (2012)
  - Valuers Act (1985)
  - National Land Commission Act,
  - Land Registration Act
  - Community Land Act,
  - Water Act
- f) World Bank OP. 4.12 and OP 4.10
- g) KWSCRП Resettlement Policy Framework

The second stage was structured consultation with the Mwavumbo Group Ranch Management Committee members, KWSCRП, NLC, Kwale County Government, National Government officials (Ministry of Land and Physical Planning and the local administrators), and the affected persons. The Group Ranch Management Committee Members and the affected asset owners within the Ranch agreed on joint involvement during the RAP census and asset inventory in confirming rightful members whose land is earmarked for acquisition. The consultation meetings also served to introduce the project to the project-affected persons (PAPs) and affected communities in public consultation meetings and personalized discussions with individual PAHs. During these meeting the PAPs elicited their views and concerns about the project.

The stakeholders and PAPs agreed that compensation for the affected assets will be paid directly to the PAPs by NLC. At this time, the affected land within the Mwavumbo Group Ranch was not officially subdivided nor registered from the original Mwavumbo Group Ranch Title Deed (Kwale/Mwavumbo/1) hence the use of a methodology similar to that used in the RAP 1b. During RAP 2 preparation period, affected assets within Mwavumbo Group Ranch were identified and inventoried, valued and have been include in the Asset Register. Refer to **Annex 3**. By then, the members of the Group Ranch had resolved to dissolved it, sub-divide it into individual land parcels, officially register it and title deeds be issued to individual members. Refer to **Annex 16**.

The subdivision process commenced in 2020 and is ongoing with priority being given to the Group Ranch areas affected by Mwache Dam. The subdivision records for all the land projected to being affected by Mwache Dam in the Ranch have been submitted to the Kwale Land Registry and will be used by NLC when acquiring land in the RAP 2 areas within the Ranch. Refer to **Annex 17**. NLC have reliably depended on these official subdivision records obtained from the Kwale Land Registry in the ongoing land acquisition in the areas affected by RAP 1 within the Ranch and this will be replicated in areas affected under RAP 2. This will result to compensation being paid directly to the individual Group members/PAPs as the persons whose interest or claims will have been determined by NLC from the official subdivision records as provided in the Land Act.

Project affected persons at Guro village were equally and individually consulted and involved during the RAP preparation process. In addition, they have been consulted by the officials from the Kinango Adjudication office and local administration during the ongoing land adjudication activities in the Bofu Adjudication Section. Kinango Adjudication office is under the Ministry of Land and Physical Planning (MoLPP) which has its County offices in Kwale that has been instrumental in supporting the ongoing Land acquisition under the approved Mwache RAP 1. In 2020 and 2021, the MoWSI has held several meetings with the officers from the MoLPP in Kwale and Kinango Adjudication offices and received updates on the ongoing adjudication and survey process which has prioritized the areas affected by Mwache Dam. The partnership between the MoLPP and MoWSI teams in Kwale and Kinango has resulted in orderly and supported land acquisition process by NLC that strictly depends on land records solely obtained from the Land Registry and Adjudication office under MoLPP. Refer to Minutes on **Annex 12**. In the process of consultation and involvement of the land owners and stakeholders, the PAPs were informed that they will be directly compensated for all affected assets. Although the Bofu Adjudication section had aerial imageries showing the land parcels among other features and which is basic data required in the adjudication process, official (registered) acreages for the affected parcels wasn't available at the time of the RAP Preparation. Since there was neither registered acreages nor registered land owners at the time of the RAP Census, the RAP process used acreages measured on the ground by the RAP Consultant survey team. Subsequently, the 54 eligible land owners in Guro Village were determined and recorded according to the ground boundaries as guided by the individual PAPs, their neighbors and witnessed by the National Government local administrators (chiefs and assistant chiefs) who are represented at the village level by the village elders. Official documentation of the land in the Bofu Section Adjudication has progressed significantly since the RAP census and preparation of this RAP report. From the above referenced and ongoing synergy between the MoLPP and MoWSI, the areas affected by Mwache dam have been prioritized to ensure NLC receives official adjudication records which will include the officially measured acreages by the MoLPP. NLC will rely on these official land records during the various processes towards land acquisition such as actual ground inspection and inquiry on the affected land and developments and eventual payments of compensation to entitled PAPs.

The third stage comprised fieldwork; census of affected persons, inventory of affected assets, socio-economic profiling of PAHs and recording preferences of each Project Affected Households (PAHs) with regard to resettlement and rehabilitation. The socio-economic survey was conducted between April and May 2019 alongside the census. Additional consultations were held directly with individual PAPs, relevant individual stakeholders during the field surveys and data collection period.

Fourth stage comprised RAP report preparation including valuation of affected assets, social economic data analysis and generating cadastral maps clearly illustrating all the parcels of land that will be acquired as picked from the ground by the RAP surveyors in consultation with the PAPs and stakeholders. The cadastral mapping was generated from intensive ground surveying technique and Geographical Information System (GIS) system enabled management of both the physical information on each parcel of land and PAPs' socioeconomic attributes.

### **Legal Framework**

The RAP has been designed in accordance with all the relevant legislation pertaining to Constitution of Kenya, Land Act, National Land Commission Act, Land Registration Act, Community Land Act, Traffic Act, Roads Act, Water Act as well as the World Bank Involuntary Resettlement Policy OP 4.12 and Indigenous Peoples Policy OP 4.10), among others. The Kenyan land laws and the Constitution of Kenya (CoK) 2010, requires that there should be just compensation to those affected but it is not clear on specifics of what constitutes just compensation. World Bank OP.4.12 requires full replacement costs. This RAP requires that full replacement cost be paid as compensation for land to be acquired and for structures to be affected by the project for all the PAHs as per the World Bank OP.4.12. The Bank's Operational Policy 4.12: Involuntary Resettlement is triggered by the project since the Mwache Dam Project will take up land, affect structures, communal assets, cultural assets, crops and trees. The Project also triggers Bank's Operational Policy 4.10 as it affected the Duruma community are classified as vulnerable and marginalized under the policy.

### **RAP 2 Project Components and their Impacts**

This RAP 2 areas includes the following components which all trigger economic and physical displacements and described in detail below.

- Upper Check Dam
- Irrigation Demonstration Scheme

The economic and physical displacement as a result of land acquisition for construction activities will lead to loss of the following assets namely:

- Land
- Crops and trees
- Graves
- Residential Structures
- Community infrastructures (cattle dip, mosque and church)
- Shrines

### **Summary of Impacts and Risks in RAP 2 project areas**

The entire project area consists of a single ethnic group, the Duruma, which is part of the larger Mijikenda community. The Duruma are categorized as marginalized and vulnerable as a result of screening that was conducted in accordance with OP. 4.10. The Constitution of Kenya (CoK) 2010, has also categorized Kwale County as a vulnerable and marginalized County.

The RAP 2 project areas will physically and economically affect 334 households and 3 community facilities. The 334 households are all categorized as vulnerable and marginalized due to the fact that they meet the criteria of World Bank's Indigenous Peoples Policy (OP4.10). 56 households will be fully displaced as a result of losing their land and primary residential structures.

Of these, 23 households are informal occupants who will lose primary residential structures on other peoples' land. These will depend on the current goodwill and family relationships with the legal owners of the land they occupy to share the replacement land with them so that they can build new residential structures on this land and resettle.

**Table C: Risk Profile of Impacts**

| Type of loss   | No. of PAHs |
|--|-------------|
| PAHs losing Land and residential structures  | 33          |
| PAHs losing primary residential structures on another people's land                  | 23          |
| <b>Total physically displaced PAHs</b>   | <b>56</b>   |
| PAHs losing trees and crops only   | 6           |
| PAHs losing Land only  | 103         |
| PAHs losing Land, Crops & Trees Only   | 146         |
| PAHs Losing Business Structure & loss of Business                                    | 0           |
| PAHs Losing Business Only  | 0           |
| PAHs Losing Land and Non-Residential structures                                      | 21          |
| PAHs owning Non-residential structures e.g, graves, shrines, (without claim to land) | 2           |
| <b>Total partially affected.</b>   | <b>278</b>  |
| <b>Total Number of PAHs affected</b>   | <b>334</b>  |
| <b>Community Institutions affected</b>   | <b>0</b>    |
| Ngeyeni Cattle Dip   | 1           |
| Pemba Mosque   | 1           |
| Pemba Pentecostal Church   | 1           |
| <b>Total Community Institutions to be affected</b>                                   | <b>3</b>    |
| <b>Total Number of PAHs and Community Institutions affected</b>                      | <b>337</b>  |

### Physical Displacement Impacts

As shown on the Table D below, 56 households will be physically displaced. Of these, 33 will lose land and residential structures, while 23 are informal occupants owning residential structures on other people's land). This will require increased project support and monitoring to mitigate against likely resettlement related risks and impoverishment of already vulnerable households.

**Table D: Physical Displacement Impacts**

| #  | Village      | Number of owner households affected (PAHs) ( <i>PAHs owning land and residential structures</i> ) | Number of informal households (PAHs) ( <i>Owning main residential house</i> ) | PAHs physically displaced |
|----|--------------|---|---|---------------------------|
| 1. | Koyo         | 6   | 8   | 14                        |
| 2. | Kisiwani     | 1   | 0   | 1                         |
| 3. | Pemba        | 23  | 15  | 38                        |
| 4. | Ngeyeni      | 0   | 0   | 0                         |
| 5. | Guro         | 3   | 0   | 3                         |
|    | <b>Total</b> | <b>33</b>   | <b>23</b>   | <b>56</b>                 |

### Land Acquisition Impacts

The project will result to acquisition of 437Ha of land that belong to 303 households and 3Ha belonging to 3 Community Institutions, Pemba Pentecostal Church and Pemba Mosque at the irrigation area and Ngeyeni Cattle Dip located at the Upper Check Dam. Of these, none of the affected households are currently registered as individual land owners. All the land is either under Mwavumbo Group Ranch which is currently under subdivision or recently adjudicated under Bofu Adjudication. However, all the affected landowners have legal claim to the land they own & occupy as provided for in the Land Act 2012.

**Table E: Land Acquisition Impacts**

| #  | Village                       | Land PAHs  | Acreage (Ha) |
|----|-------------------------------|------------|--------------|
| 1. | Koyo                          | 20         | 23           |
| 2. | Kisiwani                      | 45         | 64           |
| 3. | Pemba                         | 177        | 217          |
| 4. | Ngeyeni                       | 7          | 15           |
| 5. | Guro                          | 54         | 117          |
|    | <b>Total</b>                  | <b>303</b> | <b>437</b>   |
|    | <b>Community Institutions</b> | <b>3</b>   | <b>3</b>     |

**Non-land Economic Displacement**

146 households will be economically displaced as a result of losing crops and trees (which they depend on to support their land-based livelihoods).

**Table F: Non-land Economic Displacement**

| #  | Village      | PAHs Losing Business Structure & loss of Business income | PAHs Losing Business Only | PAHs Losing Crop & Trees Only | Non-land Economic Displaced PAHs |
|----|--------------|--|---------------------------|-------------------------------|----------------------------------|
| 1. | Koyo         | 0  | 0                         | 9                             | 9                                |
| 2. | Kisiwani     | 0  | 0                         | 21                            | 21                               |
| 3. | Pemba        | 0  | 0                         | 80                            | 80                               |
| 4. | Ngeyeni      | 0  | 0                         | 0                             | 0                                |
| 5. | Guro         | 0  | 0                         | 36                            | 36                               |
|    | <b>Total</b> | <b>0</b>   | <b>0</b>                  | <b>146</b>                    | <b>146</b>                       |

**Summary of Unique PAHs (highly impacted) and others with Minimum Impact**

As shown on the Table G below, 202 households are unique PAHs as they will be significantly impacted. Of these, 56 will be physically displaced and 146 economically displaced households hence will require project support and monitoring to mitigate against likely resettlement related risks. The MoWSI through a RAP Implementation Consultant will support that the PAHs prepare and implement individual household livelihood restoration plans, while encouraging them to have land-based plans and will avail all listed entitlements. There are neither renters/tenants nor landlords as concerns all the affected structures identified in the project area. There is no business structure affected by the project.

The 21 PAHs owning affected land or a combination of affected land, trees & crops but do not reside on the affected land will less likely be impacted negatively by the project. However, they will be encouraged to use the compensation money to develop the remaining portions of land or to buy other parcels of land to replace the acquired portions. These PAPs will equally utilise the opportunities that will be presented by the Mwache dam by the virtual of being close to the dam.

**Table G: Summary of Unique PAHs (highly impacted) and others with Minimum impacts**

| #  | Village      | Physically Displaced PAHs | Non-Land Economic Displaced PAHs | Unique PAHs | PAHs owning Nonresidential structures e.g., graves, shrines, (No claim to land) | Number of HH losing land | PAH owning land + land, trees & crops ( <i>Not residents</i> ) | PAH owning Trees and Crops only | Total PAHs |
|----|--------------|---------------------------|----------------------------------|-------------|---|--------------------------|--|---------------------------------|------------|
| 1. | Koyo         | 14                        | 9                                | 23          | 0   | 1                        | 4  | 0                               | 28         |
| 2. | Kisiwani     | 1                         | 21                               | 22          | 0   | 20                       | 3  | 4                               | 49         |
| 3. | Pemba        | 38                        | 80                               | 118         | 2   | 64                       | 10   | 0                               | 194        |
| 4. | Ngeyeni      | 0                         | 0                                | 0           | 0   | 7                        | 0  | 0                               | 7          |
| 5. | Guro         | 3                         | 36                               | 39          | 0   | 11                       | 4  | 2                               | 56         |
|    | <b>Total</b> | <b>56</b>                 | <b>146</b>                       | <b>202</b>  | <b>2</b>  | <b>103</b>               | <b>21</b>  | <b>6</b>                        | <b>334</b> |

**Total Number PAPs and PAHs**

The project will directly affect 334 PAHs and 1,852 PAPs as result of physical and economic displacement. In addition, it will affect 3 Community Institutions. These are Ngeyeni Cattle Dip, Pemba Mosque and Pemba Pentecostal church.

**Table H: Total Number PAHs and PAPs**

| #  | Village             | PAHs & Community Institutions | PAPs         |
|----|---------------------|-------------------------------|--------------|
| 1. | Koyo                | 28                            | 178          |
| 2. | Kisiwani            | 49                            | 359          |
| 3. | Pemba               | 193                           | 922          |
| 4. | Ngeyeni             | 7                             | 355          |
| 5. | Guro                | 57                            | 38           |
|    | <b>Total</b>        | <b>334</b>                    | <b>1,852</b> |
|    | Public Institutions | 3                             | N/A          |

**Table I: Vulnerable PAHs**

| #  | Forms of Vulnerability      | Number of PAHs |
|----|-----------------------------|----------------|
| 1. | Widowed                     | 8              |
| 2. | Chronically Sick            | 0              |
| 3. | Elderly (over 65 years old) | 15             |
| 4. | Physically challenged       | 0              |
|    | <b>Total</b>                | <b>23</b>      |

**PAPs and Stakeholder Consultations**

Key consultations with the PAHs and other relevant stakeholders were significant aspects in the RAP preparation. To achieve this, public participation forums were organized at strategic locations targeting specific stakeholders. The stakeholders included the following categories of project affected and interested groups and those that act as partners in the RAP process:

- The affected land and other asset owners, farmers, community groups, Group Ranch management committee members and kaya elders. Comprehensive consultations were held with these directly affected people from the reconnaissance stage through to community meetings, census data collection and asset inventory exercises
- Key informants' meetings/discussions were held at Kwale County and Kinango sub-county with relevant government officials particularly in the County administration, agriculture, water and sanitation, culture and social services, and land sectors.
- Further consultations and engagements were held with chiefs, assistant chiefs and village elders as major players in the RAP process and also provided baseline information about the project areas and accompanied the RAP Consultant team during field data collection exercise.

Table J below shows the dates consultations were held with the different stakeholders, venues and number of participants. The mobilizations for the meetings targeted the PAHs in the particular project-affected areas.

**Table J: Consultations done by RAP Consultants during RAP 2 Preparation**

| #  | Dates          | Venue                      | No. of Participants | Male       | Female     | Target Villages                            |
|----|----------------|----------------------------|---------------------|------------|------------|--|
| 1. | 14th July 2017 | Village Elder's Office     | 56                  | 40         | 16         | Pemba Koyo                                 |
| 2. | 12th July 2017 | Bofu                       | 229                 | 140        | 89         | Guro Kisiwani Ngeyeni                      |
| 3. | 3rd April 2019 | Mwashanga-Makutano Grounds | 134                 | 100        | 34         | Local Leaders Mwavumbo Group Ranch Members |
|    | <b>Total</b>   |                            | <b>419</b>          | <b>280</b> | <b>139</b> |  |

**Table K: Additional Consultations done by MWS/WB in November 2018, March & April 2019**

| #            | Date          | Venue                           | No. of Participants | Male       | Female     | Target Group (Villages)  |
|--------------|---------------|---------------------------------|---------------------|------------|------------|--|
| 1.           | 9 Nov. 2018   | Shalmar Dreams Hotel            | 49                  | 37         | 12         | National and county leaders from Kwale County                              |
| 2.           | 14 Nov 2018   | Dam View Hotel Mariakani        | 84                  | 70         | 14         | Village Elders from All the Affected Villages                              |
| 3            | 16 Nov 2018   | Shalimar Dreams Hotel Mariakani | 77                  | 65         | 12         | RAP Opinion Leaders Form All Affected Villages                             |
| 4.           | 23 Nov 2018   | Dam View Hotel Mariakani        | 86                  | 81         | 5          | Dam Committee  |
| 5.           | 12 April 2019 | Mwashanga ECD Grounds           | 134                 | 100        | 34         | PAPs in Mwatate Location within the Ranch and local leaders                |
| 6.           | 13 April 2019 | PEFA Church Pemba Village       | 169                 | 126        | 43         | PAPs in Matumbi Location within the Ranch & Guro Village and local leaders |
| <b>Total</b> |               |                                 | <b>599</b>          | <b>479</b> | <b>120</b> |  |

**Table L: Consultations with Key Government Institutions**

| #            | Dates        | Venue  | No. of Participants |
|--------------|--------------|--|---------------------|
| 1.           | 9 July 2018  | KWSCRIP Offices–Coast–Additional Works   | 7                   |
| 2.           | 10 July 2018 | Mwavumbo Ward Administrator’s office   | 6                   |
| 3.           | 24 Sept 2018 | Kwale County Headquarters  | 9                   |
| 4.           | 16 Jan 2019  | Coast PMU Offices with Kasemeni Ward, MCA Hon. Anthony N. Yama   | 2                   |
| 5.           | 22 Jan 2019. | Various project sites with officers from security Agencies in Kinango Sub County   | 5                   |
| 6.           | 24 Jan 2019  | Mgandini Primary School with Ministry of Education Officials Education Officials   | 6                   |
| 7.           | 28 Jan 2019  | Kwale County Government of Kwale County Secretary and Other Technical Staff  | 4                   |
| 8.           | 20 July 2020 | Local Elected Leaders and Senior Officers from Kwale County Government on Mwache Dam Implementation Progress   | 13                  |
| 9.           | 21 July 2020 | Local Elected Leaders and Senior Officers & Surveyors from Kwale County Government and MoLPP on subdivision of Mwavumbo Group Ranch & Bofu Adjudication Section and general Land Acquisition for Mwache Dam      | 15                  |
| 10.          | 28 July 2020 | Local Elected Leaders and Senior Officers & Surveyors from Kwale County Government and MoLPP on subdivision of Mwavumbo Group Ranch & Bofu Adjudication Section and general Land Acquisition for Mwache Dam.     | 26                  |
| 11.          | 26 Aug 2020  | Mwavumbo Group Ranch Committee, PMU, RIC & NLC Mwache Dam Land Acquisition Team  | 14                  |
| 12.          | 27 Aug 2020  | Local Elected Leaders and Senior Officers & Surveyors from Kwale County Government, NLC and MoLPP on subdivision of Mwavumbo Group Ranch & Bofu Adjudication Section and general Land Acquisition for Mwache Dam | 20                  |
| 13.          | 7 Jan 2021   | PMU & NIA on Mwache Irrigation Demonstration Scheme  | 7                   |
| 14.          | 10 Mar 2021  | PMU, NIA & Kwale PIU on Mwache Mwache Irrigation Demonstration Scheme  | 10                  |
| 15.          | 11 Mar 2021  | PMU, RIC, Senior Officers & Surveyors from Kwale County Government, NLC and MoLPP on Land Acquisition in Mwavumbo & Bofu Adjudication Section  | 11                  |
| <b>Total</b> |              |  | <b>155</b>          |

**Table M: Summary of Concerns raised by the Project-affected Persons**

| #  | Issue/Comments   | Responses  |
|----|--|--|
| 1. | How will the consultants know exactly the real PAHs?   | There is a design and a map that has been developed. We will therefore use the maps that have been developed to identify the PAHs.   |
| 2. | What is the process of census, asset inventory and valuation as well as socio-economic survey? | The RAP consultants have prepared census questionnaires that will be used to enumerate the PAHs, undertake census and conduct valuation of assets. There is another questionnaire, (socio-economic) which will be used to undertake survey through a sample of the population in the project area. |



| #  | Issue/Comments  | Responses   |
|----|---|---|
| 3. | How will you handle land disputes? Because in the area there are a lot of cases in regard to land disputes.                                   | <p>The current scope of work is not to resolve land disputes but to inventorise all land and developments to be affected by project. In case we encounter land under dispute, we will record the same in our study tools. We however recommend that you strive to resolve land disputes before we conduct the census in your affected parcel of land.</p> <p>Further, the RAP requires the establishment of a functional Grievance Redress and Resettlement Committee (GRRC) to resolve grievances in an amicable manner and as part of our scope; we will propose the establishment of GRRC at different levels to resolve land disputes among others as part of RAP implementation. The conveyance lawyer will support the RAP implementation Team in dispute resolution.</p> <p>Also, Kenya has a legal framework which provides channels for resolution of disputes over land through legal justice system. This is the Environment and Land Court.</p> |
| 4. | How will the compensation be undertaken because in previous projects, locals have been complaining over low compensation                      | <p>Our team of valuation experts, registered by the Valuation Board will undertake valuation of every affected asset including land, structures, trees and crops, cultural and communal/public assets.</p> <p>The compensation will be at full replacement cost. The NLC which is the mandated authority will check what the RAP Consultant has proposed as compensation rates for various categories of assets to the PAHs and will generate the final value for all affected assets as provided for by the NLC and Land Act.</p>  |
| 5. | What makes this process unique from the 2014 one? How sure can we be that implementation will be done this time round?                        | The Government of Kenya and the World Bank are committed to ensuring that the project is implemented as part of developmental goals set. Funds have already been secured and set aside and once this RAP study is complete and the report approved, compensation to PAPs will follow and construction will commence.  |
| 6. | We have our sacred places like the shrines where we perform our traditions and these will be affected by the project. Will we be compensated? | The dam design has taken cognizance of this and has tried to avoid impacting on such cultural shrines. However, where there will be impact, this will be compensated in line with traditions and culture of the community through the Kaya elders.  |
| 7. | How will we benefit from the project as the locals?   | Job opportunities will be created during the construction and operational phase of the project. The local community will benefit from the irrigation water from the Upper Check dam   |
| 8. | What do we do in case we have a dispute on how to share compensation proceeds or if we are not satisfied with the compensation provided?      | <p>The project will establish a resettlement and grievance redress committees, which will handle any disputes related to compensation. This committees will be set up once the RAP is disclosed and PAHs will be made aware of these committees and will be encouraged to channel their grievances to the said committees. In case they would not be satisfied, they will be free to use other legal channels available.</p> <p>The grievance redress and resettlement committees will be established before compensation of PAHs.</p>  |

| #   | Issue/Comments  | Responses   |
|-----|---|---|
| 9.  | When will the project implementation commence?  | The Upper check Dam project will commence when the RAP 2 is approved and compensation paid and PAPs relocated but those areas affected by RAP 1 will commence earlier than those in RAP 2 as the RAP 1 at advanced stage (now under implementation)               |
| 10. | What about graves? Will you compensate for graves as well?  | The RAP Consultant team will record all affected assets including graves during the census and inventory of assets exercise and then compensation will be done in line with the traditional/religious norms/rites of the people affected.                         |
| 11. | All the parcels of land in this area is not fully registered, how will compensation be carried out without individual titles? | KWSCR, Kinango Adjudication Office and the County Government of Kwale are currently in discussion on this matter and this will continue. It will later include NLC during the actual compensation process with or without registration of the individual parcels. |

### Cut-Off Date

Persons who encroach on the area after the cut-off date are not entitled to compensation nor any other form of resettlement assistance. Improvements made to homes or additional structures added by existing residents after the cut-off date are also not eligible for compensation and resettlement assistance. According to OP 4.12, Cut-off date is the date the census begins. The cut-off date could also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated to prevent further population influx and opportunistic investments/claims.

The first cut-off date of **23 July 2017** was declared for all the project areas affected by RAP 1 and RAP 2. This was at the beginning of the entire RAP process for Mwache Dam when the initial census and asset inventory started. The areas covered by this cut-off date include the main dam, lower check dam walls, surrounding operation and their related reservoir areas (RAP 1) and upper check dam and irrigation demonstration scheme (RAP 2). The second cut-off date for RAP 2 was **24 April 2019** which was established because of the need to carry out a repeat census at the dam affected areas within Mwavumbo Group Ranch. The affected area within the Group Ranch was however delineated in 2017 and the PAPs had since then known the extent of the dam boundary on their land and how they could be affected. This extent of the Upper Check Dam and Irrigation Demonstration Scheme did not change during the repeat census in the Group Ranch in 2019.

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

## **Mwavumbo Group Ranch**

During the initial RAP 2 census, area affected by Mwavumbo Group Ranch was considered as one land PAP but those members who owned affected structures, trees and crops in the Ranch were considered individual PAPs. However, during this initial RAP preparation phase in 2017, the Ranch Management Committee Members were not thoroughly consulted and hence did not participate sufficiently in the initial RAP process. Therefore, differences arose on who would be entitled to receive compensation money for Group Ranch land affected by Mwache Dam. While the Ranch Management Committee members were of the opinion that any compensation money in respect to affected land in the Group Ranch be paid and received by Committee on behalf of the affected members and then distributed to the affected members by the committee, the members wanted the compensation money paid to each affected member directly without any involvement of the management committee nor other intermediary parties.

Later in 2019, when consulted appropriately, the committee members disclosed that the Group Ranch had through the committee applied for dissolution of the Group Ranch in 2015 and approval given by National Land Commission (NLC) the same year. The approval stated that the group representatives will finally be dissolved after they have signed all the necessary documents transferring the created subdivisions to the individual members of the group. This meant that every registered member could then be apportioned their parcels of land after subdivision according to how members currently own, occupy and use their land. Adjudication would then follow and members would be issued with individual title deeds.

During the RAP preparation period, the Ranch management committee members are still in full charge of the Group Ranch affairs. They will continue managing the Ranch during the period when land subdivision, adjudication and eventual registration will be happening. The approval of subdivision of the Ranch was given by Land Control Board in November 2018 at a time when the Ministry of Water, Sanitation and Irrigation was also interested in acquiring land within the Ranch for development of Mwache Dam. Refer **Annex 16**.

After the group representative fulfils all the requirements and every member has obtained his/her Title deed, NLC will dissolve the incorporated group representatives as provided in Section 13 (3) of Cap 287 Laws of Kenya.

Priority areas within the Mwavumbo Group Ranch were fast tracked and captured in RAP 1a and RAP 1b. The separation of the areas affected by Mwache Dam within the Ranch into RAP 1a, RAP 1b and RAP 2 was extensively explained to the affected community members within the Ranch. It should be noted that sub division and adjudication process has commenced in the Ranch with the area affected by Mwache Dam (RAP 1 and RAP 2 areas) being given priority.

## **Valuation and Compensation**

Land, crops, trees, graves, shrines, residential structures, community infrastructures (cattle dip, mosque and church), were identified as the assets affected by Upper Check Dam and Irrigation Demonstration Scheme. For the purpose of this RAP and subsequent compensation, all the affected assets have been valued on the basis of full **replacement cost**<sup>1</sup> for compensation purposes.

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<sup>1</sup> The market value of land of equal productive use or potential located in the vicinity of the affected land, plus the cost of preparation to levels similar to or better than those of the affected land, and transaction costs such as registration and transfer taxes.

## **Compensation Principles and Strategies**

The RAP aims to ensure that all affected parties are compensated and assisted in restoring their livelihoods and standards of living to at least pre-project status or better.

## **Entitlement Matrix**

The entitlement matrix overleaf further shows the livelihood restoration options for each category of PAH. A tentative budget for the development of the LRP has been included in this RAP but will ultimately be determined by a competitive procurement process. The strategy presented here includes the following types of activities: -

- Financial training for the sustainable and prudent use of cash compensation (including training on the maintenance of a bank account, on small household investments, saving strategy and financial planning on the household level);
- Business skills training for alternative income generating activities;
- Establishing businesses and other income generating activities from compensation monies saved after resettlement and grants given to PAPs under the livelihood restoration plan;
- Agriculture and livestock development projects and support programs targeting the PAHs and host communities;
- Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;
- Additional care will be taken for community members with special needs such as orphans, persons with disability and those with HIV to assist them to access support services in areas of new settlement;
- Household level monitoring of resettlement

## Entitlement Matrix

**Table N:** The table below highlights the entitlement matrix for all the categories of PAHs as identified in the RAP.

| #  | Type of Loss/Impact                          | Category of Affected Person  | Description of Entitlements  | Eligibility   | Livelihood Entitlement   | Restorative |
|----|--|--|--|---|--|-------------|
| 1. | Dwelling structure used as primary residence | Rightful owners of the affected house and structures who choose to receive cash compensation for the affected houses | <p><b>Option 1:</b> Cash compensation for all structures at replacement cost, based on professional valuation.</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Housing designs and related three-dimensional models will be presented to PAHs before a final decision on self-construction is made and construction supervision will also be offered as an alternative.</p> <p>Materials from the affected structure may be salvaged at the owner's expense within the notice period given to vacate as defined by the project schedule and prior to demolition.</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced</p> <p>Taxes and fees, and registration costs for Registration of property to be added to valuation and paid for directly.</p> | <p><b>Option 1:</b> Cash compensation to owners of affected structures that are either complete or incomplete. All structures must have been present within the project area at the cut-off date and identified and verified through final asset inventory and valuation by NLC.</p> <p>Household level livelihood restoration plan as a condition of compensation payment.</p> | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Monitoring mechanism at main stages of construction of dwelling units.</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p> |             |
|    |  | Rightful owners of the affected houses and structures who  | <b>Option 2:</b> Constructed in kind replacement house of size (measured floor area or number of rooms) at least   | <b>Options 2 and 3:</b> PAPs who choose in kind replacement house and if the affected structure was   | Financial training for the sustainable and prudent use of cash compensation  |             |

| # | Type of Loss/Impact | Category of Affected Person   | Description of Entitlements  | Eligibility   | Livelihood Restorative Entitlement  |
|---|---------------------|---|--|---|---|
|   |                     | choose to have replacement houses/ structures replaced in kind (built by the Project) | <p>equivalent to the PAH's pre-resettlement housing, with consideration of functional spatial use, at location of owner's own choice but within Kinango Subcounty. Choices of standardized replacement house design(s) offered to PAHs must comply with County Government building/ planning standards, take spatial and cultural function into consideration and comply with minimum standards of safety and allotments of space per occupant. Houses are to be constructed from durable wall and floor materials and with permanent roof. Houses will be considered complete when constructed as described above and fitted with lockable inner and outer doors and windows and connected with agreed services. Housing unit that meets minimum standards of safety, local housing codes and minimum allotment of space per HH member. will be provided to all PAHS who choose in-kind housing unit replacement regardless of the value of PAH's prior dwelling. If the PAHs prior dwelling was larger or of significant better quality or value than the basic units offered, the PAH can 1) agree with the MOWSI on optional housing plants/ models; and/or 2) opt to receive the balance of the compensation in cash.</p> <p>Housing designs and related three-dimensional models will be presented to PAHs before a final decision on self-construction is made and construction</p> | <p>present within the project area by the cut-off date and identified and verified through final asset and valuation by NLC.</p> <p>Household level livelihood restoration plan as a condition of compensation payment.</p> <p>All PAHs in this category must prove that the affected structure is their primary residence.</p> | <p>Transport to new place of abode for all movable assets as well as registration cost and required formalities to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of construction of dwelling units.</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p> |

| # | Type of Loss/Impact | Category of Affected Person  | Description of Entitlements   | Eligibility   | Livelihood Entitlement   | Restorative |
|---|---------------------|--|---|---|--|-------------|
|   |                     |  | <p>supervision will also be offered as an alternative.</p> <p>For PAHs who choose to have project build their houses, an agreement will be signed with the PAHs describing the house to be built, the location and the expected time of final relocation (in principle should not exceed 6 months)</p> <p>Materials from the affected structure may be salvaged at the owner's expense within the notice period given to vacate defined by the project schedule and prior to demolition.</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced</p> <p>Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly.</p> |   |  |             |
|   |                     | Rightful owners of the affected houses and structures who are on priority areas required by the contractors sooner than the project or the PAPS upon receipt of compensation money can | <b>Option 3:</b> Provision of suitable temporary rented houses of equivalent functional spatial use to those affected and located within <b>defined radius/areas</b> until their permanent houses are complete. This is in addition to their rightful compensation for all affected assets under the RAP. They will use the temporary accommodation as residences until their relocation homes are constructed. The construction of the   | <p>All listed vulnerable PAPs and other PAPs who will be required to move out of the project priority areas to enable commencement of project construction activities as they construct permanent or have replacement houses constructed for them at their own selected and acquired resettle land.</p> <p>Household level livelihood</p> | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Assistance in identification of rental houses and negotiation of the monthly rent with the potential landlords if preferred.</p> <p>Execution of tenancy agreement for the rented houses between</p> |             |

| # | Type of Loss/Impact | Category of Affected Person          | Description of Entitlements  | Eligibility   | Livelihood Restorative Entitlement   |
|---|---------------------|--------------------------------------|--|---|--|
|   |                     | construct permanent relocation homes | <p>relocation homes will be monitored by the project to ensure that steady progress is made and PAPs are able to relocate to permanent houses as quickly as possible.</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced.</p> <p>For PAHs who choose to have the project build their houses, an agreement will be signed with the PAHs describing the house(s) to be built, the location and the expected time of final relocation (in principle should not exceed 6 months)</p> <p>PAHs choosing to build their own homes will, in principle relocate directly to their final relocation sites within an agreed time frame of not less than three months from the notice to vacate and receipt of compensation or as otherwise agreed. Should the project require that they relocate sooner than the time they need to rebuild, the PAHs and the MOWSI will sign an agreement stipulating the amount of cash needed to build the home to be paid in advance of the move, identifying the new home site and establishing a maximum time at which the PAH expect to be ready to relocate permanently. The PAHs will receive the balance of their compensation upon final relocation.</p> | <p>restoration plan as a condition of compensation payment.</p> <p>All PAHs in this category must prove that the affected structure is their primary residence.</p> | <p>KWSCRIP and the landlords if preferred option is renting</p> <p>Timely payment of monthly rent and utility bills for the period of time in temporary housing</p> <p>Transport to new place of abode for all movable assets as well as registration cost and required formalities to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p> |



| #  | Type of Loss/Impact  | Category of Affected Person                | Description of Entitlements  | Eligibility   | Livelihood Entitlement   | Restorative |
|----|--|--|--|---|--|-------------|
|    |  |  | PAHs who will not be able to relocate directly to their new housing will also receive additional moving assistance and an additional subsistence allowance to compensate for any other verifiable costs of the transition (additional transport costs to work, inability to plant subsistence crops, lost wages or other income, need for additional assistance of any kind).  |   |  |             |
| 2. | Structures used for secondary purposes e.g. commercial/business structures | Rightful owners of the affected structures | <p>Cash compensation for all structures at replacement cost, based on professional valuation.</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Housing designs and related three-dimensional models will be presented to PAHs before a final decision on self-construction is made and construction supervision will also be offered as an alternative</p> <p>Materials from the affected structure may be salvaged at the owner's expense within the notice period to vacate defined by the project schedule and prior to demolition.</p> <p>Compensation for loss of income for three months or the period of the time actually required to re-establish the business elsewhere if greater</p> <p>3 months' written notice to vacate the project area.</p> | <p>Ownership established through final asset surveys.</p> <p>Household level livelihood restoration plan as a condition of compensation payment.</p> <p>Cash compensation to owners of affected structures that are either complete or incomplete</p> <p>All structures must have been present within the project area by the cut-off date and identified and verified through final asset inventory and valuation by NLC.</p> <p>PAP must provide proof of business income generation at the affected structure and by the related business carried out at the structure through business records.</p> <p>In the absence of business records to proof business income, the value</p> | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Business skills training and enlightenment on alternative income generating activities.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p> |             |

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

| #  | Type of Loss/Impact                                   | Category of Affected Person   | Description of Entitlements  | Eligibility  | Livelihood Restorative Entitlement   |
|----|---|---|--|--|--|
|    |   |   | Any other transitional costs such as extended storage, lost wages, deposits and transaction fees, etc.   |  |  |
|    |   | Workers   | Compensation for loss of income for three months or the period of the time actually required to find new employment opportunity elsewhere if greater.  | Proof of income or minimum wage  | Assistance to facilitate relocation with business owner or obtaining alternate employment  |
| 3. | Loss of business income/wages                         | Persons earning livelihoods (income or wages) from affected assets such as stone quarrying and sand harvesting and running businesses in structures that will be affected | <p>Compensation for loss of income for three months or the period of the time actually required to re-establish the business elsewhere if greater</p> <p>3 months' written notice to vacate the project area.</p> <p>Taxes and fees, and registration costs for Registration of property to be paid for directly in the valuation</p> <p>Any other transitional costs such as extended storage, lost wages, etc.</p> | <p>PAP must provide proof of business income or wages generated from the affected resource and affected business</p> <p>In the absence of business records to proof business income, the value of the affected business will be determined through observations and interviews among other methodologies done by NLC/ Registered Valuers. Workers will receive minimum wage.</p> | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Business skills training and enlightenment on alternative income generating activities.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Workers will receive assistance to facilitate moving with the business or obtaining similar employment</p> |
| 4. | Sanitation facilities (Pit latrines & bath shelters). | Rightful owners of the affected structures (residential, commercial and other)  | <p>Cash compensation for all structures at replacement cost, based on professional valuation.</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Materials from the affected structure may be salvaged at the owner's expense within the notice period to vacate defined by the project schedule and prior to demolition.</p>  | <p>Cash option is available to owners of affected structures that are either complete or incomplete</p> <p>All structures must have been present within the project area by the cut-off date and identified and verified through final asset inventory and valuation by NLC.</p> <p>NB: Owners already given a replacement house that already</p>                                | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Monitoring mechanism at main stages of resettlement.</p>   |

| #  | Type of Loss/Impact  | Category of Affected Person                | Description of Entitlements  | Eligibility  | Livelihood Restorative Entitlement   |
|----|--|--|--|--|--|
|    |  |  | <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced</p> <p>Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly</p>  | includes these facilities will not receive additional cash compensation.   |  |
| 5. | Moveable and other structures such as fences, livestock enclosures, and livestock water points, etc. | Rightful owners of the affected structures | <p>Cash compensation for all structures at replacement cost, based on professional valuation.</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Materials may be salvaged at the owner's expense within the notice period to vacate defined by the project schedule and prior to demolition.</p> <p>Assistance with transport for their property (including livestock) and salvaged properties during resettlement for all PAHs who will be physically displaced</p> <p>Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly.</p> <p>Any other transitional costs such as extended storage, temporary shelter or higher costs of feed for livestock, etc.</p> | Cash compensation to owners of affected structures that are either complete or incomplete. All structures must have been present within the project area by the cut-off date and identified and verified through final asset inventory and valuation by NLC. | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Monitoring mechanism at main stages of resettlement.</p> |

| #  | Type of Loss/Impact                                      | Category of Affected Person  | Description of Entitlements  | Eligibility   | Livelihood Restorative Entitlement   |
|----|--|--|--|---|--|
| 6. | Land for Primary Residential land/ plot – permanent loss | Registered owner or claimants of customary held land on which complete immovable housing structure is established for primary residence. | <p><b>Option 1:</b> Self-managed relocation (Cash compensation with relocation plans overseen)</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced</p> <p>Taxes and fees, and registration costs for Registration of property to be added to valuation and paid for directly.</p> <p>Legally established interests, including user rights, on community land will be compensated in accordance with Kenyan Law</p> | <p>All PAHs in this category must prove that the affected land is their primary residence and either are PAHs who own other suitable resettlement land or have identified suitable resettlement land and have intention of buying it upon receipt of cash compensation (either through formal or traditional verification processes).</p> <p>Household level livelihood restoration plan as a condition of compensation payment.</p> <p>PAHs must give proof of ownership of other suitable parcel of land or a verifiable intention to enter into a binding/ written sale agreement with a potential seller of the suitable parcel of land before release of cash compensation.</p> <p>To ensure security of tenure to the resettled PAHs, the Legal Consultant will facilitate the execution of Sale Agreements between the sellers of land and the PAHs</p> <p>On community land (including the Mwavumbo Group Ranch) customary uses of the land are recognised in the Ranch charter. These rights will be compensated</p> | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Provision of support registration cost and required formalities to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p> |

| # | Type of Loss/Impact | Category of Affected Person | Description of Entitlements  | Eligibility  | Livelihood Restorative Entitlement   |
|---|---------------------|-----------------------------|--|--|--|
|   |                     |                             |  | under Kenyan Law where they are impacted by the project.   |  |
|   |                     |                             | <p><b>Option 2:</b> Assisted relocation (Cash compensation held by project and land and structures identified and acquired by the project)</p> <p>RAP Implementation Consultant assist willing PAHs to identify suitable resettlement land whose value does not exceed compensation value of affected land and is within Kinango Subcounty. and to negotiate and conclude the sale agreements with sellers, transfer of cash to the sellers and successfully transfer of land ownership to the PAHs.</p> <p>Assistance in conveyancing and transferring title</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced.</p> <p>Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly.</p> <p>Legally established interests, including user rights, on community land will be compensated in accordance with Kenyan Law</p> | <p>All PAHs in this category must prove that the affected land is their primary residence (either through formal or traditional verification processes).</p> <p>Household level livelihood restoration plan as a condition of compensation payment.</p> <p>All listed vulnerable PAHs and all PAHs who neither own other resettlement land nor have identified suitable resettlement land.</p> <p>This is the risky category of land PAHs who will require direct project intervention during RAP Implementation</p> <p>On community land (including the Mwavumbo Group Ranch) customary uses of the land are recognised in the Ranch charter. These rights will be compensated under Kenyan Law where they are impacted by the project.</p> | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Transport and personnel to help PAHs in moving around the host communities' areas and to identify suitable land and negotiate with the potential land sellers.</p> <p>Provision of support registration cost and required formalities to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p> |

| #  | Type of Loss/Impact                         | Category of Affected Person                            | Description of Entitlements   | Eligibility   | Livelihood Restorative Entitlement  |
|----|---|--|---|---|---|
| 7. | Permanent loss of agricultural farming land | Registered owners or claimants of customary held lands | <p><b>Option 1:</b> Self-managed relocation (Cash compensation with relocation plans overseen)</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Assistance in conveyancing and transferring title</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced</p> <p>Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly.</p> <p>Legally established interests, including user rights, on community land will be compensated in accordance with Kenyan Law; Land Act (See chapter 6)</p> | <p>PAPs must prove ownership (either through formal or traditional verification processes) at the time of NLC verification</p> <p>Acceptable Household level livelihood restoration plan as a condition of compensation payment.</p> <p>Payment of compensation for lost assets and land made before displacement.</p> <p>PAHs must give proof of ownership of other suitable parcel of land or a verifiable intention to enter into a binding/ written sale agreement with a potential seller of the suitable parcel of land before release of cash compensation.</p> <p>To ensure security of tenure to the resettled PAHs, the Legal Consultant will facilitate the execution of Sala Agreements between the sellers of land and the PAHs.</p> <p>In the absence of business records to proof business income, the value of the affected business will be determined through observations and interviews among other methodologies done by NLC/ Registered Valuers</p> | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Agriculture and livestock development projects and support programs targeting the PAHs and host communities</p> <p>Provision of support registration cost and required formalities to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p> |

| #  | Type of Loss/Impact | Category of Affected Person | Description of Entitlements   | Eligibility   | Livelihood Entitlement  | Restorative |
|----|---------------------|-----------------------------|---|---|---|-------------|
|    |                     |                             |   | On community land (including the Mwavumbo Group Ranch) customary uses of the land are recognised in the Ranch charter. These rights will be compensated under Kenyan Law where they are impacted by the project.  |   |             |
| 8. |                     |                             | <p><b>Option 2:</b> Assisted relocation (Cash compensation held by project and land and structures identified and acquired by the project)</p> <p>RAP Implementation Consultant assist willing PAHs to identify suitable resettlement land whose value does not exceed the total compensation and is within the defined project area and to negotiate and conclude the sale agreements with sellers, transfer of cash to the sellers and successfully transfer of land ownership to the PAHs.</p> <p>Assistance in conveyancing and transferring title.</p> <p>Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly.</p> <p>Legally established interests, including user rights, on community land will be compensated in accordance with Kenyan Law</p> | <p>PAHs must prove ownership (either through formal or traditional verification processes) at the time of final asset surveys.</p> <p>Acceptable Household level livelihood restoration plan as a condition of compensation payment.</p> <p>Payment of compensation for lost assets and land made before displacement.</p> <p>All listed vulnerable PAHs and all PAHs who neither own other resettlement land nor have identified suitable resettlement land.</p> <p>This is the is also a risky category of land PAHs who will require direct project intervention during RAP Implementation</p> <p>On community land (including the Mwavumbo Group Ranch) customary uses of the land are recognised in the Ranch charter.</p> | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Transport and personnel to help PAHs in moving around the host communities' areas and to identify suitable land and negotiate with the potential land sellers.</p> <p>Provision of support registration cost and required formalities to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p> <p>Assistance with transport for their</p> |             |



| #   | Type of Loss/Impact            | Category of Affected Person                            | Description of Entitlements   | Eligibility  | Livelihood Restorative Entitlement  |
|-----|--------------------------------|--|---|--|---|
|     |                                |  |   | These rights will be compensated under Kenyan Law where they are impacted by the project.  | property and salvaged properties during resettlement for all PAHs who will be physically displaced  |
| 9.  | Permanent loss of grazing land | Registered owners or claimants of customary held lands | <p>Registered owners or claimants:</p> <p>Cash compensation of the value of the land at replacement cost.</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p> <p>Provision of support registration cost and required formalities to ensure security of tenure.</p> <p>Assistance in conveyancing and transferring title.</p> <p>Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly.</p> | <p>For cash compensation, persons must prove ownership and interest (either through formal or traditional verification processes) at the time of final asset surveys. NLC will require to confirm the bona fide person(s) who have determined interest on the affected land and issue awards to them as provided in the Land Act</p> <p>On community land (including the Mwavumbo Group Ranch) customary uses of the land are recognised in the Ranch charter. These rights will be compensated under Kenyan Law where they are impacted by the project.</p> | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Household level livelihood restoration plan as a condition of compensation payment.</p> <p>Agriculture and livestock development projects and support programs targeting the PAHs and host communities</p> <p>Monitoring mechanism at main stages of resettlement</p> |
| 10. | Annual Crops                   | Owners of crops on farm land                           | <p>The project will make every effort to ensure land is taken after annual crops have been harvested. In such circumstances, no compensation for annual crops will be paid.</p> <p>Where crops are planted as part of the regular farming cycle in the project area and land is required, prior to harvesting, Crop Owners receive:</p> <p>Cash: damaged crops will be</p>  | Crop owners identified through final asset surveys by NLC and verified by RAP IT   | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Household level livelihood restoration plan as a condition of compensation payment.</p> <p>Agriculture and livestock development projects and support programs targeting the PAHs and host communities</p>  |

| #   | Type of Loss/Impact   | Category of Affected Person             | Description of Entitlements   | Eligibility   | Livelihood Restorative Entitlement   |
|-----|---|---|---|---|--|
|     |   |   | <p>compensated in cash as mature crops at agreed rates determined annually based on replacement cost determined by Ministry of Agriculture based on market prices plus transaction costs</p> <p>Statutory Disturbance Allowance of 15% of compensation amount.</p>  |   | <p>Business skills training and enlightenment on alternative income generating activities.</p> <p>Monitoring mechanism at main stages of resettlement</p>  |
| 11. | Perennial Crops (Including fruit and economically valuable trees)                     | Owners of crops on farm land            | <p>Cash compensation based on replacement cost determined by Ministry of Agriculture and Kenya Forest Service for crops/ fruit trees and trees of economic/ medicinal value respectively based on market prices plus transaction costs</p> <p>Compensation according to defined growth stage or size categories. Statutory Disturbance Allowance of 15% of compensation amount.</p>   | Crops or trees in place (rooted) at cut-off date and identified through final surveys by NLC and verified by the RAP IT   | Household level livelihood restoration plan as a condition of compensation payment.  |
| 12. | Restricted access to natural resource and recreational areas provided by river Mwache | Natural Resource and recreational users | <p>Project to address access restrictions through improved access to alternative natural resource areas or substitute the resource base by providing other water sources for the households who depend on the Mwache River as a source of meeting their domestic water needs.</p> <p>Secondly provide other recreational facilities to the PAPs and host communities who used the Mwache river as swimming grounds especially the young children who are often seen swimming at various spots of the river.</p> | Persons who gather natural resources such as medicinal herbs, thatching grass, timber or mushrooms and the boys and men who swim in river Mwache and the women who wash clothes and draw water from the river | Participation in Livelihood Restoration Programmes to restore livelihoods to pre-resettlement levels. This may include provisions to provide access to alternative resources (such as seedlings and accessible water points) |
| 13. | Loss of agricultural employment   | Agricultural workers                    | Three months lost wages at documented level or minimum wage or actual work  | Wage workers on agricultural parcels  | Assistance to facilitate moving with employer or obtaining similar   |

| #   | Type of Loss/Impact                   | Category of Affected Person   | Description of Entitlements  | Eligibility  | Livelihood Entitlement  | Restorative |
|-----|---------------------------------------|---|--|--|---|-------------|
|     |                                       |   | losses whichever is greater.   |  | employment  |             |
| 14. | Vulnerable Support Program (Tailored) | All PAPs in the project area are considered vulnerable due to poverty and are hence entitled to livelihood restoration support. This category refers to PAHs with other forms of vulnerabilities which may require special consideration. Vulnerable individuals and families who may find it difficult to cope with the Transition e.g. the elderly (over 70 years old), physically challenged, those suffering from chronic illness; widows and children who are under 18 years | <p>Transitional hardship assistance program appropriate to specific cases and based on Project assessment, including: -</p> <p>Priority in physical mobilization and transfer to resettlement plot;</p> <p>A preference for in-kind compensation</p> <p>Assistance in the compensation payment procedure</p> <p>Resettlement near to kin and former neighbors to maintain informal support networks where feasible</p> | Identified through final census survey based on agreed vulnerability criteria relevant to Project. | <p>Special assisted transit to new land;</p> <p>Additional moving, loading and unloading assistance, if necessary;</p> <p>Other specific support related to moving process (e.g. medical assistance) identified by support case workers.</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p> <p>Assistance with transport for their property and salvaged properties during resettlement for all PAHs who will be physically displaced</p> <p>Follow up on orphans to make sure they identify and register in school upon relocation. The Persons with Disability (PWD) and those HIV affected access support services in areas of new settlement.</p> <p>Widows, orphans and affected vulnerable persons to be assisted through local administration and</p> |             |

| #   | Type of Loss/Impact | Category of Affected Person  | Description of Entitlements   | Eligibility  | Livelihood Restorative Entitlement  |
|-----|---------------------|------------------------------|---|--|---|
|     |                     |                              |   |  | <p>family for issuance of land registration documents;</p> <p>Relocation of the widows, orphans and vulnerable persons to be facilitated and receive adequate notice to relocate</p> <p>Assist and monitor orphans to make sure that these children get back to school in case of relocation and ensure they are compensated</p> <p>The vulnerable such as mentally sick, people with disabilities, aged, chronically ill to access information and opportunities</p> <p>Monitor the resettlement of the vulnerable e.g. orphans to make sure they gain school transfers; the HIV affected and chronically ill have access to medication and the persons with disability are locally registered with APDK office.</p> |
| 15. | Graves/cemeteries   | Family and community members | <p>Complete relocation of graves (exhumation, transportation and reburial) to designated cemetery around the project area or at the PAPs resettlement land as per individual preference</p> <p>Cash compensation at a rate/ grave that is determined by NLC in consultation with the PAHs and project staff. This cash is</p> | <p>Familiar graves identified during asset inventory and/or confirmed through the Cultural Heritage survey.</p> <p>Unmarked graves identified through chance-find do not qualify for ceremonial assistance and will be dealt with in accordance with the</p> | Contractors equipment/ excavator to relocate the graves when requested by the PAPs or community members   |

| #   | Type of Loss/Impact            | Category of Affected Person  | Description of Entitlements  | Eligibility  | Livelihood Entitlement | Restorative |
|-----|--------------------------------|------------------------------|--|--|------------------------|-------------|
|     |                                |                              | <p>meant to assist the affected PAHs and communities to conduct customary ceremonies during the relocation of graves. This was specifically requested by the PAPS at various consultation forums.</p> <p>Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly.</p>   | Chance Finds Procedure in the Cultural Heritage Management Plan.   |                        |             |
| 16. | Shrines                        | Family and community members | <p>Complete relocation of shrines in designated area around the project area</p> <p>Cash compensation at a rate/ shrine that is determined by NLC in consultation with the Kaya Elders and project staff. This cash is meant to assist the affected communities to conduct customary ceremonies during the relocation of shrines.</p> <p>Taxes and fees, and registration costs for Registration of property to be added to the valuation and paid for directly.</p> | Shrines identified during asset surveys and/or confirmed through the Cultural Heritage survey. Cultural Heritage Management Plan to be adhered to.   | None                   |             |
| 17. | All Actual transitional losses | All                          | In-kind assistance, subsistence allowances, lost income or wage extension payments, demonstrable additional expenses and any verifiable loss incurred during the transition period and prior to completion of the restoration process and not explicitly covered by allowances included above. These transitional support allowances should be phased out gradually as living conditions and livelihoods/ incomes are restored.                                      | Ensure that PAPs whose asset substitution or LRP takes longer than three months, or who experience additional transitional costs are properly supported during transition and compensated for any losses |                        |             |

| #   | Type of Loss/Impact | Category of Affected Person   | Description of Entitlements  | Eligibility  | Livelihood Restorative Entitlement   |
|-----|---------------------|---|--|--|--|
| 18. | Non-land owners     | PAHs who are informal occupants that will lose their main residential structures constructed on land that they have no legal claim on | Legal land owners of the land they occupy to share the replacement land with them so that they can build new residential structures on the land and resettle | These are relatives of the legal land owners on whose land they have been allowed to build the structures and cultivate crops/trees but they have not been given legal entitlement to the land | <p>Financial training for the sustainable and prudent use of cash compensation</p> <p>Provision of support registration cost and required formalities to ensure security of tenure.</p> <p>Monitoring mechanism at main stages of resettlement</p> <p>Psycho-social support will be provided in conjunction with the County Social Development Officers (CSDO) at County level. This will be through counselling and liaison to the existing welfare support programs under the CSDO's office;</p> |

## **Grievance Redress and Management**

The objective of RAP Grievance Redress Management (GRM) is to provide a set of clear and traceable procedures by which any grievance arising from or in connection with this RAP can be reported by an affected person/household, and then heard and resolved mainly through an informal, alternate dispute resolution process that is consistent with best practice and the requirements of OP. 4.12. before pursuing legal formal justice (judicial process). Judicial process still remains the right of every affected person/household in this RAP. A five (5) level grievance management is provided for in this RAP to ensure amicable review and settlement of grievances. The grievance levels include: -

- 1) Elders Land Disputes Resolution Committee
- 2) Sub-Location Resettlement and Grievance Redress Committee
- 3) Sub-County Resettlement and Grievance Redress Committee
- 4) County Arbitration Committee
- 5) Resort to Judicial recourse - Environment and Land Court. The Environment and Land Court established under the Environment and Land Act 2012 addresses land related matters and PAHs will be free to ignore the project's GRM and use the formal legal system at any time or point.

## **RAP Institutional Implementation Arrangements**

The RAP will be implemented within one overall organizational set up, by multi-disciplinary teams (see below) on different levels. A mix of institutions—government agencies at the County, Sub County and national levels, technical agencies and consulting firms recruited by KWSCRП would be involved in RAP implementation as described in summary below.

- a) National Government-Ministry of Water & Sanitation and Irrigation
- b) KWSCRП-National Project Management Unit and Coast Project Management Unit
- c) Safeguards Project Implementing Unit
- d) RAP Conveyance Consultant
- e) RAP Implementation Consultant
- f) Grievance Redress and Resettlement Committees
- g) RAP Implementation steering committee

## **RAP Implementation Schedule**

The estimated construction duration is 18 months. However, the RAP implementation period and timelines will be approximately 1 year while some livelihood restoration programs and monitoring may last beyond the actual resettlement activities. Refer to **Annex 15** for the RAP 2 Implementation Schedule.

Monitoring is a key component of this RAP. There will be monitoring in two forms internal and external.

- (i) Internal monitoring and reporting
  - Monitoring of Construction Activities
  - Monitoring of Resettlement Activities and Measures
- (ii) External Monitoring and Reporting
  - RAP Audit Consultant
  - Disclosure of Monitoring Reports
  - Independent Environmental and Social Panel of Expert

## **RAP Disclosure**

The RAP will be disclosed in English while the executive summary (non-technical) will be translated into Kiswahili and Duruma languages. Disclosure will be in electronic form on the website of the following institutions namely: -

- a) KWSCRP
- b) Coast Development Authority
- c) Ministry of Water & Sanitation and Irrigation
- d) County Government of Kwale
- e) World Bank external affairs

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

- a) KWSCRP Nairobi Office
- b) KWSCRP Coast Office
- c) CDA office
- d) Kwale County Headquarters
- e) Office of contractor
- f) Kwale Sub County Office
- g) All Locational offices affected by the project
- h) All Ward offices affected by the project

The RAP will be disclosed to the PAPs in Kiswahili, Duruma and English Languages as appropriately needed during meetings organized for RAP disclosure purposes at the village level. In addition, hard copies of the Executive Summaries will be distributed at the household level in either Kiswahili, Duruma and English Languages and PAHs will be left with at least a copy in the language of their preference.

## **Budget**

The total budget for resettlement compensation is **Kshs. 583,464,087.50** including disturbance allowance and livelihood restoration costs. In addition, administration cost of 15% for the RAP implementation and monitoring and evaluation has been included. All costs associated with this RAP as highlighted in Table 'O' below will be met by KWSCRP. However, the total costs of the RAP are bound to change as the unit prices will further be reviewed by NLC at the early stage of implementation to reflect the market prices and/or value and hence full replacement cost at that time.



**Table O: Total RAP Budget**

| <b>Total RAP Cost</b>   | <b>Value (Ksh)</b>    |
|---|-----------------------|
| Land  | 329,692,500.00        |
| Structures  | 52,394,050.00         |
| Crops and Trees   | 16,854,200.00         |
| <b>Sub Total 1</b>  | <b>398,940,750.00</b> |
| Disturbance cost (15%)  | 59,841,112.50         |
| <b>Sub Total 2</b>  | <b>458,781,862.50</b> |
| Livelihood Restoration (15%)                                  | 59,841,112.50         |
| Facilitation of Grievance Redress and Resettlement Committees | 5,000,000.00          |
| Contingency costs 15% of RAP cost                             | 59,841,112.50         |
| <b>Sub Total 3</b>  | <b>124,682,225.00</b> |
| <b>Grand Total (Sub Total 2 + Sub Total 3)</b>                | <b>583,464,087.50</b> |

