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9 Overview of the SEP, GM and RAP

9.1 Stakeholder engagement activities undertaken

A comprehensive public/stakeholder consultation process was carried out at the National and County level with the various Government ministries and departments, regulatory lead agencies and members of the various communities. A consultative-participatory approach was adopted to shed more light on the project components, implementation activities, and to explain the likely impacts from the project as a part of the ESIA Study. The consultations were in form of one-on-one meetings, workshops and barazas.

The scoping consultations meetings were held from January 2015 to June 2015 as shown in Table 9-1. These meetings were organized through official letters, emails and phone calls two weeks prior to their commencement.

Table 9-1: Record of past stakeholder engagement

Date and Place	Stakeholder group and meeting purpose
9th January 2015 Subira Hotel, Hindi, Lamu mainland	Ward administrator, Hindi and Senior Chief, Village headmen, community leaders (from affected communities) and mangrove cutters representative. Project Introductory meetings
9th January 2015 Lamu Museum, Lamu Island	National Museum of Kenya representatives (Lamu museum) Project Introductory meetings
9th January 2015 Lamu Island	Assistant County Commissioner, Lamu County Project Introductory meeting
24th January 2015 Mwana Arafa Restaurant Gardens, Lamu Island	Save Lamu Representatives Workshop
24th January 2015 Mwana Arafa Restaurant Gardens, Lamu Island	Lamu Youth Alliance Representatives Workshop
25th January 2015 Mwana Arafa Restaurant Gardens, Lamu Island	Male Opinion leaders Representatives Workshop
25th January 2015 Mwana Arafa Restaurant Gardens, Lamu Island	Female opinion leaders Representatives
26th January 2015 Bargoni Primary School	Bargoni and Ngini Residents Dissemination and consultation public meeting

Date and Place	Stakeholder group and meeting purpose
26th January 2015 Mokowe Primary School	Mokowe Residents Dissemination and consultation public meeting
27th January 2015 Ardhi House, Mokowe, Lamu	Lamu County Land Management Board Project Briefing Meeting
27th January 2015 Kwasasi (Proposed project site)	Kwasasi Residents Dissemination and consultation public meeting
27th January 2015 Hindi Digital Sports Centre and News Hindi, Lamu mainland	Hindi Residents Dissemination and consultation public meeting
28th January 2015 Changa Chini, Mtangawanda, Pate Island	Mtangawanda residents Dissemination and consultation public meeting
28th January 2015 Pate social hall, Pate Island	Pate residents Dissemination and consultation public meeting
2nd February – 3rd February 2015, Sarova Panafric hotel, Nairobi	Lamu County Government workshop
10th February 2015, Serena Hotel , Nairobi	Media editors Kick-off briefing
11th February 2015, Standard Media Group Offices Nairobi	Standard media group editors Kick-off briefing
12th February – 13th February 2015, Tamani Jua Resort, Malindi	Lamu members of County Assembly workshop
24th February 2015 Crowne Plaza Hotel, Nairobi	Media houses press briefing
1st April 2015 Mwana Arafa Restaurant Gardens, Lamu Island	Lamu County Administration kick-off workshop
22 nd June 2015 Lamu Island	Key Informant Interview

Date and Place	Stakeholder group and meeting purpose
	Ministry of Gender, Youth and Social Services, Lamu County Government
23 rd June 2015 Ardhi House, Mokowe	Key Informant Interview Ministry of Education, Lamu County Government
23 rd June 2015 Public health Office, Lamu Island	Key Informant Interview Ministry of Health and Environment, Lamu County Government
24 th June 2015 Ministry of Agriculture Office, Lamu Island	Key Informant Interview Ministry of Agriculture, Lamu County Government
23 rd June 2015 Chief's camp, Hindi	Focus Group Discussion with vulnerable stakeholder groups – Members of the Pastoralist communities
24 th June 2015 Chief's camp, Hindi	Focus Group Discussion with vulnerable stakeholder groups – Women from communities proximate to the project site
24 th June 2015 Chief's camp, Hindi	Focus Group Discussion with vulnerable stakeholder groups – Elders from indigenous minority communities
25 ^t June 2015 Chiefs camp, Pate Island	Focus Group Discussion with vulnerable stakeholder groups – Farmers

9.2 Stakeholder Engagement Plan

The Stakeholder Engagement Plan (SEP) is a dynamic document that will require regular reviews and updates to adapt it to evolving stakeholder needs and project environment. A more detailed stakeholder engagement plan has been prepared for this project which can be found in Appendix 9 of this report. Given below is a synopsis of what each section of the SEP contains:

Section 1: Introduction- This section provides a background to the Stakeholder Engagement Plan and the project including proponent details, project design elements, proposed project site and the possible project impacts.

Section 2: Project regulatory framework- This section outlines the national and international policies, legislation and best practice standards that will guide the implementation of the SEP.

Section 3: Stakeholder Engagement Activities- This section highlights the stakeholder engagement activities that have been concluded to date. This comprises of engagement activities conducted prior to as well as during the ESIA phase including stakeholder identification and subsequent information disclosure and consultations.

Section 4: Project stakeholders- This section outlines the project stakeholders as identified under local, county and national levels

Section 5: Stakeholder Engagement Program- This section details the stakeholder engagement programme. The proposed SE approach is delineated into 5 levels namely Inform → Consult → Involve → Collaborate → and Empower

Section 6: Implementation Plan- Here, the SE implementation plans for the different project phases are outlined. The phases are delineated as ESIA (Scoping, Impact assessment, Decision making), construction, operation and decommissioning.

Section 7: Resources and responsibilities- In this section, responsibilities for the preparation, management, and coordination of this SEP and its integral tasks are discussed

Section 8: Grievance Mechanism- This section provides an overview of the Grievance mechanism (GM)

Section 9: Monitoring and Reporting- This section provides the monitoring and reporting framework for the stakeholder engagement plan

Section 10: Management functions - This section defines the proposed core organizational functions and responsibilities Organizational structure and management functions necessary for the effective implementation of the SEP

Section 11: Appendices - provide the appendices

9.3 Grievance Mechanism

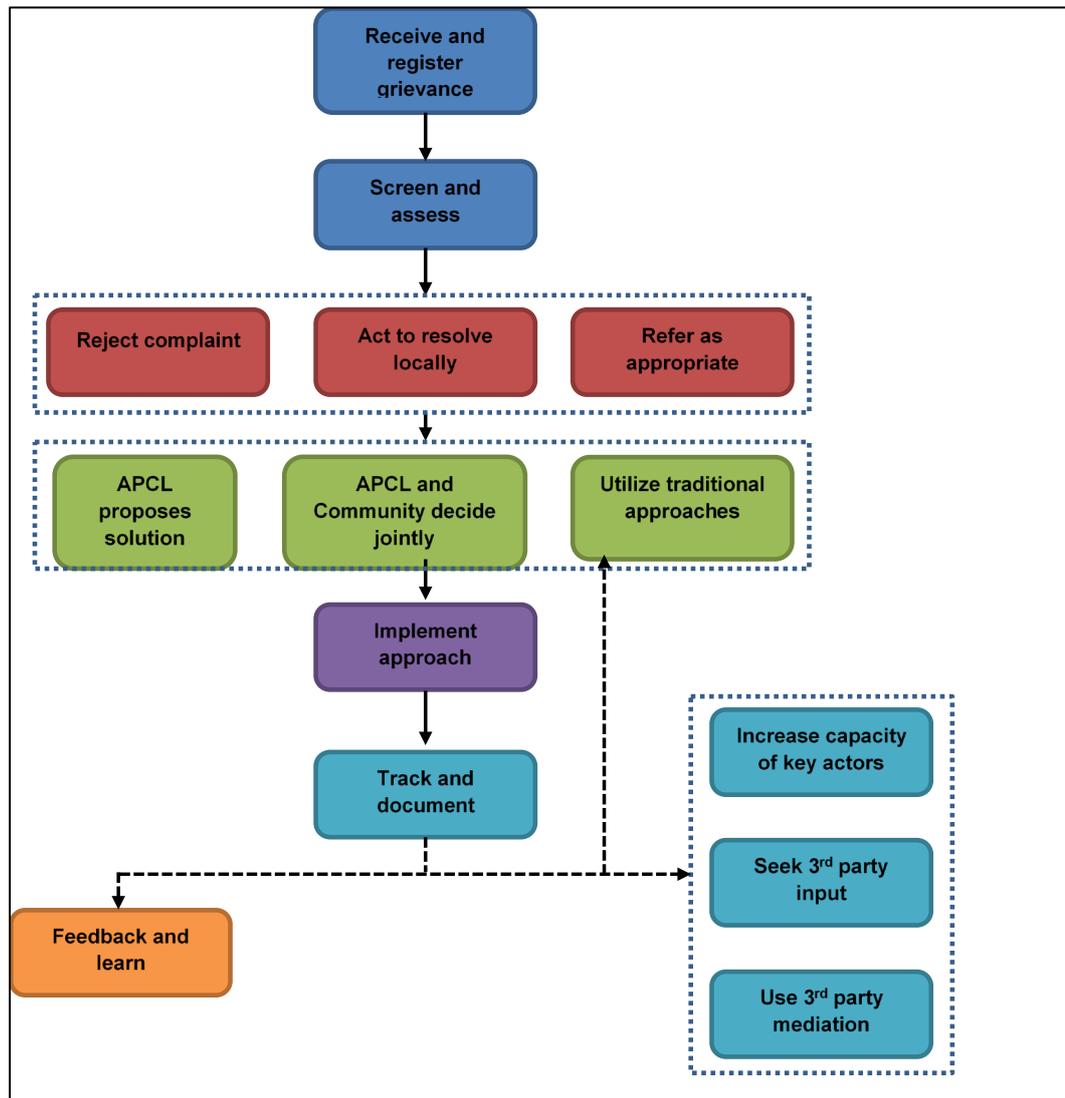
Amu Power Company Limited (APCL) seeks to build strong relationships with stakeholders and manage the impact of its business activities on affected communities. APCL will aim at minimizing grievances through managing Project impacts and through preemptive community liaison activities designed to anticipate and address potential issues before they become grievances. Nevertheless, it recognizes that complaints about its activities may occur from time to time.

This Grievance Mechanism allows stakeholders to raise questions or concerns with the Company and have them addressed in a prompt and respectful manner. Amu Power Company Limited aims to address all Complaints received, regardless of whether they stem from real or perceived issues and whether the Complainant is named or anonymous. Stakeholders who consider themselves affected by Amu Power Company Limited activities will have access to this Procedure at no cost.

Amu Power Company Limited seeks to foster confidence in the process and its outcomes. To this end, it will communicate this Mechanism in an understandable manner to affected stakeholder groups. Confidentiality will be respected and the company will take all reasonable steps to protect parties to the process from retaliation.

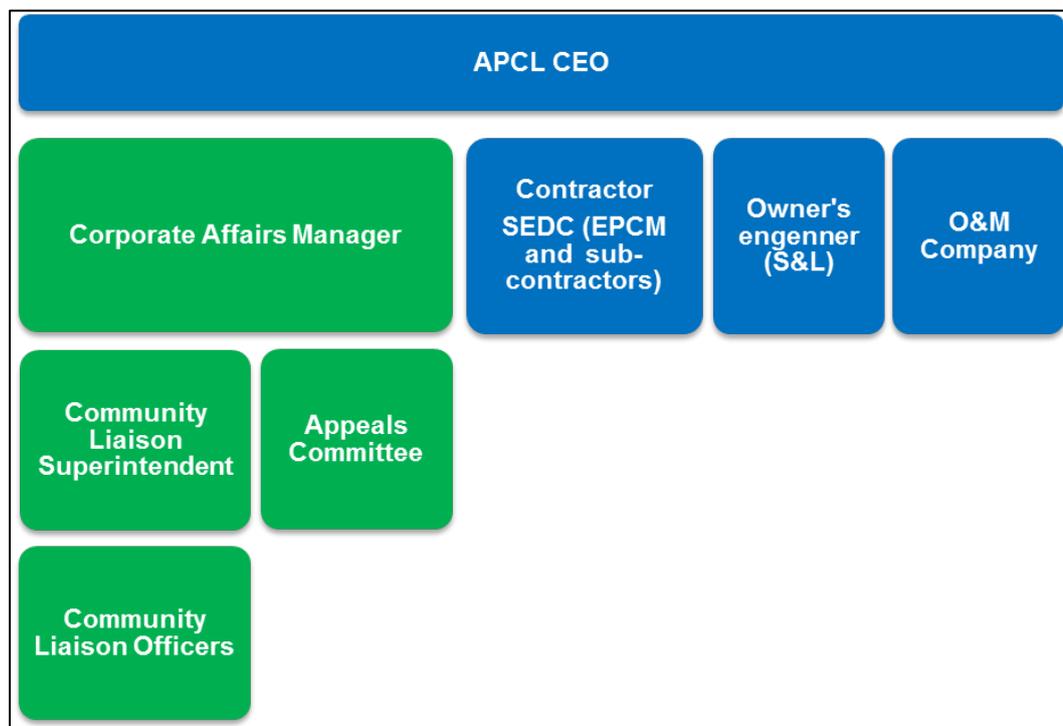
Figure 9-1 is a flow chart showing the process of managing a grievance as proposed by Amu Power.

Figure 9-1: Grievance management flowchart



The Grievance Mechanism will be implemented by a team of Community Liaison Officers and a Community Liaison Superintendent, led by the Corporate Affairs Manager with close collaboration with all other departmental heads and oversight by the company CEO. The Corporate Affairs Manager will also be supported by the Community Development/CSR Officer, the company legal officer, and an administration and communication team. Figure 9-2 below shows the proposed organizational structure for the GM during the construction and operational phases

Figure 9-2: Proposed organizational structure for GM for Construction and operational phases



The GM is a dynamic document that shall be revised and updated periodically (annually at minimum) based on experience and feedback from stakeholders. A more detailed grievance mechanism procedure has been prepared for this report which can be found in Appendix 10. Given below is a synopsis of what is contained in the sections of the Amu Power GM.

Section 1: Overview of the Grievance Mechanism- This section highlights the purpose, objective, scope and principles of the GM

Section 2: Roles and responsibilities- This section provides details regarding specific roles, responsibilities and steps that need to be followed by APCL staff and contractors to manage grievances

Section 3: Accessibility-This section highlight the strategies that APCL will employ the following strategies to ensure there are no barriers to access by stakeholders

Section 4: Public sensitization campaign – This section highlight the strategies that APCL will use to run a public sensitization campaign as part of the community roll-out for the Grievance Mechanism

Section 5: Workflow – This section highlights the process flow chart that APCL will use for receiving, recording, investigating and resolving a grievance

Section 6: Grievance resolution approach – This section highlights the grievance resolution approach that will be used by APCL

Section 7: Procedures for resolving complaints – This section highlights the steps that will be used in resolving conflicts which will include; receipt, registration, eligibility screening, acknowledgement, assessment, formulation and close out

Section 8: Confidentiality – This section highlights the measures that will be taken to protecting the identity of the Complainant and to handling personal information in accordance with legal requirements.

Section 9: *Grievance Mechanism Performance Monitoring* – This section highlights the methods that will be used to assess the performance of the GM which will include; monitoring and evaluation, key performance indicators, performance reporting

Section 10: *Resource Requirements* – This section highlight the resources that will be required to ensure the effective implementation of the GM which will include personnel, infrastructure, system resources and financial resources

Section 11: *Roll out and communication of the Grievance Mechanism* - This section highlights how the GM will be rolled out through various programmes

Section 12: *Appendices* - contains the appendices which include the tracking mechanisms

9.4 Resettlement Action Plan (RAP)

The proposed coal power plant is to be sited along the Indian Ocean at Manda Bay in the Lamu archipelago, Lamu County, Kenya. The proposed site lies within the delineated Lamu Port-South Sudan-Ethiopia Transport Corridor (LAPSSET) zone and covers an approximate 880 acres. Implementation of the proposed project will involve the acquisition of the required 880 acres of land on a permanent basis as per the project design. This acquisition may result in the involuntary re-settlement of landowners. Resettlement is involuntary when it occurs without the informed consent of the displaced persons or, if they give their consent, without having the power to refuse resettlement.

The land acquisition and associated re-settlement arrangements are the onus of the Government of Kenya, which has commissioned APCL to build, own, and operate the power plant for a period of 25 years. APCL expects to lease the required 880 acres of land from the Government of Kenya. While the resettlement and compensation of Project Affected Persons (PAPs) will remain under the Government's mandate, APCL will partner with the Government to support the Resettlement Action Plan (RAP) to process in alignment with the African Development Bank's Operational Safeguard 2 and the International Finance Corporation's Performance Standard 5 on Involuntary Resettlement.

9.4.1 Guidelines for the RAP

The RAP will involve the identification of the legal occupants of the site location for compensation and re-settlement in accordance with the Kenyan law and applicable international guidelines, with emphasis on AfDB's Operational safeguard 2 (OS2) on Involuntary Resettlement, Land Acquisition, Population Displacement and Compensation and the AfDB Involuntary Resettlement Policy (2003). The Government should ensure that the individuals who must be displaced are:

- Treated fairly, equitably, and in a socially and culturally sensitive manner
- Provided compensation and resettlement assistance so that their standards of living, income-earning capacity, production levels and overall means of livelihood are improved;
- Provided with the opportunity to share in the benefits of the project that involves their resettlement

The land requirements for the proposed project site are significant. Lamu County has previously experienced contentions between developers and the local communities over land matters. This has resulted in deleterious community perceptions and attitudes towards development projects requiring acquisition of private and community land, especially those associated with the Government. All stakeholder groups highlighted the land acquisition, resettlement and compensation process as a prime concern. Resettlement may entail physical displacement of the people and temporary disruption of their livelihoods.

The process of land acquisition must be managed in a harmonized manner to ensure that there are no socio-economic-related grievances during the construction and operational phases of the Project. This, essentially, is the purpose of ensuring the Resettlement Action Plan (RAP) is properly planned and executed. Without proper planning and management, the involuntary resettlement may result in long-term hardship for affected people and environmental damage to the locations in which they are resettled, eroding the socio-economic gains envisaged on account of implementing the Project. It is essential that the Government utilizes a process that is transparent, equitable, and is implemented in a socially and culturally sensitive manner. To achieve this, the Government should:

- Jointly (with the affected community) develop a Resettlement Action Plan (RAP) that includes compensation plan for landowners and/or displaced persons. Compensation should be commensurate to the land value and lost socio-economic value
- Complete all necessary land acquisition in accordance with the RAP prior to the commencement of any construction works
- Ensure full disclosure, consultation and meaningful engagement of the affected communities throughout the resettlement process (including the host communities, if any).

9.4.1.1 National Guidelines

In compliance with the Constitution of Kenya, the project team will take overall guidance in the preparation and implementation of the RAP from the National Land Act (2012), specifically Chapter 280 part VIII, which covers matters on compulsory acquisition of interests in land. This Act gives the provision for compulsory acquisition of land that is required for public purposes or in the public interest. The following are the key guidelines for the compulsory acquisition as provided under the Act:

- I) The National Land Commission is the competent authority and will lead the process of land acquisition, prescribe an eligibility criteria and, develop guidelines to be adhered to by the acquiring authorities in the acquisition of land
- II) All land to be compulsorily acquired shall be geo-referenced and authenticated by the office or authority responsible for survey at both the national and county government
- III) If land is acquired compulsorily, just compensation shall be paid promptly in full to all persons whose interests in the land have been determined. The Commission shall make rules to regulate the assessment of just compensation
- IV) The Commission shall publish a notice on the intended acquisition in the Kenya gazette and the County gazette and will deliver a copy to the Registrar of lands and to every person who appears, to the Commission, to be interested in the land. The Act defines interested person as any person who appears in the land registry and the spouse or spouses of any such person, as well as any person actually occupying the land and the spouse or spouses of such person

- V) The Commission shall take possession of the land only after the agreed compensation has been paid. The Commission shall serve every person interested in the land a notice that on a specified day possession of the land and the title to the land will vest in the national or county governments as the case may be.

However, if there is an urgent necessity for the acquisition of the land and it would be contrary to the public interest for the acquisition to be delayed by following the normal procedures of compulsory acquisition the Commission may take possession of uncultivated or pasture or arable land upon the expiration of fifteen days from the date of publication of the notice of intention to acquire.

9.4.1.2 Africa Development Bank (AfDB) Guidelines

In compliance with the AfDB's Operational safeguard 2 (OS2) on Involuntary Resettlement, Land Acquisition, Population Displacement and Compensation and the AfDB Involuntary Resettlement Policy (2003), the Government should ensure that the design and implementation of the RAP is aligned to the following principal requirements outlined in table 9-2 below. APCL will play a complementary role and will support the Government agencies as required to try and always align the RAP process to the AfDB's requirements.

Table 9-2: Key Considerations and Principal Requirements for the Resettlement Action Plan (RAP)

Key Considerations	Principal Requirements
Project design	<ul style="list-style-type: none"> ▪ APCL should consider all other feasible alternative project designs, including re-siting, to avoid or minimize physical or economic displacement ▪ The project team should ensure that the land acquisition balances environmental, social, and financial costs and benefits and that the implications of resettlement do not bear severe adverse implication to the affected individuals and communities
Consultation and participation of affected communities and persons	<ul style="list-style-type: none"> ▪ The Government and APCL should ensure full disclosure, consultation and meaningful engagement of the affected communities and individuals. The RAP must be prepared through a process of public consultation with all interested and affected parties. These consultations should be guided by AfDB's consultation and participation guidelines to ensure: <ul style="list-style-type: none"> – Appropriate notice to all potentially affected persons that resettlement is being considered and that there will be public hearings on the proposed plans and alternatives; – Effective advance dissemination of relevant information, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups; – A reasonable time period for public review of, comments on, and/or objection to any options of the proposed plan; and – Public hearings that provide affected persons and/or their legally designated representatives with opportunities to challenge the resettlement design and process, and/or to present and discuss alternative proposals and articulate their views and development priorities
Resettlement planning	<ul style="list-style-type: none"> ▪ As part of the resettlement planning, the Government and APCL should carry out a comprehensive socioeconomic survey that will include: <ul style="list-style-type: none"> – Identification of the people who will be displaced by the project – A comprehensive description of the relevant characteristics of the persons to be displaced including conditions of vulnerability – A comprehensive description of the magnitude of the expected physical and economic displacement

Key Considerations	Principal Requirements
	<ul style="list-style-type: none"> - A population census and an inventory of assets, including natural assets upon which the affected people may depend upon for the whole of or a portion of their livelihoods) ▪ The Government and APCL should then prepare one of the following: <ul style="list-style-type: none"> - A Full Resettlement Action Plan (FRAP) if the identified number of persons to be displaced is 200 or more or if the proposed project is deemed to have possible adverse effects on vulnerable groups as per the Environmental and Social Impact Assessment report - An Abbreviated Resettlement Action Plan (ARAP) if the identified number of persons to be displaced is less than 200 persons
<p>Compensation</p>	<ul style="list-style-type: none"> ▪ The Government and APCL should ensure that affected people are compensated for all their losses at full replacement costs ▪ They should ensure that the criteria for assessing the value of land, housing and other property are standardized and transparent, and the benefits of the resettlement are clearly established ▪ Compensation should be done before the affected persons move out of the required land, before land and related assets are taken and, if the project is implemented in phases, before project activities begin for each particular phase ▪ The project team is required to establish quality control and monitoring systems to guarantee that affected people receive the agreed compensation packages before project implementation on the ground ▪ The compensation payment procedures should be simple and should be monitored by an independent third party. Accurate records of all transactions should be maintained ▪ The Government and APCL should ensure that the living standards, income-earning capacity, production levels and overall means of livelihood of the displaced persons are improved beyond pre-project levels. To this end, a comprehensive livelihood improvement programme should be implemented as part of the Resettlement Action Plan Strategies ▪ If cash payments are made, the affected persons should be provided with counseling to ensure that they have the knowledge to use the compensation efficiently ▪ If replacement land is offered, the displaced people should be provided with land for which a combination of productive potential, locational advantages and other factors is equivalent to, or better than, the land taken

Key Considerations	Principal Requirements
	<ul style="list-style-type: none"> ▪ All housing for physically displaced people is provided with security of tenure. i.e. they are resettled to a site that they can legally occupy and from which they are protected from the risk of eviction ▪ The project team should also make deliberate effort to provide opportunities to the affected people to derive appropriate development benefits from the project
Vulnerable groups	<ul style="list-style-type: none"> ▪ The Government and APCL should ensure that the interests of both women and men and of the elderly and the handicapped are taken into account when formulating and implementing compensation packages, resettlement assistance measures and livelihood improvement measures ▪ They should identify all vulnerable groups likely to be displaced and ensure meaningful consultation and participation of these groups throughout the RAP process ▪ Considerable attention is given to gender vulnerabilities with the following recommendations: <ul style="list-style-type: none"> – That women groups and men groups are involved in resettlement planning, management and operations, and in job creation and income generation. – That the project team considers provision of health care services, particularly for pregnant women and infants during and after relocation to prevent increases in morbidity and mortality due to malnutrition, the psychological stress of being uprooted, and the increased risk of disease – That the Resettlement Action Plan includes a specific protocol specifying safeguards for the quality and quantity of land to be allocated for women, especially widows and divorcees, to safeguard their means to generate income and achieve food security. – That land titles at the resettlement site are in the name of both spouses or of single heads of household, regardless of gender – That husbands and wives, unmarried women, and elderly sons and daughters are explicitly included as eligible for compensation, including compensation for loss of land, shelter, livelihoods and any other privately owned assets
Eligibility entitlements and	<ul style="list-style-type: none"> ▪ In accordance with the involuntary resettlement policy of the AfDB, the following 3 groups of displaced people are entitled to compensation or resettlement assistance for loss of land or other assets taken for project purposes. These are:

Key Considerations	Principal Requirements
	<ul style="list-style-type: none"> I) Those who have formal legal rights to land or other assets recognized under the National laws of Kenya including people who are physically residing at the project site and those who will be displaced or may lose access or suffer a loss in their livelihood as a result of project activities II) Those who may not have formal legal rights to land or other assets at the time of the census/evaluation but can prove that they have a claim that would be recognized under Kenyan laws including those who may not be physically residing at the project site or may not have any assets or direct sources of livelihood derived from the project site, but who have spiritual and/or ancestral ties with the land and are locally recognized by communities as customary inheritors. III) Those who have no recognizable legal right or claim to the land they are occupying in the project area and who do not fall into either of the two categories described above, if they themselves or witnesses can demonstrate that they occupied the project area of influence for at least six months prior to a cut-off date established by the Government and APCL
Host communities	<ul style="list-style-type: none"> ▪ The Government and APCL should carry out a detailed analysis of host communities to identify potential problems associated with receiving displaced people, and to address these problems accordingly to ensure adverse impacts on host communities are minimized and the host communities are able to share in the development opportunities provided through the resettlement process

9.4.1.3 Terms of Reference (TOR) for the design and implementation of the RAP

In alignment with the above guidelines, APCL prepared and submitted to the Ministry of Energy and Petroleum, comprehensive Terms of Reference (TOR) for the design and implementation of the RAP. The TOR outlined the requirements for clear, detailed procedures to be followed in order to:

- Identify the Project Affected Persons (PAPs),
- Assess the extent of socio-economic impact of the Project implementation on the PAPs and outline levels of assistance for relocation and reconstruction of households for the affected persons,
- Develop comprehensive compensation programs that meet legal requirements of the Government of Kenya, and the AfDB guidelines and,
- Ensure that due consideration of alternatives is made to minimize or avoid disruption of individual households lifestyles

More specifically, the key deliverables of the RAP were to:

- Clearly identify the authentic Project Affected Persons (PAP).
- Identify accurately land holding ownership and acreage
- Identify the GPS Coordinates for each individual landholding
- Provide proof (as comprehensive as possible) of land ownership (if applicable);
- Provide value for crops/mature trees/shelter(s)/dwellings in the identified land holding
- Provide a comprehensive and complete list of the PAP with the above details
- Demonstrate a documented verification process followed in the identification of PAPs
- Determine and document the extent (value) to which each PAP is impacted by the project
- Prepare a resettlement/compensation protocol in consultation with relevant Government authorities
- Develop a complete resettlement/compensation roll in consultation with the National and County Government, and County Administration in the project area
- Prepare a monitoring mechanism in the RAP that will be followed to ensure only authentic, identified PAPs are in the RAP report
- Submit the full RAP to the relevant Government Ministries, County Government and the Project Developer
- Develop a comprehensive budget proposal to undertake above RAP process and present it to the Project Developer (and other relevant stakeholders e.g. KPA, County Land Control Board, Ministry of Energy & Petroleum, Ministry of Lands and Housing and Ministry of Internal Security).

The RAP process is being led by the National Land Commission as the competent authority in Kenya for acquisition of public or community land. Amu Power will work closely with the National Land Commission, Ministry of Energy and Petroleum, County Government of Lamu and other stakeholders to follow the process outlined in the AfDB's operational safeguard 2 and the IFC's performance standard 5.