



**REVISED RESETTLEMENT ACTION PLAN (RAP)
FOR REHABILITATION OF SANITARY LANES
WAJIR PROJECT AREA (WAJIWASCO)**

**PROJECT: WATER AND SANITATION
DEVELOPMENT PROJECT (WSDP)**

CREDIT NO: IDA-60300KE

COUNTRY: REPUBLIC OF KENYA

**EMPLOYER: WAJIR WATER AND SEWERAGE
COMPANY**

DECEMBER 2020

REPUBLIC OF KENYA

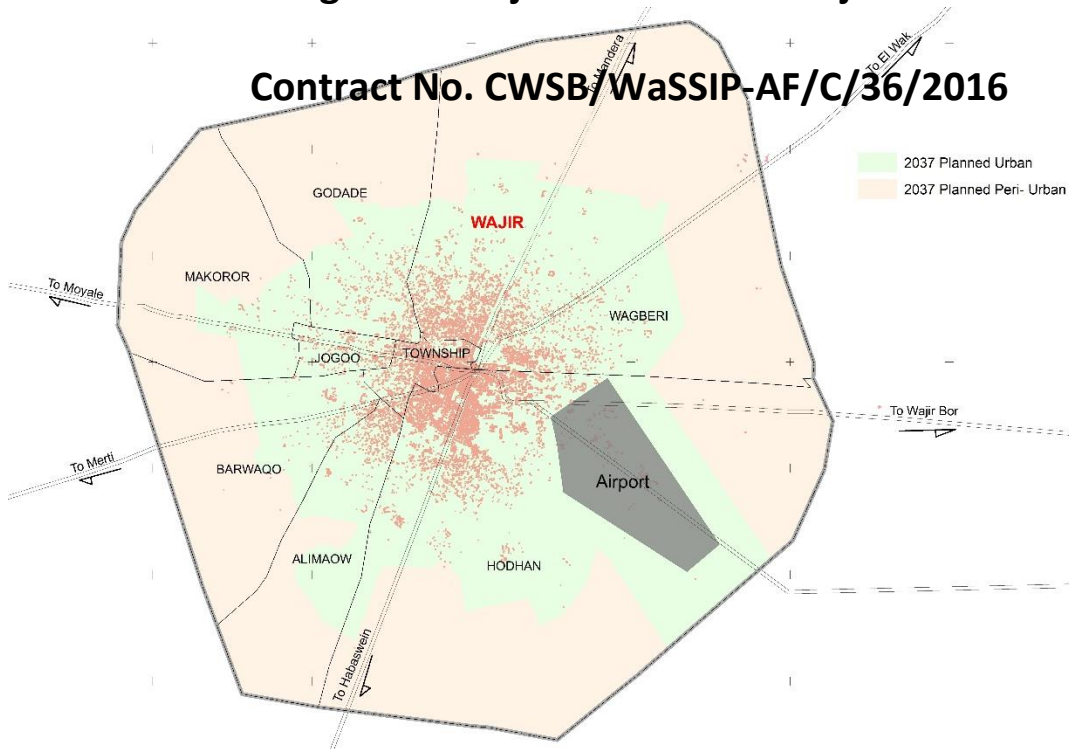


COAST WATER SERVICES BOARD

**WATER AND SANITATION SERVICE IMPROVEMENT PROJECT –
ADDITIONAL FINANCING (WaSSIP - AF)**

**Preparation of Sanitation Plans, Feasibility Studies and Preliminary
Designs for Wajir and Daadab Project Areas**

Contract No. CWSB/WaSSIP-AF/C/36/2016



**REVISED RESETTLEMENT ACTION PLAN (RAP) FOR
REHABILITATION OF SANITARY LANES -
WAJIR PROJECT AREA**

DECEMBER 2020

“DOCUMENT CONTROL”

RECORDS FOR REVISION




DATE:	DESCRIPTION/PURPOSE OF ISSUE:	PREPARED BY:
5 th May 2018	‘FINAL’ RESETTLEMENT ACTION PLAN (RAP) FOR REHABILITATION OF SANITARY LANES FOR WAJIR TOWN PROJECT AREA	
23 th August 2019	REVISED ‘FINAL’ RESETTLEMENT ACTION PLAN (RAP) FOR REHABILITATION OF SANITARY LANES FOR WAJIR TOWN PROJECT AREA	
6 th August,2020	‘FINAL’ RESETTLEMENT ACTION PLAN (RAP) FOR REHABILITATION OF SANITARY LANES FOR WAJIR TOWN PROJECT AREA	

TABLE OF CONTENTS

LIST OF ABBREVIATIONS	VI
E. EXECUTIVE SUMMARY	1
E.1 PROJECT INFORMATION	1
E.2 DETAILS OF SANITARY LANES IN THE TARGET LOCATIONS	3
E.3 OBJECTIVES OF RESETTLEMENT ACTION PLAN (RAP)	11
E.4 APPROACH AND METHODOLOGY	11
E.5 INSTITUTIONAL AND LEGAL FRAMEWORK.....	13
E.6 RESETTLEMENT IMPACTS	13
E.7 PUBLIC AND INSTITUTIONAL CONSULTATIONS.....	16
E.8 ELIGIBILITY AND CUT-OFF DATES.....	17
E.9 VULNERABLE AND MARGINALIZED GROUPS.....	18
E.10 APPLICABLE GRIEVANCE REDRESS MECHANISM	19
E.11 RAP BUDGET	19
CHAPTER 1: PROJECT BACKGROUND	1-1
1.1 GENERAL INFORMATION	1-1
1.2 DETAILS OF SANITARY LANES IN THE TARGET LOCATIONS	1-3
1.3 OBJECTIVES OF RESETTLEMENT ACTION PLAN (RAP)	1-10
1.4 APPROACH AND METHODOLOGY	1-10
CHAPTER 2: PROJECT RESETTLEMENT IMPACTS	2-1
2.1 PROJECT IMPACTS	2-1
2.1.1 Resettlement Impacts in Township Location	2-1
2.1.2 Resettlement Impacts in Hodhan Location	2-3
2.1.3 Resettlement Impacts in Barwaquo Location	2-5
2.1.4 Resettlement Impacts in Godade Location	2-7
2.1.5 Resettlement Impacts in Jogoo Location	2-9
2.1.6 Resettlement Impacts in Wagberi Location	2-11
2.1.7 Resettlement Impacts in Alimao Location	2-13
CHAPTER 3: SOCIO ECONOMIC PROFILE OF WAJIR TOWN PROJECT AREA	3-1
3.1 WAJIR TOWN PROJECT AREA	3-1
3.2 LAND TENURE.....	3-1
3.3 DEMOGRAPHIC CHARACTERISTICS & ATTRIBUTES OF PROJECT AFFECTED PERSONS	3-2
3.3.1 Age of Household Head.....	3-2
3.3.2 Gender Profile of Household Head	3-2
3.3.3 Marital Status of Household Head	3-3
3.3.4 Education Profile of Household Head	3-3
3.4 WATER SUPPLY INFORMATION	3-4
3.4.1 Sources of Water	3-4
3.4.2 Water Treatment and Transportation	3-4
3.4.3 Sustainability of the Wells and Other Water Sources.....	3-5
3.4.4 Number of Households Sharing a Water Source	3-5
3.4.5 Distance Covered and Time Taken to Get Water Source	3-5
3.4.6 Cost of Water for the Popular 20 litre Jerrican.....	3-5

3.4.7	Problems Associated with Water Supply	3-6
3.5	SANITATION STATUS INFORMATION	3-6
3.5.1	Mode of Human Excreta Disposal	3-6
3.5.2	Ownership and Locations of Toilet Facilities	3-7
3.5.3	Users of Sanitation Facility and Time Taken to Fill the Facility.....	3-7
3.5.4	Availability of Hand Wash Basin and Charges for Use of Facility.....	3-7
3.5.5	Disposal Site for the Exhaust	3-8
3.6	WATER BORNE RELATED ILLNESS	3-9
3.7	CONSUMPTION INDICATORS.....	3-10
3.7.1	Main Source of Income	3-10
3.7.2	Connection to Electricity	3-11
3.7.3	Infrastructure Challenges affecting Quality of Life	3-11
3.7.4	School Attendance and Attendance	3-11
3.7.5	Type of Housing Material	3-12
3.8	RELIGIOUS SETTING.....	3-13
3.9	COMMUNITY LEADERSHIP AND DISPUTE RESOLUTION	3-13
CHAPTER 4: POLICY AND LEGAL PROVISIONS		4-1
4.1	GENERAL INFORMATION	4-1
4.2	LEGAL AND POLICY PROVISION FOR VULNERABLE AND MARGINALIZED COMMUNITY (VMGs).....	4-1
4.2.1	The Constitution of Kenya, 2010	4-1
4.2.2	The World Bank Operation Policy OP 4.10 on Indigenous People.....	4-2
4.3	NATIONAL RELEVANT LAWS.....	4-2
4.3.1	Constitution of Kenya 2010	4-4
4.3.2	The Land Act (2012)	4-5
4.3.3	The Land Laws (Amendment) Act 2016	4-5
4.3.4	National Land Commission Act 2012	4-5
4.3.5	The Valuers Act (1985)	4-5
4.3.6	Housing Policy 2011	4-6
4.3.7	Evictions Guidelines April 2017	4-6
4.3.8	Matrimonial Property Act No 49 of 2013, Ownership of Matrimonial Property.....	4-7
4.3.9	Constitutional Provisions and Disability	4-7
4.3.10	Wayleave Acquisition Process in Kenya	4-8
4.4	WORLD BANK SAFEGUARD POLICY ON RESETTLEMENT	4-12
4.4.1	Differences Between Kenyan Laws and the World Bank Policy	4-13
CHAPTER 5: STAKEHOLDER CONSULTATIONS AND PUBLIC PARTICIPATION		5-1
5.1	LEGAL AND POLICY PROVISIONS FOR STAKEHOLDER CONSULTATIONS.....	5-1
5.1.1	World Bank Group (WBG) OP 4.12 on Involuntary Resettlement and Land Act 2012	5-1
5.1.2	Objectives of Stakeholder Consultation.....	5-1
5.2	SCHEDULE OF STAKEHOLDER CONSULTATIONS	5-1
5.3	PUBLIC DISCLOSURE OF RAP AND ANNUAL MONITORING REPORTS	5-8
CHAPTER 6: ELIGIBILITY AND ENTITLEMENT MATRIX		6-1
6.1	ELIGIBILITY FOR COMPENSATION	6-1
6.1.1	Eligibility for Compensation and ‘cut-off’ date	6-1
6.1.2	Exclusion from Eligibility.....	6-2
6.1.3	Vulnerable Groups	6-2
6.1.4	Strategy for Property Compensation	6-3
6.2	ENTITLEMENT MATRIX	6-4

CHAPTER 7: GRIEVANCE REDRESS MECHANISM	7-1
7.1 GRIEVANCE PROCEDURE AND RATIONALE	7-1
7.2 CUSTOMARY GRIEVANCE REDRESS MECHANISM	7-1
7.3 GENERAL PRINCIPLES OF GRIEVANCE REDRESS PROCESS	7-2
7.4 GRIEVANCE REDRESS PROCEDURE	7-2
7.4.1 Procedure of Receiving and Resolution of Complaints	7-3
7.4.2 National Land Commission Grievance Mechanism.....	7-5
7.4.3 Capacity-Building for the Grievance Officer and Grievance Committees	7-6
7.4.4 Other Alternatives.....	7-6
CHAPTER 8: RESETTLEMENT ARRANGEMENT	8-1
8.1 RESETTLEMENT IMPLEMENTATION PRINCIPLES.....	8-1
8.2 RESETTLEMENT IMPLEMENTATION ARRANGEMENTS	8-1
8.2.1 Project Management at Ministry level.....	8-2
8.2.2 The Project Coordinator (PC).....	8-2
8.2.3 Wajir Water and Sanitation Company (WAJWASCO) RAP Implementing Committee	8-3
8.2.4 RAP Activities Implementation Process Flow	8-3
8.3 RAP IMPLEMENTATION SCHEDULE.....	8-3
CHAPTER 9: VALUATION METHODOLOGY AND BUDGET	9-1
9.1 Valuation of Assets in Kenya	9-1
9.2 Methods of Valuations	9-1
9.2.1 Investment Method	9-1
9.2.2 Direct Comparison Method	9-1
9.2.3 Replacement Cost Approach	9-1
9.2.4 Gross Current Replacement Cost.....	9-2
9.3 Other Methods	9-2
9.3.1 Rates from Contractors:	9-2
9.3.2 Schedule of Rates from Ministry of Public Works:	9-2
9.3.3 Calculation of Compensation by Assets	9-2
9.3.4 Compensation for Buildings and Structures	9-2
9.4 Compensation for Community Assets.....	9-3
9.5 Compensation for Loss of Enterprises	9-3
9.6 RAP Budget.....	9-3
CHAPTER 10: MONITORING AND RAP COMPLETION AUDIT	10-1
10.1 Introduction.....	10-1
10.2 Monitoring and Evaluation Framework	10-1
10.2.1 RAP Monitoring Plan	10-1
10.2.2 RAP Monitoring Framework	10-3
10.3 Resettlement Completion Audit	10-5

List of Figures

Figure E-1: Location Plan for the Study Towns	E-3
Figure E-2: Encroachment on Sanitary Lanes in Township	E-5
Figure E-3: Encroachment on Sanitary Lanes in Hodhan	E-6
Figure E-4: Encroachment on Sanitary Lanes in Alimao	E-7
Figure E-5: Encroachment on Sanitary Lanes in Jogoo	E-8
Figure E-6: Encroachment on Sanitary Lanes in Wagberi	E-9
Figure E-7: Encroachment on Sanitary Lanes in Barwaquo	E-10
Figure 1-1: Location Plan for the Study Towns	1-2
Figure 1-2: Encroachment on Sanitary Lanes in Township	1-4
Figure 1-3: Encroachment on Sanitary Lanes in Hodhan	1-5
Figure 1-4: Encroachment on Sanitary Lanes in Alimao	1-6
Figure 1-5: Encroachment on Sanitary Lanes in Jogoo	1-7
Figure 1-6: Encroachment on Sanitary Lanes in Wagberi	1-8
Figure 1-7: Encroachment on Sanitary Lanes in Barwaquo	1-9
Figure 2-1: Affected Assets in Township Location	2-2
Figure 2-2: Materials of Assets Affected in Township Location	2-3
Figure 2-3: Septic tanks encroachment in Township location	2-3
Figure 2-4: Affected Assets in Hodhan Location	2-4
Figure 2-5: Materials of Assets Affected in Hodhan Location	2-5
Figure 2-6: Structures encroachment on the Sanitary Lanes in Hodhan location	2-5
Figure 2-7: Affected Assets in Barwaquo Location	2-6
Figure 2-8: Materials of Assets Affected in Barwaquo Location	2-6
Figure 2-9: Septic Tanks encroachment on the Sanitary Lanes in Barwaquo Location	2-7
Figure 2-10: Affected Assets in Godade Location	2-8
Figure 2-11: Materials of Assets Affected in Godade Location	2-8
Figure 2-12: Masonry Walls encroachment in Godade location	2-9
Figure 2-13: Affected Assets in Jogoo Location	2-10
Figure 2-14: Materials of Assets Affected in Jogoo Location	2-10
Figure 2-15: Wall and Bucket Latrine encroaching in Jogoo Location	2-11
Figure 2-16: Affected Assets in Wagberi Location	2-12
Figure 2-17: Materials of Assets Affected in Wagberi Location	2-12
Figure 2-18: Septic Tank and Masonry Wall encroaching in Wagberi Location	2-13
Figure 2-19: Affected Assets in Alimao Location	2-13
Figure 2-20: Community Water Point and KPLC Consumer Power Pole encroaching Sanitary Lanes in Alimao location	2-14
Figure 3-1: Age of Households	3-2
Figure 3-2: Gender Profile of Respondents	3-2
Figure 3-3: Marital Status of Households	3-3
Figure 3-4: Education Profile of Household Head	3-3
Figure 3-5: Sources of Domestic Water Supply	3-4
Figure 3-6: Water Treatment by Households	3-4
Figure 3-7: Drying up of Shallow Wells	3-5
Figure 3-8: Number of Households Sharing a Standpipe	3-5
Figure 3-9: Problems with Current Water Supply	3-6
Figure 3-10: Mode of Human Excreta Disposal	3-6
Figure 3-11: location of the toilet facility	3-7
Figure 3-12: Availability of Hand wash Basin Sanitation Services Charges	3-8

Figure 3-13: Existing Site for Sewage and Solid Waste Disposal Site	3-8
Figure 3-14: Disposal of Sludge from filled up Septic	3-8
Figure 3-15: Prevalent Water Borne Diseases.....	3-9
Figure 3-16: Use of reclaimed Water from WWTP	3-10
Figure 3-17: Main Source of Income.....	3-10
Figure 3-18: Electricity Connection to households	3-11
Figure 3-19: Problem Facing the Community.....	3-11
Figure 3-20: School Attendance	3-12
Figure 3-21: Reason for school none attendance.....	3-12
Figure 3-22: Type of Housing Material.....	3-13
Figure 6-1: Applicable Vulnerability	Error! Bookmark not defined.

Annexes

- | | | |
|---------|---|---|
| Annex 1 | - | Asset Register |
| Annex 2 | - | Minutes and List of Attendance to Public Meetings |

LIST OF ABBREVIATIONS

AoI	Area of Interest
ASAL	Arid and Semi-Arid Lands
<i>Bulla</i>	Traditional Somali Village
CG	County Government
CGRC	Community Grievance Redress Committee
COVID 19	Corona Virus Disease
FDG	Focus Group Discussion
GO	Grievance Officer
GRM	Grievance Redress Mechanisms
LA	Land Act
MoTIH & UD	Ministry of Transport, Infrastructure Housing and Urban Development
MoWS	Ministry of Water, Irrigation and Sanitation
NLC	National Land Commission
NLP	National Land Policy
NGO's	Non-Governmental Organizations
NWSB	Northern Water Services Board
OP	Operational Policy
PAD	Project Appraisal Document
PAPs	Project Affected Persons
PC	Project Coordinator
PCT	Project Coordination Team
RAP	Resettlement Action Plan
ROW	Right of Way
RPF	Resettlement Policy Framework
WaSSIP	Water and Sanitation Improvement Project
WAJWASCO	Wajir Water and Sanitation Company
WB	World Bank
WSDP	Water and Sanitation Development Project
WWTP	Waste Water Treatment Plant
VMG	Vulnerable and Marginalized Group

E. EXECUTIVE SUMMARY

E.1 Project Information

The Government of Kenya (GoK) through the Ministry of Water and Irrigation received funding from World Bank under the Water and Sanitation Services Improvement Project (WaSSIP). Part of these funds were to be used to improve sanitation in Wajir and Dadaab. The funds are to be disbursed through Coast Water Services Board (CWSB)/Northern Water Services Board (NWSB) in conjunction with the County Governments of Wajir and Garissa to prepare Detailed Designs and Bid Documents for Immediate and Short-Term Measures as well as Feasibility Studies and Preliminary Designs of the proposed works to manage sanitation of Wajir and Dadaab Towns for the next 20 years.

The goal of the study as from the Terms of Reference (ToR) is to identify a sound and rational strategy for the development of Sanitation and Sewerage services for both Wajir Town and the Dadaab Refugee Camp host community. This is expected to improve the quality of life through better health by improving sanitation and sustaining the environment in the two Project areas.

The scope of the Study is to develop alternatives solutions and recommend a phased investment programme for the Project area of Interest (AoI) with the following time horizons:

- Immediate / Short Term Plan (2017 – 2020),
- Medium Term Plan (2018 – 2027),
- Long Term Plan (2028 – 2037)

The Sanitation Master Plan for Wajir Town includes the Immediate and Short-Term Plan which focusses on the improvement of Access to Sanitation Facilities and Faecal Sludge Management in terms of handling, conveyance, treatment and disposal.

At present, the main challenge that hinders adequate access to sanitation facilities including bucket toilets and septic tanks is encroachment. Due to encroachment on the access, the width of the lanes varies significantly; 12m wide access for the main settlement access locally referred to as 'Bula', 6 – 9 m for internal circulation and 3 – 4 m for footpaths. Some access paths / roads are 2m wide due to encroachment.

During Field Surveys undertaken in the target locations of Township, Hodhan, Wagberi, Alimao, Jogoo, Barwaquo and Godade, sanitary lanes were identified and categorized as follows;

- i. Motorable Sanitary lanes.
- ii. Non Motorable Sanitary Lanes.
- iii. Encroached Sanitary Lanes
- iv. Sanitary Lanes with debris and solid wastes
- v. Sanitary Lanes with overgrown vegetation

This Report presents the Resettlement Action Plan (RAP) prepared for the planned rehabilitation of Sanitary Lanes Wajir Town Project Areas under the Immediate and Short-Term Plan.

Location Plan for the Project Towns of Wajir and Dadaab is given in **Figure E-1** on **Page E-2**.

Macluumaadka Mashruuca E.1

Dowladda Kenya (GoK) iyada oo u sii marineysa Wasaaradda Biyaha iyo Waraabinta waxaa ay maalgelin ka heshay Bangiga Adduunka iyada oo loo marayo Mashruuca Hormarinta Adeegyada Biyaha iyo Fayadhowrka (WaSSIP). Qayb ka mid ah lacagahaas ayaa loo adeegsan doonaa in lagu wanaajiyo fayadhowrka Wajeer iyo Dhadhaab. Lacagta waxaa lagu bixin doonaa Gudiga Adeegyada Biyaha Xeebta (CWSB) / Golaha Adeegyada Biyaha ee Waqooyiga (NWSB) iyadoo lala kaashanayo Degmooyinka Wajeer iyo Gaarisa si loogu diyaariyo Naqshado Faahfaahin iyo Dukumiintiyo Qaawan oo loogu talagalay Tallaabooyinka Degdega ah iyo Waqtiga Gaagaaban iyo sidoo kale Suurtogalnimada Daraasadaha iyo Naqshadeynta Horudhaca ah ee shaqooyinka la soo jeediyay ee lagu maareeyo fayadhowrka magaalooyinka Wajeer iyo Dhadhaab 20ka sano ee soo socota.

Ujeeddada daraasadda laga soo qaatay Shuruudaha tixraaca (ToR) waa in la garto istiraatiijiyad caqli gal ah oo caqli gal ah oo ku saabsan horumarinta adeegyada nadaafadda iyo bulaacadaha ee labadaba Magaalada Wajeer iyo Xerada Qaxootiga Dhadhaab ee martigelisa. Tan waxaa la rajaynayaa inay hagaajiso tayada nolosha iyada oo loo marayo caafimaad wanaagsan iyada oo la wanaajinayo fayadhowrka iyo joogtaynta deegaanka ee labada aag mashruuc.

Baaxadda Daraasadda ayaa ah in la soo saaro xalal kale oo lagu soo jeediyay barnaamij maalgashi wejigiisa loogu talagalay deegaanka Mashruuca xiisaha leh (AoI) iyadoo la adeegsanayo marxaladaha soo socda:

- Qorshaha Degdega ah / Muddada Gaaban (2017 - 2020),
- Qorshaha Xilliga Dhexe (2018 - 2027),
- Qorshaha Muddada Dheer (2028 - 2037)

Qorshaha Guud Fayadhowrka ee Magaalada Wajir waxaa ka mid ah Qorshaha Degdega ah iyo Waqtiga-Gaaban oo xoogga saaraya hagaajinta Helitaanka Xarumaha Fayadhowrka iyo Maareynta Qulqulka Faecal marka loo eego maareynta, gaarsiinta, daaweynta iyo tuurista.

Waqtiga xadirka ah, caqabadda ugu weyn ee horjoogsanaysa helitaanka ku filan ee xarumaha fayadhowrka oo ay ku jiraan musqulo baaldiyo iyo haamo ku go'doon ah waa xero. Iyada oo ay sabab u tahay gelitaanka marinka, baaxadda dariiqyadu aad ayey u kala duwan yihiin; 12m marin ballaaran oo loogu talagalay marinka dejinta ugu weyn ee maxalliga ah ee loo yaqaan 'Bula', 6 - 9 m wareegga gudaha iyo 3 - 4 m wadooyinka. Qaar ka mid ah wadiiqooyinka / marinnada jidadku waa 2m ballaaran yihiin xirid awgeed.

Intii lagu guda jiray sahan-hawleedyada goob-hawleed ee laga fuliyey bartilmaameedyada Township, Hodhan, Wagberi, Alimao, Jogoo, Barwaquo iyo Godade, dariiqyada fayadhowrka ayaa loo aqoonsaday loona kala saaray sidan soo socota;

- i. Khadadka Fayadhowrka socdhaka (Sanitary Movable).
- ii. Laydhka aan-dhaqdhaqaaqa lahayn ee Nadaafadda.
- iii. Laydhka Nadiifiya
- iv. Laydhka nadaafadda leh qashinka iyo qashinka adag
- v. Laydhka nadaafadda oo leh dhir kor u kacay

Warbixintani waxay soo bandhigaysaa Qorshaha Tallaabada Dib-u-dejinta (RAP) ee loo diyaariyay dib-u-habeynta qorshaynta mashruucyada Magaalooyinka Wajeer ee Wajeer ee hoos yimaad Qorshaha Degdega ah iyo Waqtiga-Gaaban. Qorshaha Goobta ee Mashruuca Magaalooyinka Wajeer iyo Dhadhaab waxaa lagu bixiyay Jaantuska E-1 ee bogga E-2

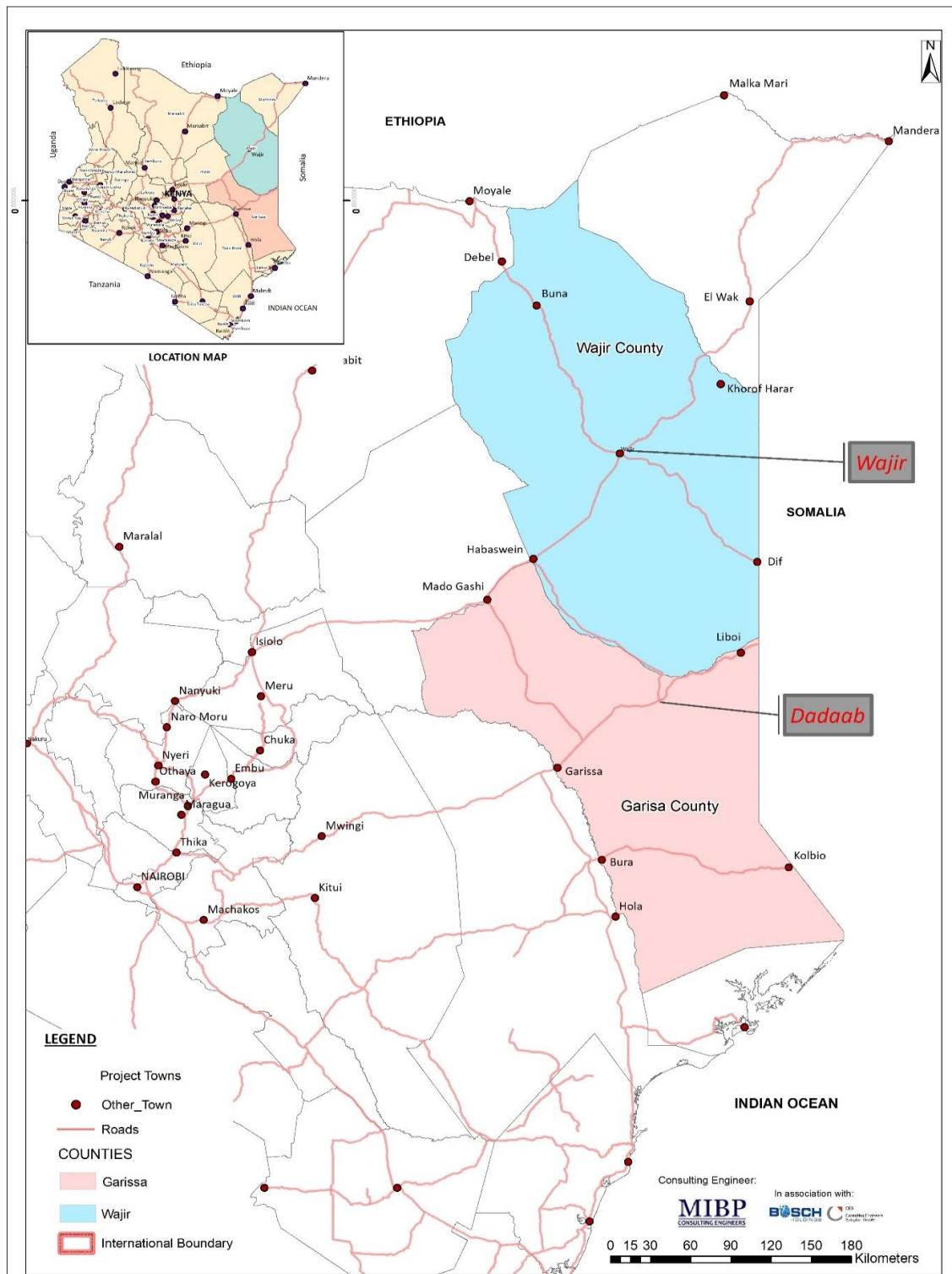


Figure E-1: Location Plan for the Study Towns

E.2 Details of Sanitary Lanes in the Target Locations

The location of the sanitary lanes and the nature of the land ownership is important for the successful implementation of Rehabilitation Works of the Sanitary Lanes.

Interpretation of Cadastral Maps for targeted locations in Wajir Town indicates that land has been adjudicated in Hodhan, Township and Jogoo locations. As a result, land owners have been issued with share certificates by the Ministry of Land. However, in the locations of Barwaqo, Alimao,

Godade and Wagberi locations, land parcels have been subdivided but the process of registration and issuance of land ownership certificates is yet to be concluded. This implies that some residents in these areas do not have plot numbers and land ownership documents. The land in question is a public R.O.W, hence, there is no acquisition of land and the compensation is for loss of assets (structures (shop canopies and wall extensions) and community assets /public amenities) on encroached sanitary lanes in ROW as explained in section E-6 of the RAP Report.

Summary of details of the Plots and Sanitary Lanes in the respective locations in Wajir Town is given in **Table E-1** below.

Table E-1: Details of Plots and Sanitary Lanes in Wajir

Location	Number of Plots	Number of Sanitary Lanes	Length of Sanitary lanes
Township/madina	1930	36	18.15km
Hodhan/shallete	1250	22	17.65km
Alimao	1050	15	10.43km
Wagberi	1200	27	10.4km
Barwaqo	1100	17	11.1km
Halane/godade	970	26	7.85km
Jogoo	950	18	15.25km

Detailed Maps showing encroachments in the respective locations of Wajir Town are given in **Figures E-2 to E-7** on **Pages E-4 to E-9**. The highlights in the maps and figures also include properties not affected by the project , hence the reason why it appears that the number of properties with perimeter walls encroaching the sanitary lines (as drawn on the maps) are generally more that the number of PAPs stated in the tables.

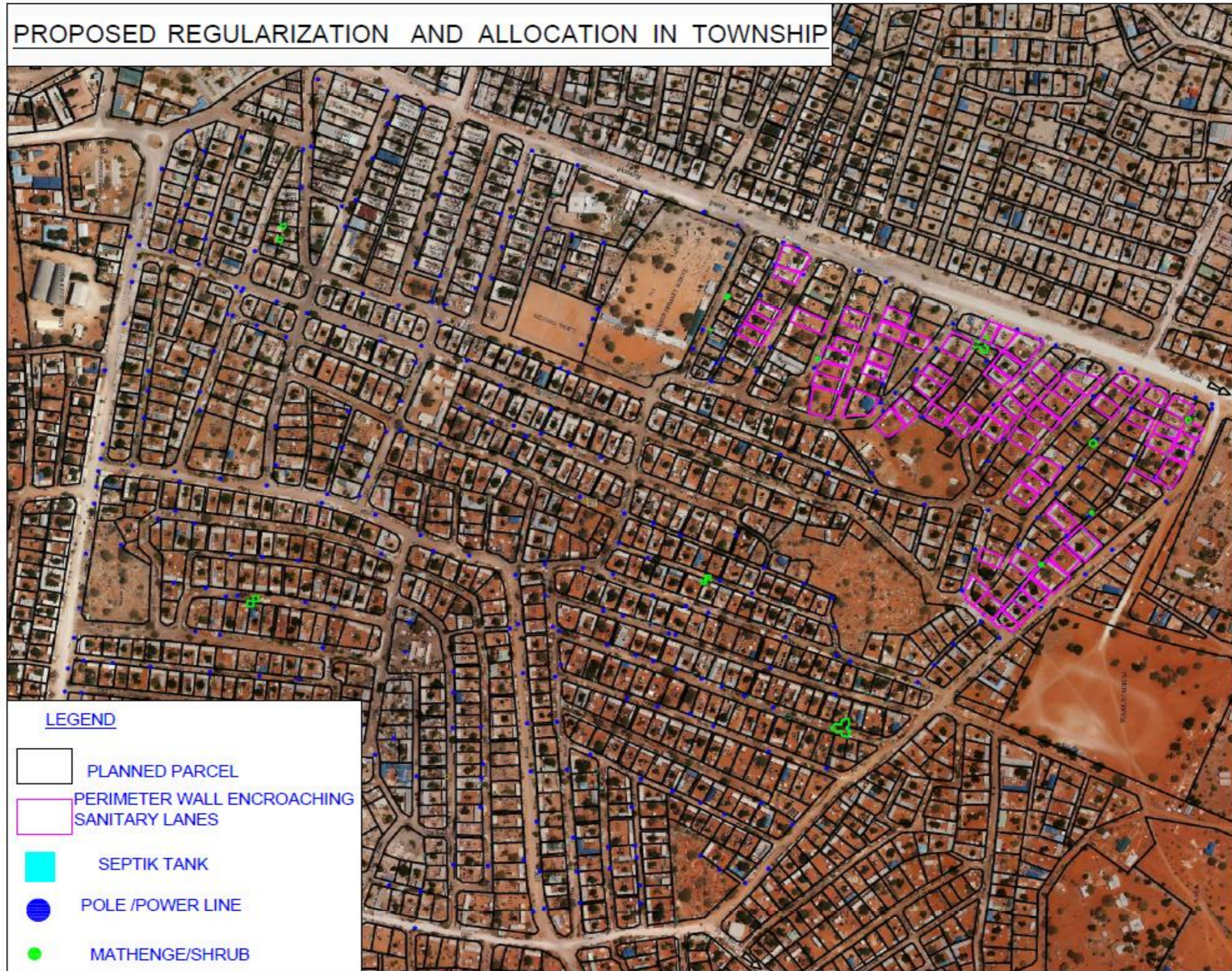


Figure E-2: Encroachment on Sanitary Lanes in Township

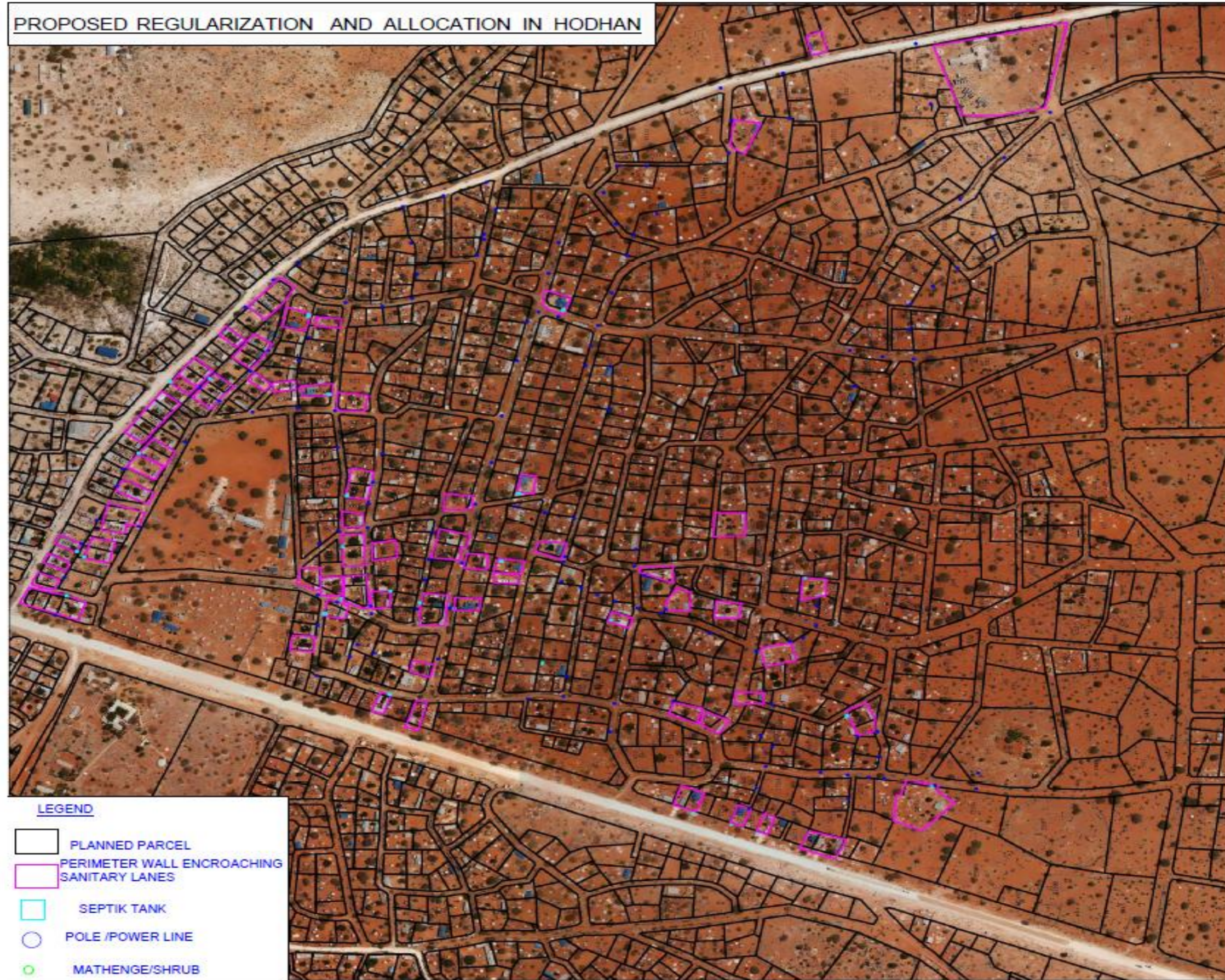


Figure E-3: Encroachment on Sanitary Lanes in Hodhan

PROPOSED REGULARIZATION AND ALLOCATION IN ALIMAO

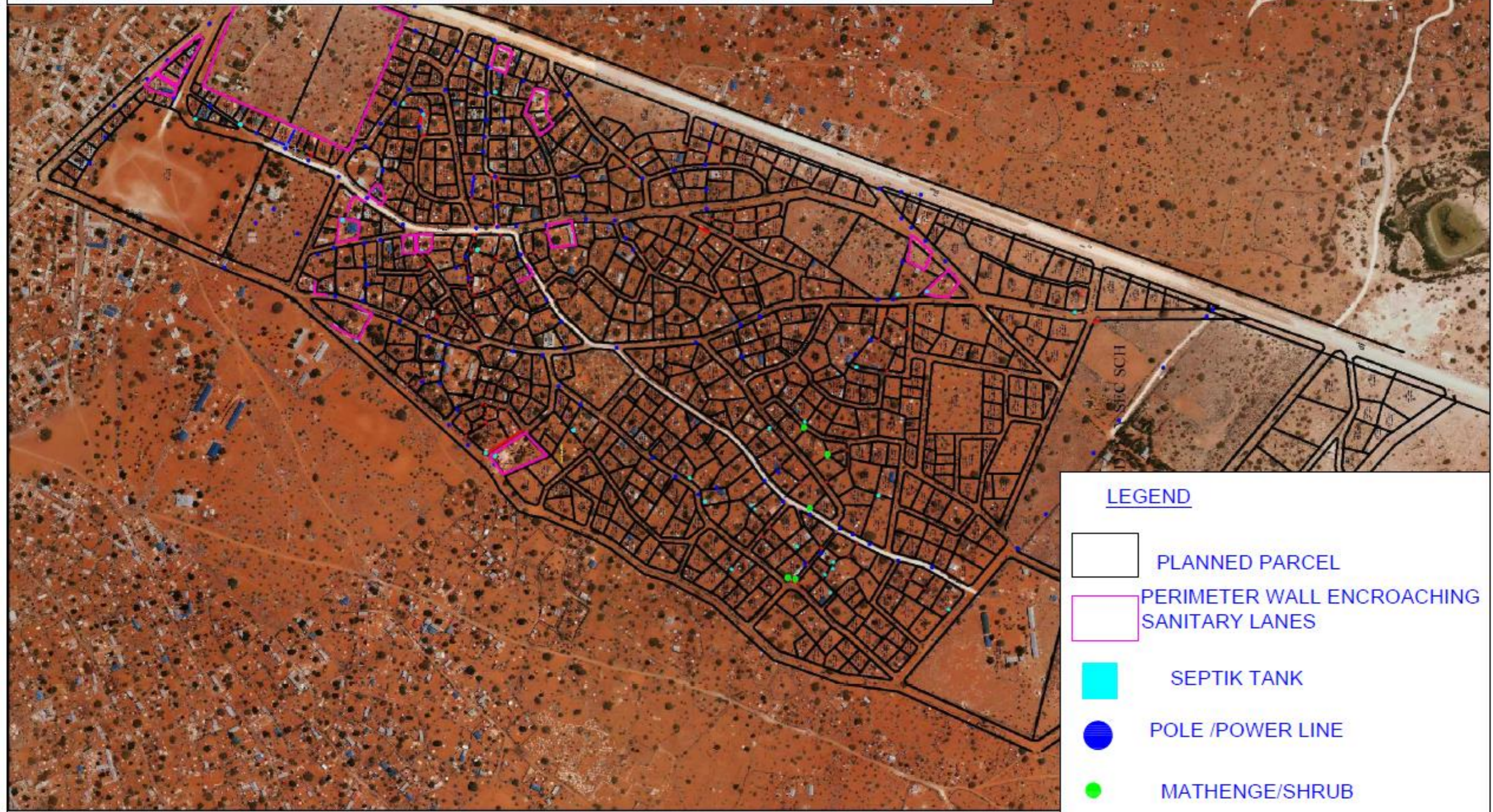


Figure E-4: Encroachment on Sanitary Lanes in Alimao

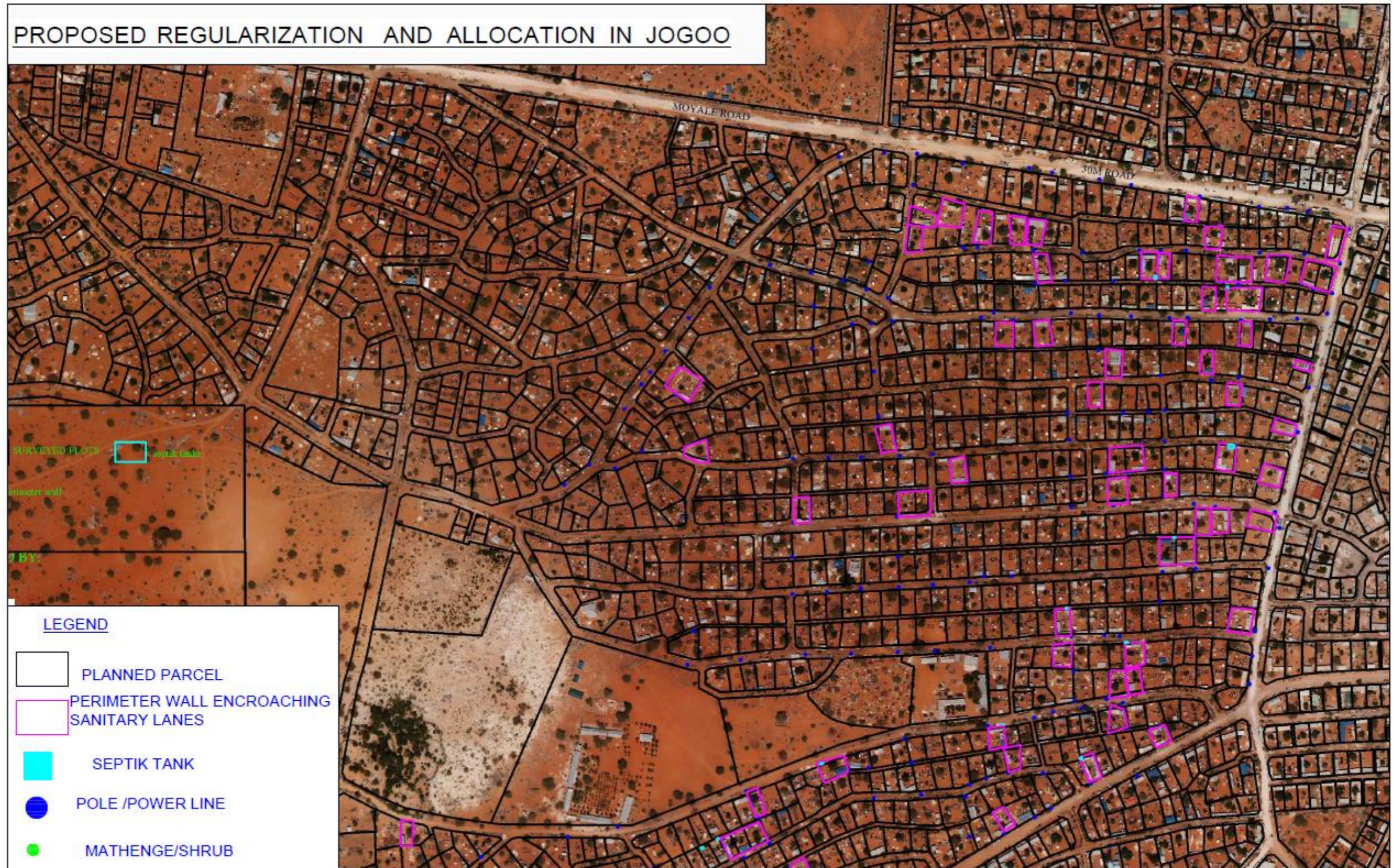


Figure E-5: Encroachment on Sanitary Lanes in Jogoo

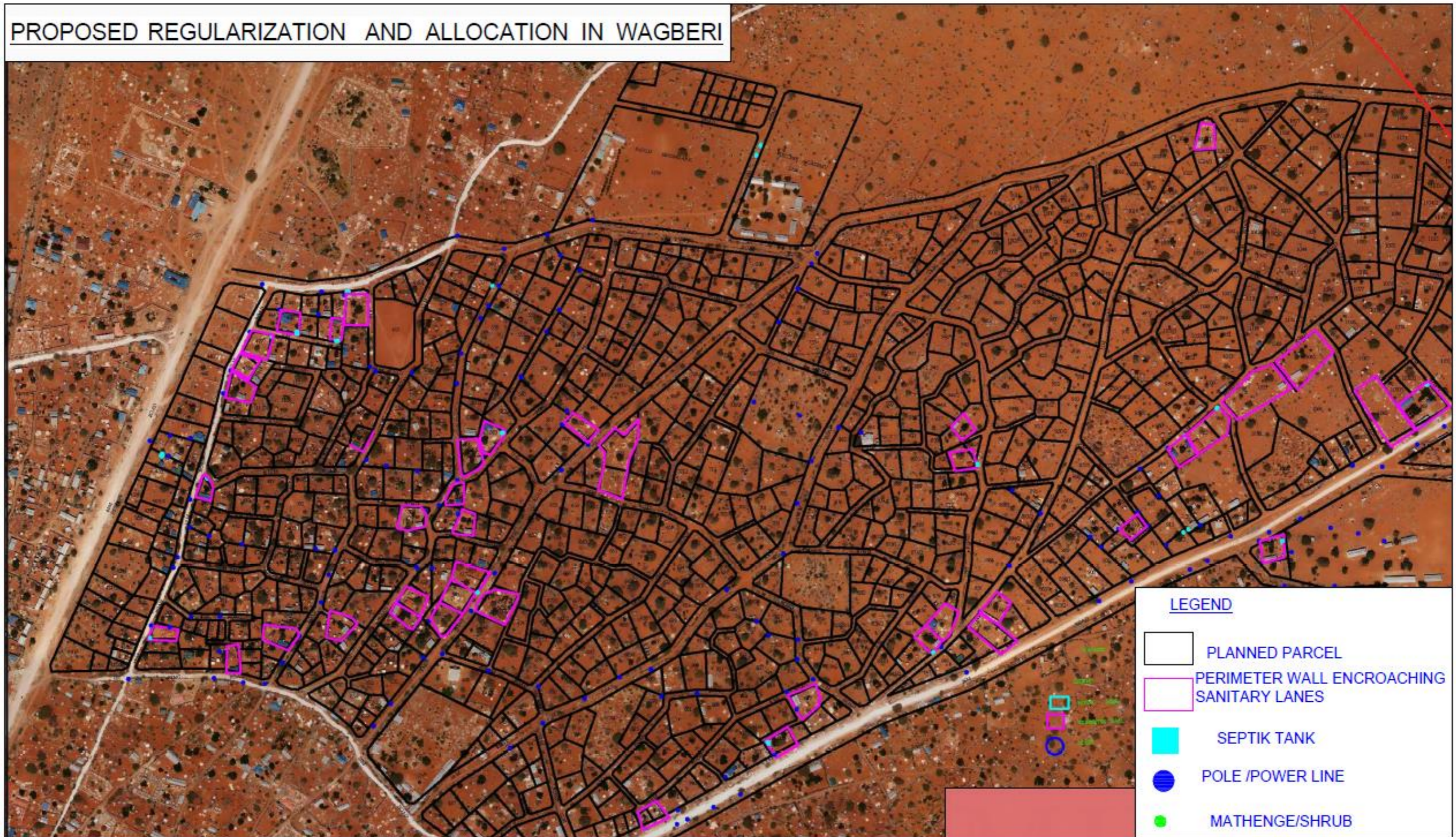


Figure E-6: Encroachment on Sanitary Lanes in Wagberi

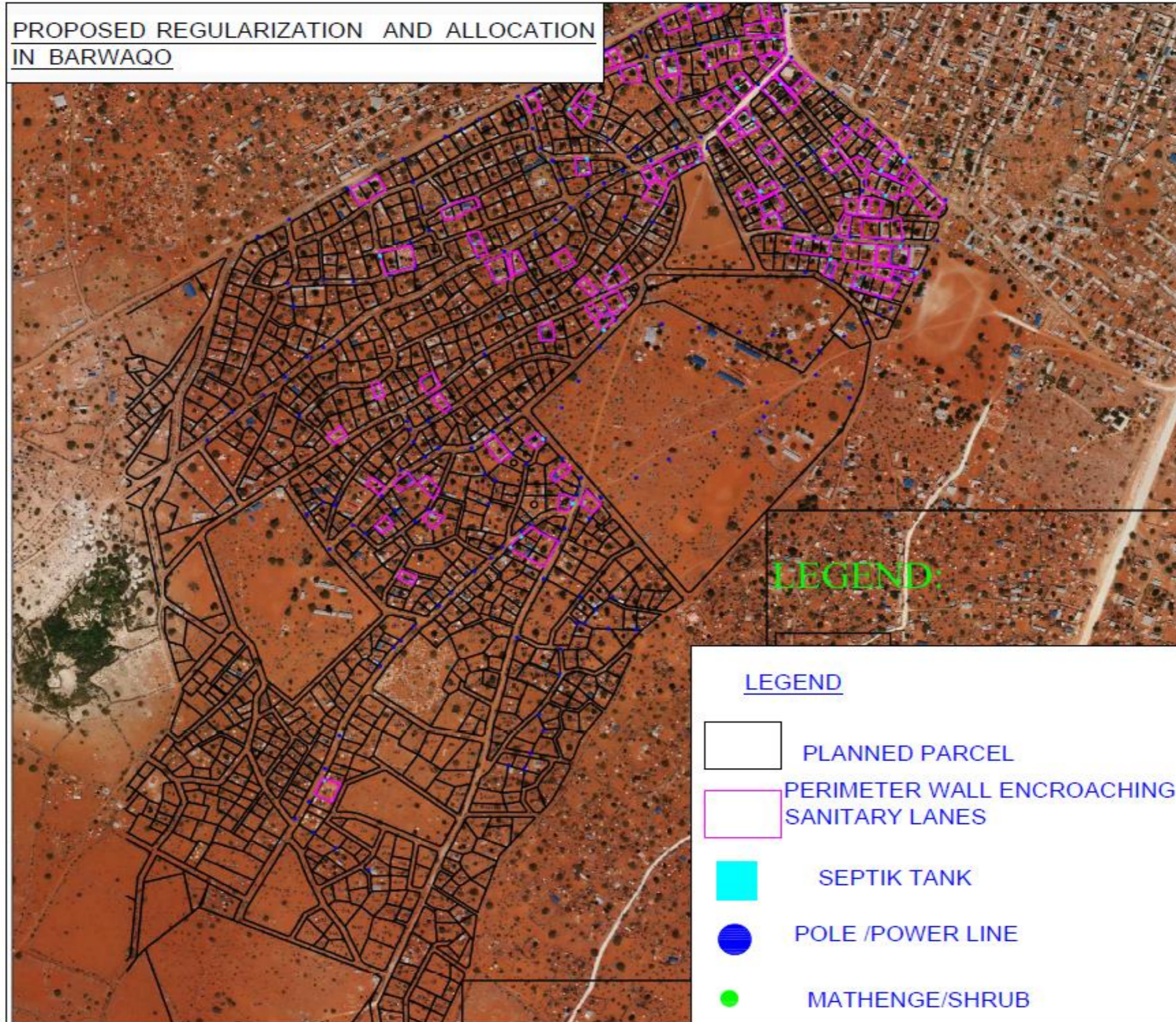


Figure E-7: Encroachment on Sanitary Lanes in Barwaqo

E.3 Objectives of Resettlement Action Plan (RAP)

The general objective of this Resettlement Action Plan (RAP) is to highlight the principles and procedures that will govern mitigation of adverse social impacts induced by the proposed rehabilitation, opening and upgrading of sanitary lanes within Wajir Town Project area.

The RAP is specifically designed to ensure that:

- (i) All types of losses are identified, clearly defined and properly categorized to reflect the nature and scope of the loss.
- (ii) A standard measure for defining eligibility and entitlement is developed for fair assessment of compensation for the loss or impact suffered.
- (iii) Compliance with provisions of Kenyan Laws and World Bank Operational Policies (OP 4.12, paragraph 2(b)): that resettlement activity has been conceived and executed as development programs, providing sufficient investment resources to enable the PAPs to share in project benefits.
- (iv) Affected persons are compensated for their losses at full replacement cost and provided compensation for disturbance prior to the beginning of civil works.
- (v) Vulnerable persons are identified and livelihood restoration measures set up for them to ensure they restore their livelihoods and standards of living.
- (vi) A comprehensive database, based on which values will be assessed, validated in the event of disputes and, more importantly, serve as the database for monitoring and evaluation of the resettlement instrument.
- (vii) The PAPs have been consulted and given the opportunity of participating in the design, implementation and monitoring of the resettlement.
- (viii) A Grievance & Redress mechanism has been established to acknowledge and resolve conflicts arising from Resettlement and Compensation.

E.4 Approach and Methodology

The approach of RAP preparation includes the following tasks:

- (i) Community mobilization and sensitization;
- (ii) PAPs and property identification.
- (iii) Property assessment and valuation;
- (iv) Institutional and individual stakeholder consultation;
- (v) PAP census Survey and Socio-Economic Surveys
- (vi) Review of secondary sources and legislations related to the project area profile;
- (vii) Data analysis; and report production.

The outputs; community consultation minutes/lists, affected property survey data/strip maps, property catalogues and a valuation roll, institutional and implementation arrangements, necessary references, annexes and social-economic profiles of PAPs have been incorporated into this RAP Report.

The review of this RAP is undertaken during the Coronavirus disease 2019 (COVID-19) pandemic outbreak. However, the preparation of the RAP including the relevant consultations were undertaken before the first case of COVID-19 was reported in Kenya. As such, specific mitigation measures have been introduced to prevent the spread of the pandemic during the RAP implementation. More particularly, consultations required as part of the mitigation measures, during RAP implementation and training on E&S issues, also pose a risk of infection to communities. For this reason, the risk of contracting the virus during consultations will be avoided, minimized and mitigated with specific measures to ensure national requirements on social distancing and recommendations on how to minimize physical contact are adhered to.

E.5 Policy, Institutional and Legal Framework

The over-arching principle governing the RAP process is Article 40 of the Constitution of the Republic of Kenya (2010) which establishes the fundamental principles of right to and protection of private property.

In addition to the Constitution, the RAP Process will comply with the requirements of the relevant national legislation of the Republic of Kenya as well as the legislations of World Bank.

The main local legislations governing the RAP process include;

- (i) Land Laws Act (2012)
- (ii) Land Laws Act (amendments) (no. 28 of 2016)
- (iii) Land Registration Act (2012)
- (iv) Valuers Act (1985)
- (v) National Land Commission Act (2012)
- (vi) The Constitution of Kenya, 2010
- (vii) County Government Act
- (viii) The Roads Act (2007)
- (ix) Eviction Guidelines (April 2017)
- (x) Land Policy 2009

World Bank Safeguards and Framework documents which govern RAP process include:

- (i) Resettlement Policy Framework (RPF) for WASSIP - AF revised October 2014
- (ii) World Bank OP 4.12 on Involuntary Resettlement

E.6 Resettlement Impacts

The Project activities will involve rehabilitation and upgrading of existing sanitary lanes with an aim of improving mobility within the target locations. Therefore, No Impact on Private Land Is Triggered.

However, impacts on property in form of structures are anticipated owing to the encroachment of the sanitary lanes by community members with assets such as; Septic tanks, walls, house extensions, shop canopies, temporal livestock houses. Public and community amenities including power poles and electricity cable lines and communal water points will also be affected.

This RAP identified the total number of PAPs in all the target 7nr locations to be 265 PAPs. Detailed breakdown of location, general information and RAP impacts is provided in **Tables E-2 to E-8 on Page E-12 to E-13**.

Table E-2: Resettlement Impacts – Township Location¹

Location	General Information	PAPs / Assets / Sanitary Lanes	
Township	Number of Sanitary Lanes	36	
	Length of Sanitary Lanes	18.15km	
	Total number of plots	1930	
	Total PAPs	33	
	Category of Impact		
	Land Owners	Nil	
	Structure Owners	33	
	Tenants	Nil	
	Loss of Business	Nil	
	Community Water Points	1	
	KPLC power Poles	4	
	Bush	Nil	

Table E-3: Resettlement Impacts – Hodhan Location

Location	General Information	PAPs / Assets / Sanitary Lanes	
Hodhan	Number of Sanitary Lanes	22	
	Length of Sanitary Lanes	17.65km	
	Total Number of Plots	1250	
	Total PAPs	53	
	Category of Impact		
	Land Owners	Nil	
	Structure Owners	53	
	Tenants	Nil	
	Loss of Business	Nil	
	Community Water Points	1	
	KPLC power Poles	Nil	
	Bush	5 sanitary lanes	

Table E-4: Resettlement Impacts – Barwaquo Location

Location	General Information	PAPs / Assets / Sanitary Lanes	
Barwaquo	Number of Sanitary Lanes	11.1km	
	Length of Sanitary Lanes	17	
	Total number of Plots	1100	
	Total PAPs	41	
	Category of Impact		
	Landowners	Nil	
	Structure Owners	41	
	Tenants	Nil	
	Loss of Business	Nil	
	Community Water Points	1	
	KPLC power Poles	13	
	Bush	2 sanitary lanes	

¹ Data provided in Tables E-2 to E-8 is derived from available cadastral maps developed by Wajir County Government Land department and field enumeration exercise undertaken for RAP

Table E-5: Resettlement Impacts – Godade Location

Location	General Information	PAPs / Assets / Sanitary Lanes
Godade	Number of Sanitary Lanes	26
	Length of Sanitary Lanes	7.85km
	Total number of Plots	970
	Total PAPs	55
Category of Impact	Land Owner	Nil
	Structure Owners	53
	Tenants	Nil
	Loss of Business	Nil
	Community Water Points	7
	KPLC power Poles	Nil
	Bush	2 sanitary lanes

Table E-6: Resettlement Impacts – Wagberi Location

Location	General Information	PAPs / Assets / Sanitary Lanes
Wagberi	Number of Sanitary Lanes	27
	Length of Sanitary Lanes	10.4km
	Total number of plots	1200
	Total PAPs	41
Category of Impact	Land Owner	Nil
	Structure Owners	41
	Tenants	Nil
	Loss of Business	Nil
	Community Water Points	5
	KPLC power Poles	Nil
	Bush	5 sanitary lanes

Table E-7: Resettlement Impacts – Jogoo Location

Location	General Information	PAPs / Assets / Sanitary Lanes
Jogoo	Number of Sanitary Lanes	18
	Length of Sanitary Lanes	15.25km
	Total number of Plots	950
	Total PAPs	44
Category of Impact	Land Owner	Nil
	Structure Owners	44
	Tenants	Nil
	Loss of Business	Nil
	Community Water Points	Nil
	KPLC power Poles	Nil
	Bush	8 sanitary lanes

Table E-8: Resettlement Impacts – Alimao Location

Location	General Information	PAPs / Assets / Sanitary Lanes
Alimao	Number of Sanitary Lanes	15
	Length of Sanitary Lanes	10.43
	Total number of plots	1050
	Total PAPs	Nil
Category of Impact	Land Owner	Nil
	Structure Owners	nil
	Tenants	Nil
	Loss of Business	Nil
	Community Water Points	37
	KPLC power Poles	48
	Bush	Nil

SOCIAL RISK - SPREAD OF COVID -19 AMONGST COMMUNITY MEMBERS DURING CONSULTATIONS

During implementation of the RAP, various consultative activities will be undertaken. For efficient and meaningful engagement, a wide range of individual participants, groups in the local community and other stakeholders will be involved. The consultations will involve verification of PAPs covering the occupants of the affected area and vulnerable persons and groups; awareness raising, sensitization of PAPs and gauging attitude to the project; training and capacity building for livelihoods restoration, grievance redress, execution of site - specific surveys among others. The activities will lead to close interaction between the proponent and the community members leading to a high risk of spreading COVID-19 amongst community members during the consultation process.

To minimize the risk of spread of COVID-19 amongst community members, measures will be required to ensure social distancing and appropriate communication measures. The mitigation measures will be supervised by a communications/ stakeholder engagement / social safeguards experts in the project proponent's team.

E.7 Public and Institutional Consultations

World Bank Operational Policy (OP) 4.12 on Involuntary Resettlement requires that affected persons should be consulted and accorded opportunities to participate in planning and implementation of the resettlement programs. On the other hand, Land Act 2012 outlines the NLC procedures for consultation with affected persons and grievance management procedures.

The RAP assessment involved consultations with relevant stakeholders in Wajir Town Project Area in compliance with the requisite statutes. Consultations were held with Project Interested Persons including the Vulnerable and Marginalized Communities in all the target locations and 'Bullas'. Consultations were done through Focused Group Discussions involving Vulnerable and Marginalized Groups, public meetings and key informant interviews. **Table E-9** gives a summary of Focused Group Discussion Meetings held within the target locations.

Table E-9: Schedule of Focused Group Discussions.

Date	Location	Stakeholder Consulted	No. of Participants
27 th September 2017	Wajir Township Chiefs Office	<ul style="list-style-type: none"> • Chief and Sub Chief Wajir Township • Local Public Health Committee • Women, youth and general public 	31
26 th September 2017	Jogoo Location at ADC Market	<ul style="list-style-type: none"> • Chief and Sub Chief • ADC Market Steering Committee • Local Public Health Committee • Women, youth and general public 	32
26 th September 2017	Wagberi Location LMO AP Camp Grounds	<ul style="list-style-type: none"> • Chief and Sub Chief • Local Public Health Committee. • Women, youth and general public 	33
4 th December 2017	Wajir Red Cross training hall	<ul style="list-style-type: none"> • Chief and Sub Chief • Local Public Health Committee. • Women, youth and general public • Enumerators 	80

Key informants representing various relevant institutions consulted during the Focused Group

Discussions are summarized in **Table E-10** below.

Table E-10: Schedule of Focused Group Discussions

Name of Institutions	Designation of Officers Consulted	Date Consulted
Town Administration	Town Manager – Wajir	26 th Sep 2017
Local Administration	Senior Chief Wajir Town	26 th Sep 2017
Wajir Water and Sanitation Company (WASWASCO)	Managing Director – WASWASCO	27 th Sep 2017
Wajir County Department of Health	County Department of Health	28 th Sep 2017
Wajir County Department of Health	Public Health Officer	28 th Sep 2017
Wajir County Department of Health	Deputy Director of Health	28 th Sep 2017
Wajir County Department of Health	Chief Health Public Officer	28 th Sep 2017
Wajir County Department of Health	Director of Special Programmes	28 th Sep 2017
Local Administration	Senior Chief Wajir Township	4 th Dec 2017
Local Administration	Senior Chief Alimao location	4 th Dec 2017
Local Administration	Senior Chief Hodhan Location	4 th Dec 2017
Local Administration	Senior Chief Jogoo Location	4 th Dec 2017
Local Administration	Senior Chief Godade Location	4 th Dec 2017
Local Administration	Senior Chief Wagberi Location	4 th Dec 2017
Local Administration	Senior Chief Barwaquo Location	4 th Dec 2017

The outcomes of the consultative meetings were then analyzed, and emerging issues presented incorporated into the Project Design and Implementation Planning.

The key issues discussed during the Consultative Meeting include;

- (i) Location of Project Area and status of land ownership
- (ii) Harmonization of the Project with existing Spatial Integrated Development Plan
- (iii) Likely impacts of the Proposed Project interventions (rehabilitation of Sanitary lanes) to people’s assets
- (iv) Project mechanism to address marginalization perception by the community
- (v) Health and sanitation challenges posed by poor and in accessible sanitary lanes.
- (vi) Employment opportunities to locals and labour flux management during rehabilitation of the sanitary lanes
- (vii) Preferred Community Grievance Redress Mechanisms acceptable by the community during Project implementation

E.8 Eligibility and Cut-off Dates

The concept of eligibility is used with respect to the definition of PAPs and the criteria for determining their qualification for compensation and other resettlement assistance. The Project affected persons, irrespective of their status, are eligible to some form of assistance due to interference with land they had occupied or their income-generating activity at the affected sites before the entitlement.

It was agreed with the PAPs that the ‘Cut-off date’ for the Project be **8th December 2017**; this was the first day of the census activities.

The PAPs categories identified in Wajir that are eligible for compensation / assistance include;

- (i) People whose structures will be affected by Project activity implementation. Such structures include septic tanks, walls, goat houses, house extension, shop canopies, community water points and KPLC power poles.

- (ii) People who rent structures (residential) or (tenants) on the Right of Way (RoW) designated as sanitary lane. Most of the structures identified were kiosks.

E.9 Vulnerable and Marginalized Groups

Wajir County is predominantly occupied by native Somali speaking communities who according to OP 4.10 are categorized as indigenous. A Social assessment (SA) was carried out in accordance to world bank OP 4.10, free, prior and informed consultations (FPIC). The SA Analyzed VMGs social issues and highlighted that within this community, there are vulnerable people who might suffer disproportionately or face the risk of being marginalized as a result of resettlement compensation in Wajir. The WASSIP – AF Project RPF lists the following likely vulnerabilities in the project area. These include:

- (i) Female-and child-headed households
- (ii) Widow- Female headed households
- (iii) Unmarried women,
- (iv) People Living with Disability (PLWDs) household heads,
- (v) Households where the head is unemployed and
- (vi) Households headed by elderly persons with no means of economic & Social support.

The RAP, however, identified and enumerated the following vulnerable categories as presented in Table E-11.

Table E-11: Number of Vulnerable PAPs

Location	Type of Vulnerability					Total
	Elderly	Lost Livestock due to Drought	Business Collapse	Chronically Ill	Disabled	
Alimao	Nil	Nil	Nil	Nil	Nil	Nil
Barwaqo	1	4	Nil	Nil	Nil	5
Godade	2	50	Nil	Nil	Nil	52
Hodhan	11	14	31	4	8	68
Jogoo	5	14	1	3	3	26
Township	3	Nil	2	3	Nil	8
Wagberi	2	16	7	5	3	33
Total	24	98	41	15	14	

The Proposed Assistance which the RAP can provide to the Vulnerable PAPs include;

- (i) Deliberate efforts to be put in place by WAJWASCO to ensure that spouses are included in the opening of joint bank accounts for payment of compensation monies
- (ii) Linkage to government social programme such as the "Inua Jamii 70 years and above cash transfer programme for aged PAPs
- (iii) Linkage to Livestock extension services where PAPs can receive information about; improved breeds of livestock, veterinary services to livestock and technical assistance for livestock management
- (iv) Targeted and localized house-to-house or group sensitization for the vulnerable PAP households during pre-payment consultations.
- (v) Priority consideration will be given in processing resettlement compensation payments and specialized assistance in explaining and filling out compensation payment forms.

- (vi) Specific support will be provided to the vulnerable groups by WAJWASCO in regard to either aiding these PAPs in relocating, moving property or any support that may be deemed appropriate.
- (vii) Consideration of eligible members of the vulnerable PAP households in the employment in project activities

E.10 Applicable Grievance Redress Mechanism

This RAP provides for a Grievance Redress Mechanism (GRM) which includes instruments, methods and processes by which a resolution to a grievance is sought and provided.

It was established that the Somali who are dominant community in the Project area have a customary mechanism for conflict resolution. At the core of the mechanism are the clan elders who meet and discuss disputes to determine the offended and due compensation. Disputes and grievances are resolved by elders who act in various capacities and levels.

- (i) Level (1), at the '*bull*a' or village level where clan elders meet to deal with local intra-clan issues. At this level they are convened by village elders.
- (ii) Level (2) is at the clan level where intra-clan issues are dealt with. At this level, elders mobilize each other as need arise or are convened by chiefs.

In consideration of the customary mechanism, the RAP has enhanced the GRM through the following described three-tier Grievance Mechanism:

(a) Level (1-) Bulla Elders

This is part of the customary mechanisms for dispute resolution and will be the institution of grievance/complaint debut unless dealt with fully by the community development office in the first instance or not preferred by the aggrieved party. Once the '*bull*a' elders deal with a dispute, the project through the community development officer will monitor the process and update project leaders on progress every seven days until resolved or referred to the chief and clan elders within 30 days of registration, whichever is earlier.

(b) Level (2) Chiefs and Clan Elders

Grievances to be handled at this level will be referred by the '*bull*a' elders or originate directly from the community development officer or when the grievance touches on inter-clan issues. The elders and chief responsible will be facilitated to resolve the dispute within 30 days. Monitoring will be done by the project community development officer.

(c) Level (3) Formal Judicial System

If an aggrieved person chooses not to use the above customary institutions for grievance resolution or ignores pronouncements of either or both the customary institutions; such a dispute will be forwarded to the formal justice system that includes courts of law, the National Land Commission to the extent that a grievance is relevant.

E.11 RAP Budget

The RAP provides that PAPs will be paid their resettlement and compensation entitlements prior to the rehabilitation of the sanitary lanes. The role of monitoring RAP implementation will be the designated to Wajir Water and Sanitation Company (WAJWASCO). An external monitoring and evaluation independent party is necessary to ensure effectiveness and

achievement of RAP objectives.

The total budget for resettlement compensation is **Kshs 51,813,375** the. This includes provisions for Contingency, RAP administration costs, and extra assistance to vulnerable groups and Monitoring and Evaluation as detailed in **Table E-12** below.

Table E-12:- Resettlement Action Plan Budget

Total RAP Cost	Number of PAPs	Kshs
Township location	33	4,802,630
Hodhan location	53	6,275,550
Barwaqou location	41	2,406,950
Godade location	55	3,098,790
Wagberi Location	41	4,897,090
Jogoo location	44	3,420,100
Alimao location	Nil ²	13,064,000
Sub Total 1		37,965,110
Add 10% Contingency item for RAP administrative costs		3,796,511
Add 10% extra compensation for vulnerable groups including VMGs		3,796,511
Add 10% for Livelihood Restoration measures		3,796,511
Sub Total 2		49,354,643
Add 5% for RAP Implementation Costs including Monitoring and Evaluation		2,467,732
Grand Total		51,813,375

² The Cost provided is for re-construction of 37nr community water kiosk and 48KPLC power poles in ALIMAO

CHAPTER 1: PROJECT BACKGROUND

1.1 General Information

The Government of Kenya (GoK) through the Ministry of Water and Sanitation has received funding from World Bank under the Water and Sanitation Services Improvement Project (WaSSIP). Part of these funds are to be used to improve sanitation in Wajir and Dadaab. The funds are to be disbursed through Coast Water Services Board (CWSB)/Northern Water Services Board (NWSB) in conjunction with the County Governments of Wajir and Garissa to prepare Detailed Designs and Bid Documents for Immediate and Short-Term Measures as well as Feasibility Studies and Preliminary Designs of the proposed works to manage sanitation of Wajir and Dadaab Towns for the next 20 years.

The goal of the study as from the Terms of Reference (ToR) is to identify a sound and rational strategy for the development of Sanitation and Sewerage services for both Wajir Town and the Dadaab Refugee Camp host community. This is expected to improve the quality of life through better health by improving sanitation and sustaining the environment in the two Project areas.

The scope of the Study is to develop alternatives solutions and recommend a phased investment programme for the Project area of Interest (AoI) with the following time horizons:

- Immediate / Short Term Plan (2017 – 2020),
- Medium Term Plan (2018 – 2027),
- Long Term Plan (2028 – 2037)

The Sanitation Master Plan for Wajir Town includes the Immediate and Short-Term Plan which focusses on the improvement of Access to Sanitation Facilities and Faecal Sludge Management in terms of handling, conveyance, treatment and disposal.

At present, the main challenge that hinders adequate access to sanitation facilities including bucket toilets and septic tanks encroachment. Due to encroachment on the access, the width of the lanes varies significantly; 12m wide access for the main settlement access locally referred to as 'Bula', 6 – 9 m for internal circulation and 3 – 4 m for footpaths. Some access paths / roads are 2m wide due to encroachment.

During Field Surveys undertaken in the target locations of Township, Hodhan, Wagberi, Alimao, Jogoo, Barwaquo and Godade, sanitary lanes were identified and categorized as follows;

- i. Motorable Sanitary lanes.
- ii. Non Motorable Sanitary Lanes.
- iii. Encroached Sanitary Lanes
- iv. Sanitary Lanes with debris and solid wastes
- v. Sanitary Lanes with overgrown vegetation

This Report presents the Resettlement Action Plan (RAP) prepared for the planned rehabilitation of Sanitary Lanes in Wajir Town Project Areas under the Immediate and Short-Term Plan.

Location Plan for the Project Towns of Wajir and Dadaab is given in **Figure 1-1** on **Page 1-2**.

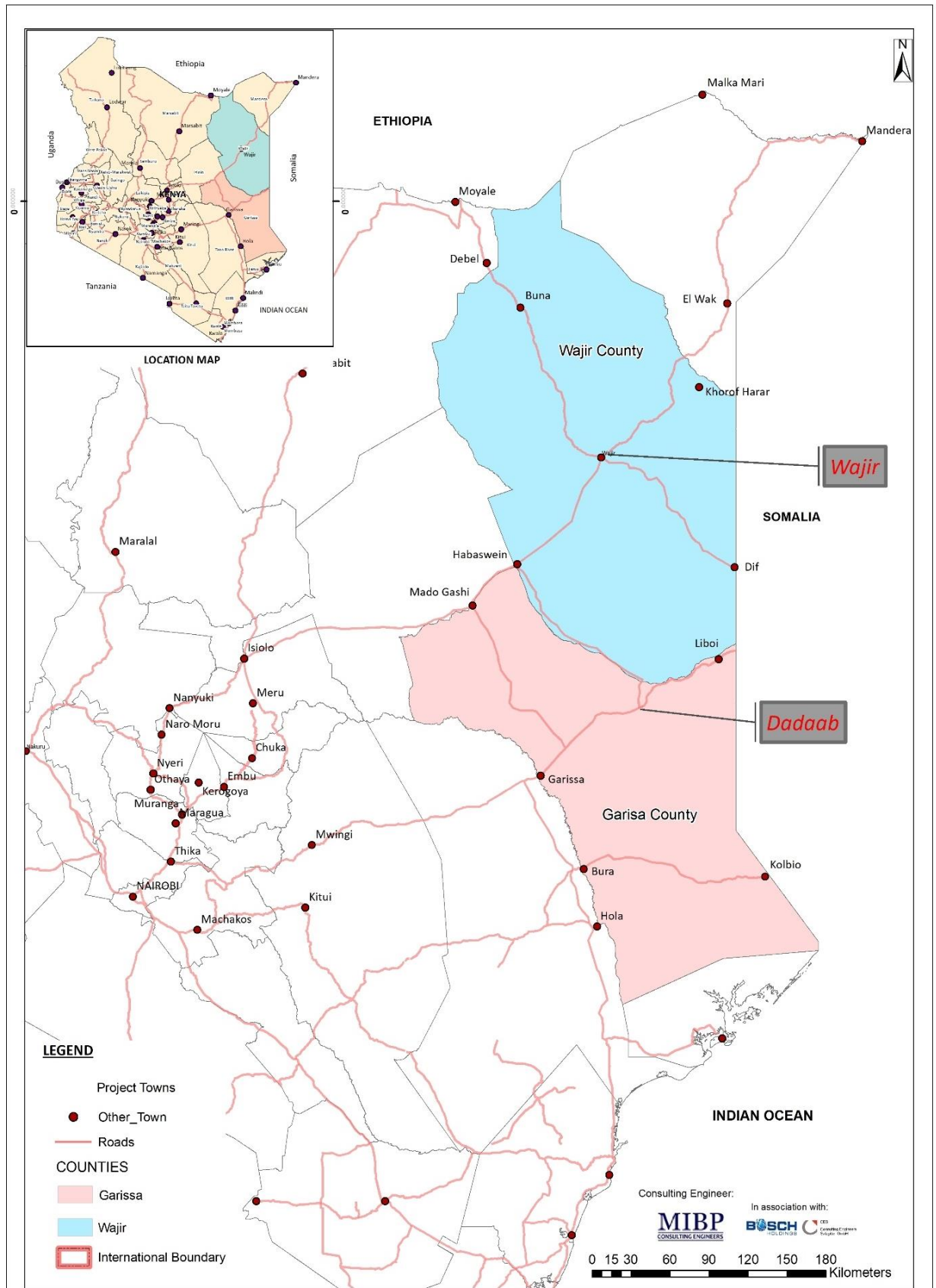


Figure 1-1: Location Plan for the Study Towns

1.2 Details of Sanitary Lanes in the Target Locations

The location of the sanitary lanes and the nature of the land ownership is important for the successful implementation of Rehabilitation Works of the Sanitary Lanes.

Interpretation of Cadastral Maps for targeted locations in Wajir town indicates that land has been adjudicated in Hodhan, Township and Jogoo locations. As a result, land owners have been issued with share certificates by the Ministry of Land. However, in the locations of Barwaqo, Alimao, Godade and Wagberi locations, land parcels have been subdivided but the process of registration and issuance of land ownership certificates is yet to be concluded. This implies that some residents in these areas do not have plot numbers and land ownership documents.

Summary of details of the Plots and Sanitary Lanes in the respective locations in Wajir Town is given in **Table 1-1** below.

Table 1-1: Details of Plots and Sanitary Lanes in Wajir

Location	Number of Plots	Number of Sanitary Lanes	Length of Sanitary lanes
Township/madina	1930	36	18.15km
Hodhan/shallete	1250	22	17.65km
Alimao	1050	15	10.43km
Wagberi	1200	27	10.4km
Barwaqo	1100	17	11.1km
Halane/godade	970	26	7.85km
Jogoo	950	18	15.25km
Total	8450	161	90.83km

Detailed Maps showing encroachments in the respective locations of Wajir Town are given in **Figures 1-2 to 1-7** on **Pages 1-4 to 1-9**.

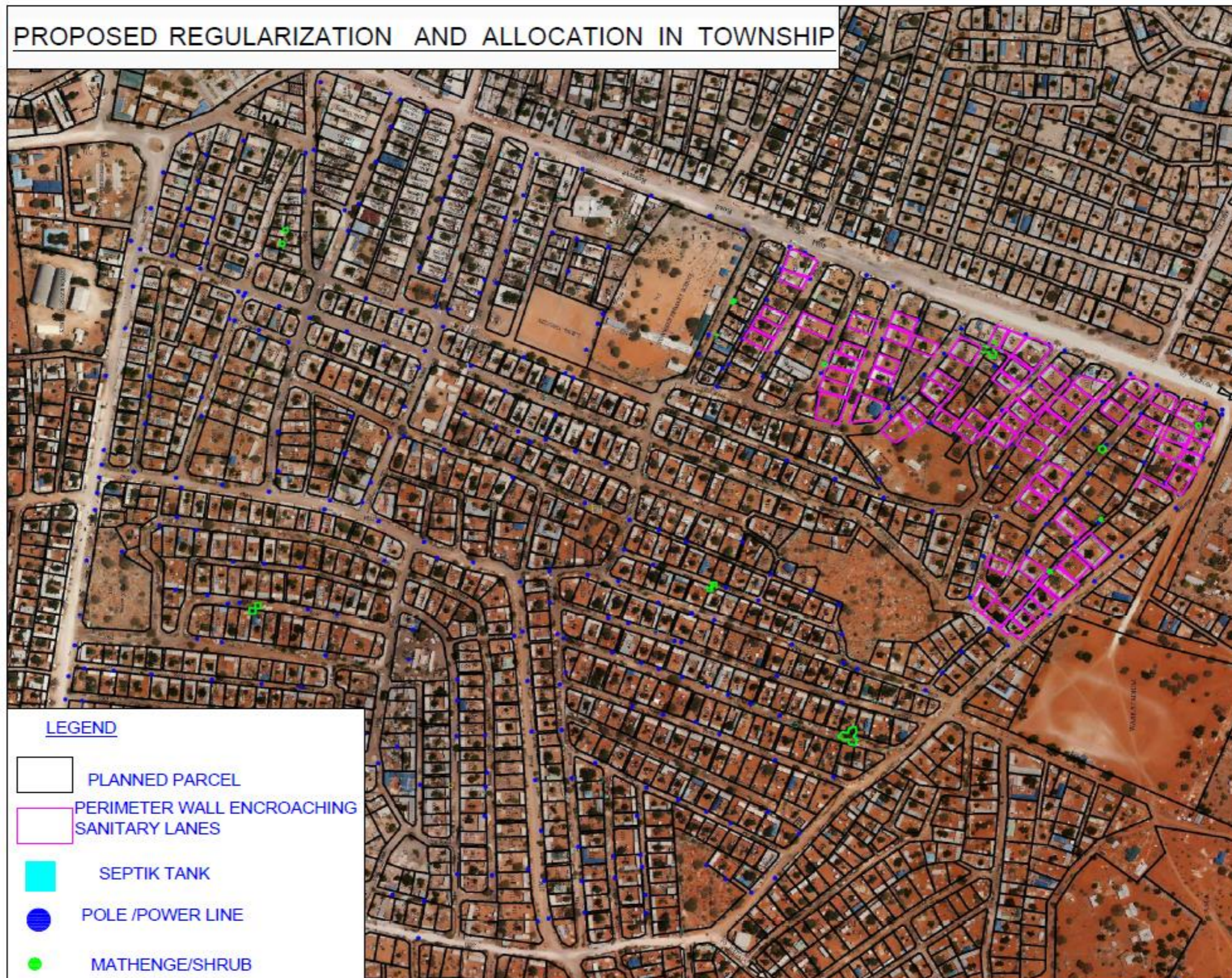


Figure 1-2: Encroachment on Sanitary Lanes in Township

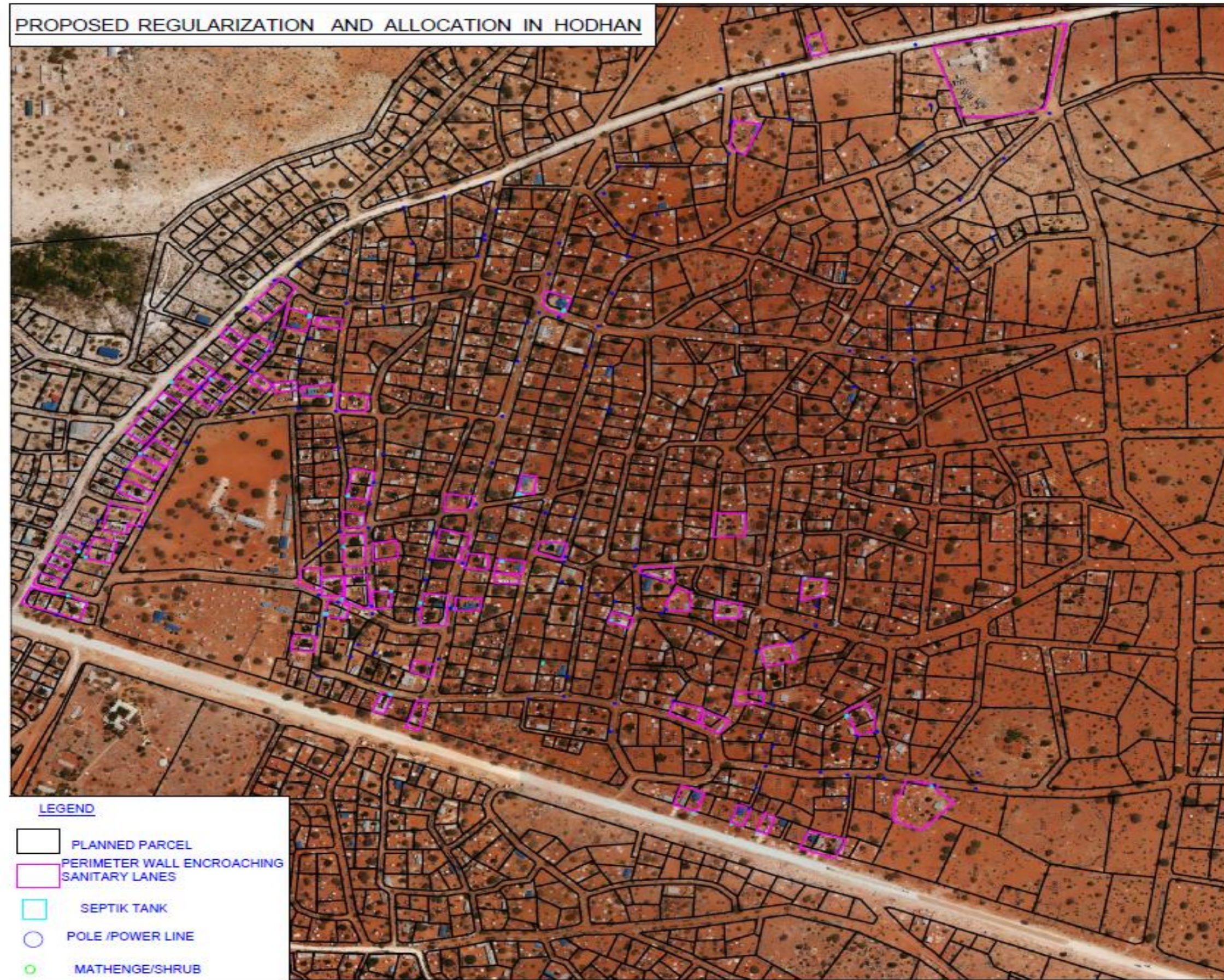


Figure 1-3: Encroachment on Sanitary Lanes in Hodhan

PROPOSED REGULARIZATION AND ALLOCATION IN ALIMAO

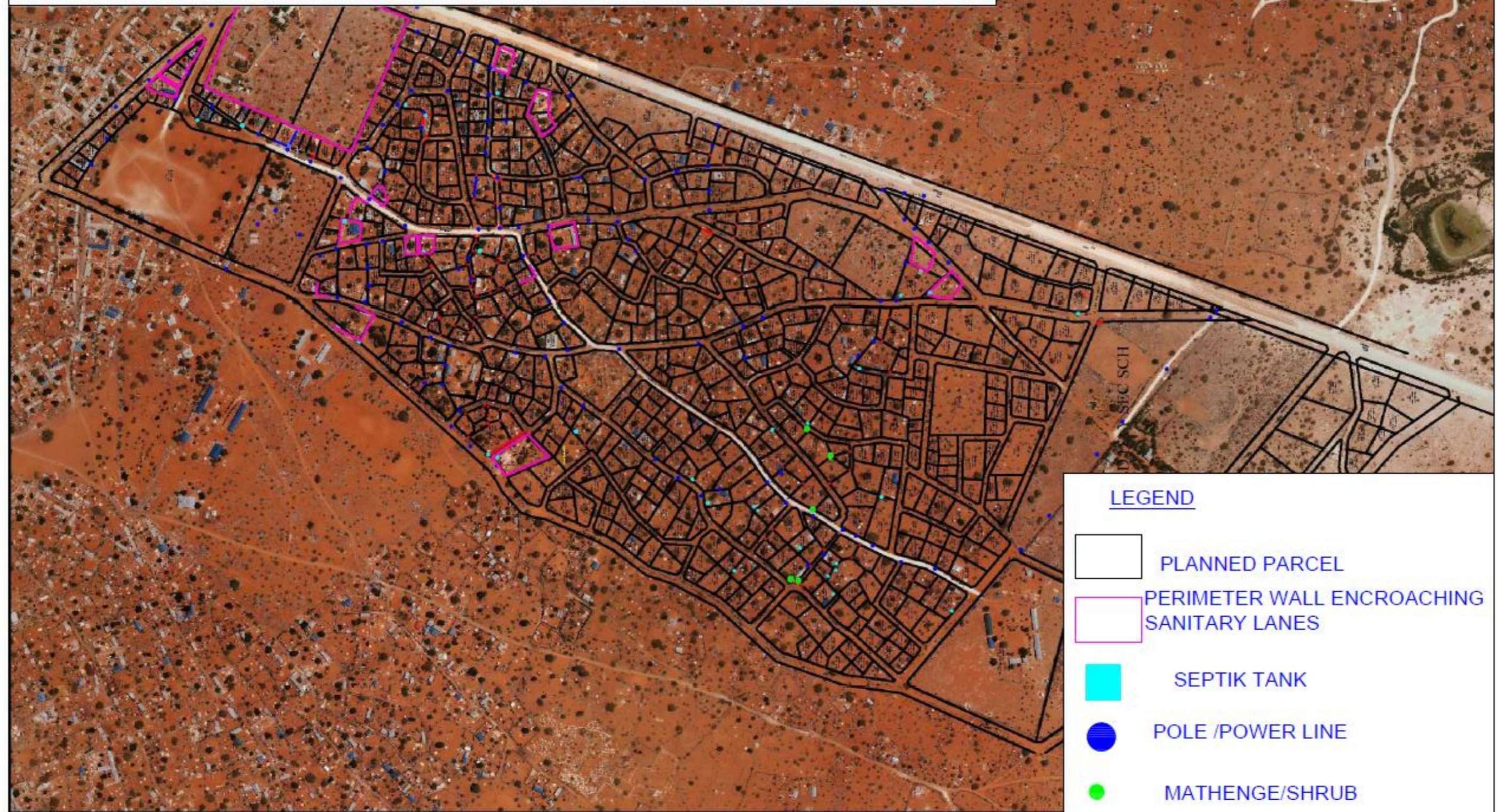


Figure 1-4: Encroachment on Sanitary Lanes in Alimao

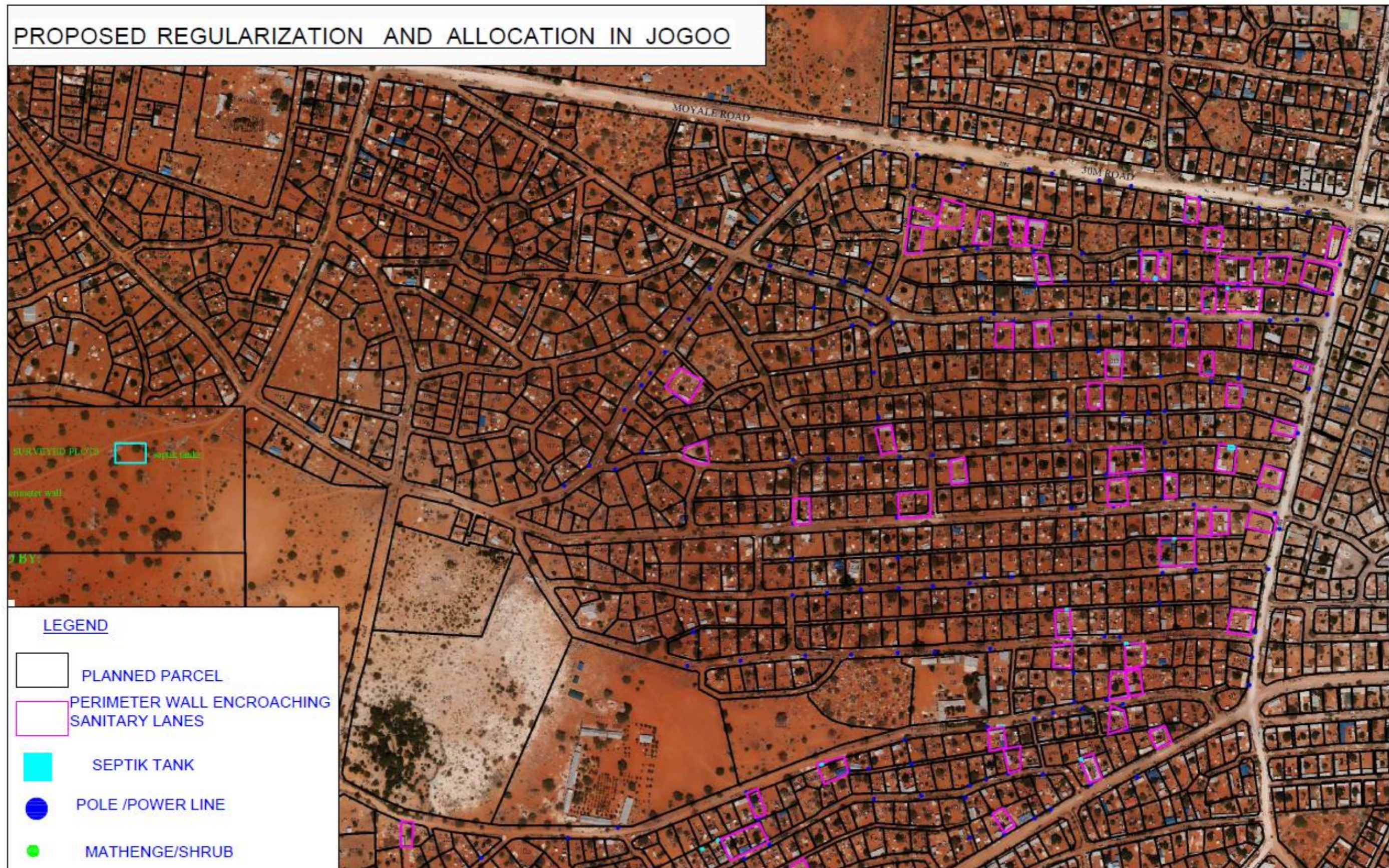


Figure 1-5: Encroachment on Sanitary Lanes in Jogoo

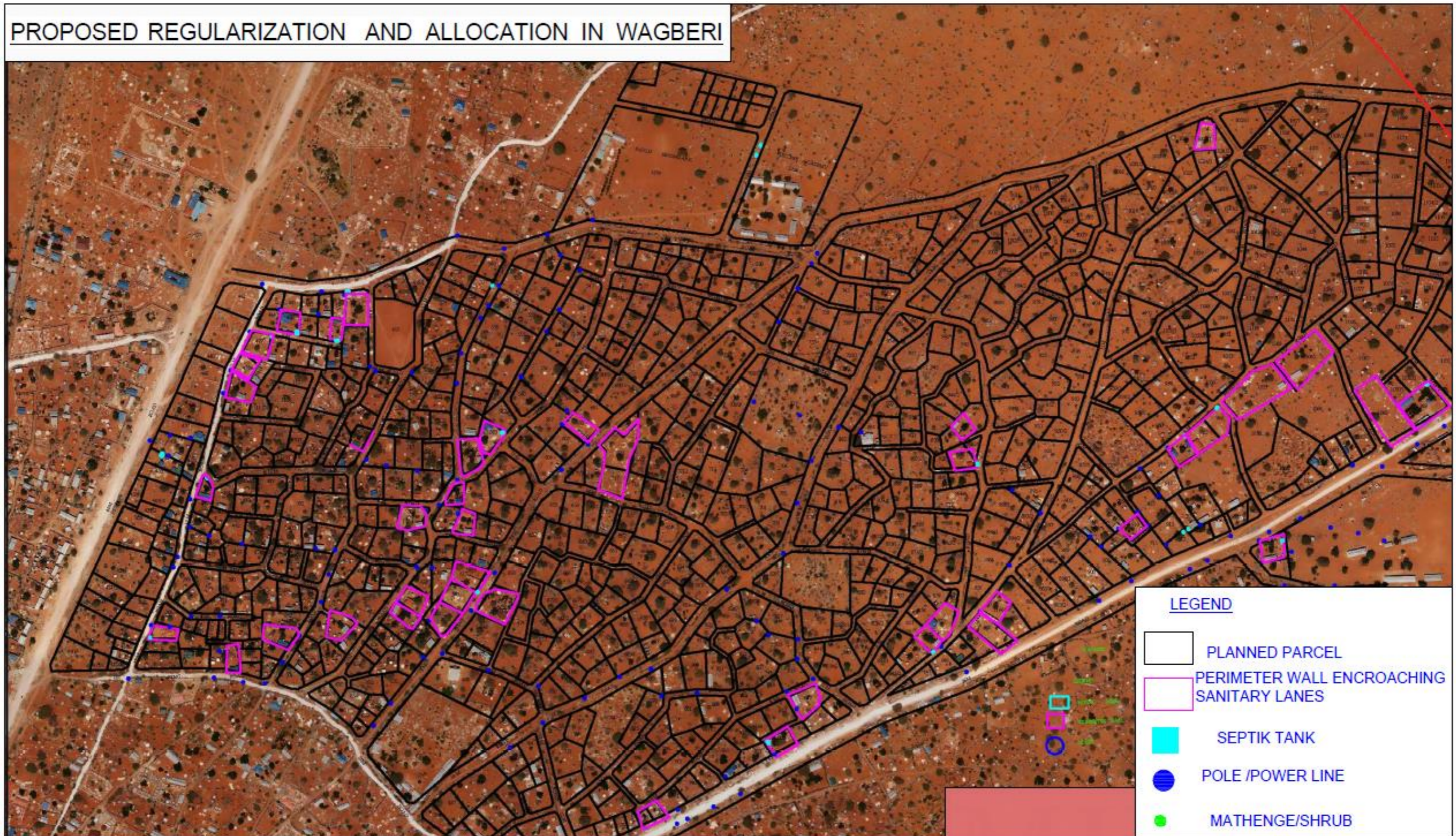


Figure 1-6: Encroachment on Sanitary Lanes in Wagberi

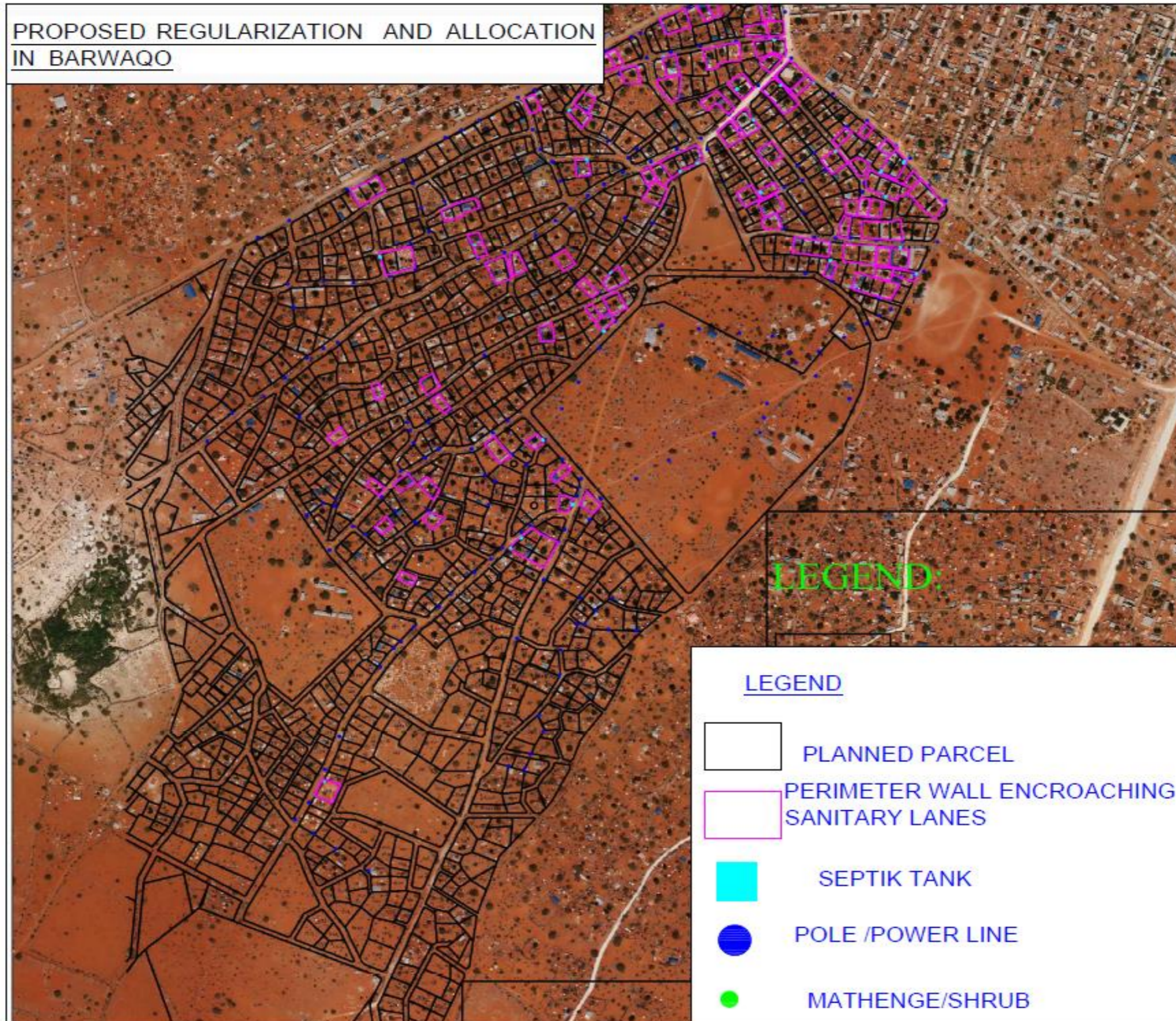


Figure 1-7: Encroachment on Sanitary Lanes in Barwaqo

1.3 Objectives of Resettlement Action Plan (RAP)

The general objective of this Resettlement Action Plan (RAP) is to highlight the principles and procedures that will govern mitigation of adverse social impacts induced by the proposed rehabilitation, opening and upgrading of sanitary lanes within Wajir Town Project area. Also, it aids in the identification of vulnerable persons and set out measures to ensure that they are protected from adverse project impacts

The RAP is specifically designed to ensure that:

- (i) All types of losses are identified, clearly defined and properly categorized to reflect the nature and scope of the loss.
- (ii) A standard measure for defining eligibility and entitlement is developed for fair assessment of compensation for the loss or impact suffered.
- (iii) Compliance with provisions of Kenyan Laws and World Bank Operational Policies (O4.12, paragraph 2(b)): that resettlement activity has been conceived and executed as development programs, providing sufficient investment resources to enable the PAPs to share in project benefits.
- (iv) Affected persons will be compensated for their losses at full replacement cost and provided assistance for disturbance prior to the beginning of civil works.
- (v) Vulnerable persons are identified and livelihood restoration measures set up for them to ensure they restore their livelihoods and standard of living.
- (vi) A comprehensive database, based on which values will be assessed, validated in the event of disputes and, more importantly, serve as the database for monitoring and evaluation of the resettlement instrument.
- (vii) The PAPs have been consulted and given the opportunity of participating in the design, implementation and monitoring of the resettlement.
- (viii) A Grievance & Redress mechanism has been established to acknowledge and resolve conflicts arising from Resettlement and Compensation.

1.4 Approach and Methodology

The approach of RAP preparation includes the following tasks:

- (i) Community mobilization and sensitization;
- (ii) PAPs and property identification.
- (iii) Property assessment and valuation;
- (iv) Institutional and individual stakeholder consultation;
- (v) PAP census Survey and Socio-Economic Surveys
- (vi) Review of secondary sources and legislations related to the project area profile;
- (vii) Data analysis; and report production.

The outputs; community consultation minutes/lists, affected property survey data/strip maps, property catalogues and a valuation roll, institutional and implementation arrangements, necessary references, annexes and social-economic profiles of PAPs have been incorporated into this RAP Report.

The review of this RAP is undertaken during the Coronavirus disease 2019 (COVID-19) pandemic outbreak. However, the preparation of the RAP including the relevant consultations were undertaken before the first case of COVID-19 was reported in Kenya. As such, specific mitigation measures have been introduced to prevent the spread of the pandemic during the RAP implementation. More particularly, consultations required as part of the mitigation measures, during RAP implementation and training on E&S issues, also pose a risk of infection to communities. For this reason, the risk of contracting the virus during consultations will be avoided, minimized and mitigated with specific measures to ensure national requirements on social distancing and recommendations on how to minimize physical contact are adhered to.

CHAPTER 2: PROJECT RESETTLEMENT IMPACTS

2.1 Project Impacts

This Section describes the Project activities and their potential impacts on property likely to be affected by the implementation of Project. It also presents the PAP categories properties /structures and socio-economic services that are likely to be affected because of rehabilitation of the sanitary lanes.

The Project activities will involve rehabilitation and upgrading of existing sanitary lanes with an aim of improving mobility within the target locations. Therefore, No Impact on Private Land Is Triggered.

However, likely resettlement impacts will result due to the encroachment of the sanitary lanes by assets such as; Septic tanks, walls, house extensions, shop canopies, temporal livestock houses, power poles and electricity lines, communal water points, shops, etc.

However, impacts on property in form of structures are anticipated owing to the encroachment of the sanitary lanes by community members with assets such as; Septic tanks, walls, house extensions, shop canopies, temporal livestock houses. Public and community amenities including power poles and electricity cable lines and communal water points will also be affected.

This RAP identified the total number of PAPs in all the target 7nr locations to be **265 PAPs**. Details of the RAP location and impacts are provided in the subsequent sub-sections;

2.1.1 Resettlement Impacts in Township Location

The RAP identified a total number of **33 PAPs** in Township location. General information and details of RAP impacts are provided in **Tables 2-1** and **2.2** below.

Table 2-1: Resettlement Impacts – Township Location³

Location	General Information	PAPs / Assets / Sanitary Lanes
Township	Number of Sanitary Lanes	36
	Length of Sanitary Lanes	18.15km
	Total number of plots	1930
	Total PAPs	33
Category of Impact	Land Owners	Nil
	Structure Owners	27
	Tenants	Nil
	Loss of Business	Nil
	Community Water Points	1
	KPLC power Poles	4
	Bush	Nil

³ Data provided in this section 2.1.1 to 2.1.7 is derived from available cadastral maps developed by Wajir County Government Land department and field enumeration exercise undertaken for RAP

Table 2-2: Details of Affected Assets in Township Location

Location	Affected Asset	Quantity	Percentage
Township	community water point	1	2.9%
	fixed business shed	3	8.8%
	latrine	2	5.9%
	partial impact on business structure	2	5.9%
	main house	4	11.8%
	KPLC Power post	4	11.8%
	septic tank	17	50.0%
	wall	1	2.9%
	Total	34	100%

A graphical representation of Affected Assets in Township location is given in **Figure 2-1**.

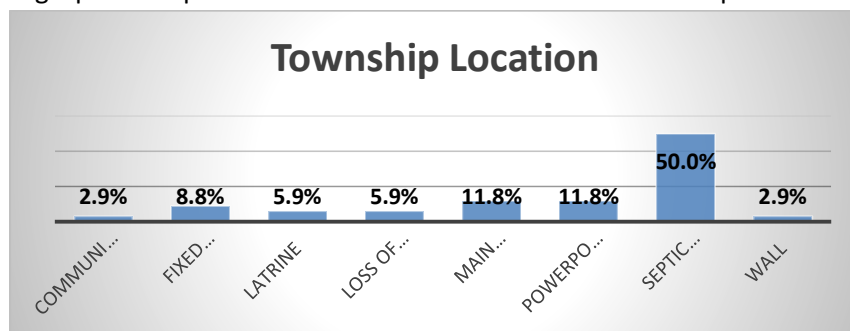


Figure 2-1: Affected Assets in Township Location

From **Figure 2-1** above, septic tanks are the main assets within the sanitary lanes encroachment in Township location representing 50% of enumerated assets.

It was also established that masonry stone and cement are the most common type of construction material used for affected assets in Township location as shown in **Table 2-3** and **Figure 2-2** below. Typical photographs of Septic Tank encroachment are given in **Figure 2-3**.

Table 2-3: Materials of Assets Affected in Township Location

Location	Material of Assets Affected	Quantity	Percentage
Township	bricks & plastered wall	1	3.6%
	GCI wall, GCI roof, mud floor	1	3.6%
	stone & plastered wall	19	67.9%
	stone & not plastered wall	5	17.9%
	metal bars wall, no roof, mud floor	1	3.6%
	wooden wall, GCI roof, mud floor	1	3.6%
	Total	28	100%

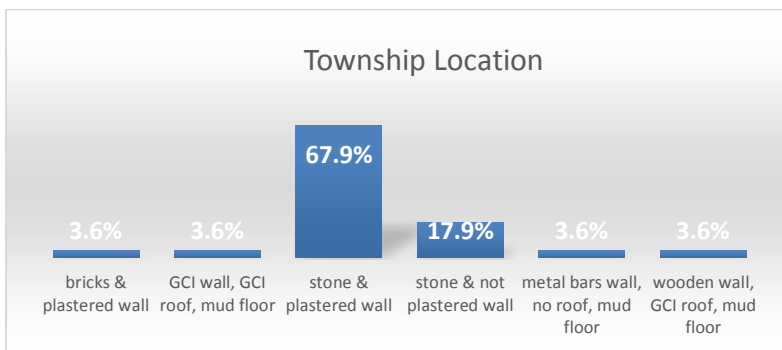


Figure 2-2: Materials of Assets Affected in Township Location



Figure 2-3: Septic tanks encroachment in Township location

2.1.2 Resettlement Impacts in Hodhan Location

The RAP identified a total number of **53 PAPs** in Hodhan location. General information and details of RAP impacts are provided in **Tables 2-4** and **2.5** below.

Table 2-4: Resettlement Impacts – Hodhan Location

Location	General Information	PAPs / Assets / Sanitary Lanes
Hodhan	Number of Sanitary Lanes	22
	Length of Sanitary Lanes	17.65km
	Total Number of Plots	1250
	Total PAPs	53
Category of Impact	Land Owners	Nil
	Structure Owners	53
	Tenants	Nil
	Loss of Business	Nil
	Community Water Points	1
	KPLC power Poles	Nil
	Bush	5 sanitary lanes

Table 2-5: Details of Affected Assets in Hodhan Location

Location	Affected Asset	Quantity	Percentage
Hodhan	bush clearing	5	9.4%
	community water point	1	1.9%
	fence	1	1.9%
	Partial impact on fixed business shed	2	3.8%
	goat shed	5	9.4%
	hedge	3	5.7%
	latrine	3	5.7%

	main house	4	7.5%
	septic tank	29	54.7%
	Total	53	100%

A graphical representation of Affected Assets in Hodhan location is given in **Figure 2-4**.

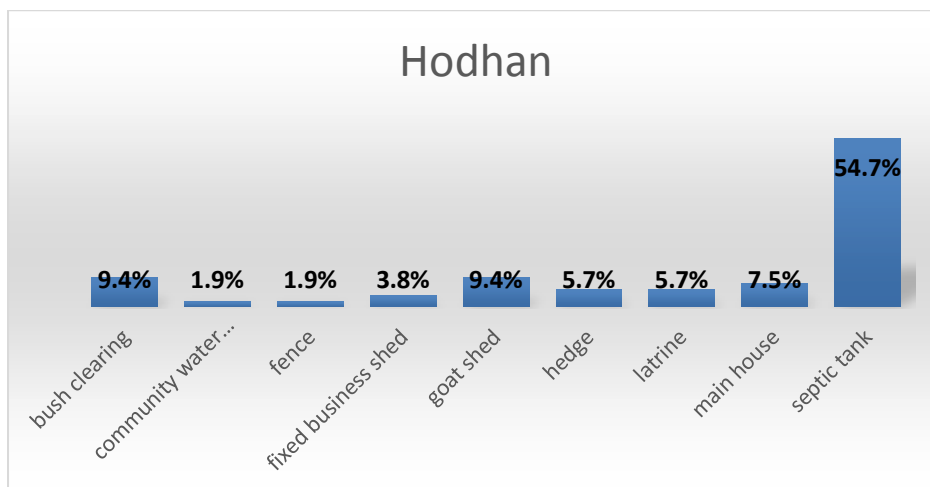


Figure 2-4: Affected Assets in Hodhan Location

From **Figure 2-4** above, septic tanks are the main assets within the sanitary lanes encroachment in Hodhan location representing 54.7% of enumerated assets.

It was also established that masonry stone and cement are the most common type of construction material used for affected assets in Hodhan location as shown in **Table 2-6** and **Figure 2-5** below. Typical photographs of Structures on Sanitary Lanes encroachment are given in **Figure 2-6**.

Table 2-6: Materials of Assets Affected in Hodhan Location

Location	Material of Assets Affected	Quantity	Percentage
hodhan	Bricks & plastered	1	2.2%
	bricks not plastered wall	1	2.2%
	GCI wall, GCI roof, mud floor	6	13.3%
	stone & plastered top	35	77.8%
	wooden wall	2	4.4%
	Total	45	100%

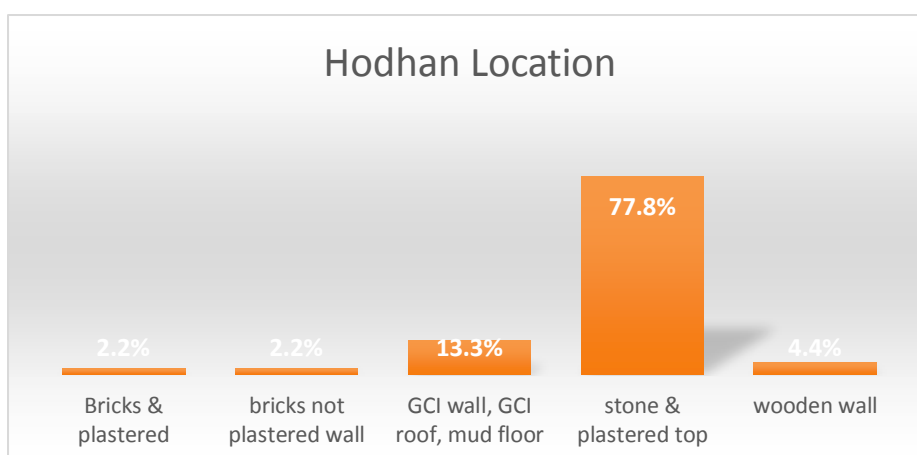


Figure 2-5: Materials of Assets Affected in Hodhan Location



Figure 2-6: Structures encroachment on the Sanitary Lanes in Hodhan location

2.1.3 Resettlement Impacts in Barwaquo Location

The RAP identified a total number of **41 PAPs** in Barwaquo location. General information and details of RAP impacts are provided in **Tables 2-7** and **2.8**.

Table 2-7: Resettlement Impacts – Barwaquo Location

Location	General Information	PAPs / Assets / Sanitary Lanes
Barwaquo	Number of Sanitary Lanes	11.1km
	Length of Sanitary Lanes	17
	Total number of Plots	1100
	Total PAPs	41
Category of Impact	Landowners	Nil
	Structure Owners	41
	Tenants	Nil
	Loss of Business	Nil
	Community Water Points	1
	KPLC power Poles	13
	Bush	2 sanitary lanes

Table 2-8: Details of Affected Assets in Barwaquo Location

Location	Affected Asset	Quantity	Percentage
Barwaquo	bush clearing	2	5%
	goat shed	1	2.5%
	kitchen	2	5%
	latrine	1	2.5%
	main house	2	5%
	neem tree	3	7.5%
	power post	13	32.5%
	septic tank	15	37.5%
	well	1	2.5%
	Total		40

A graphical representation of Affected Assets in Barwaquo location is given in **Figure 2-7**.

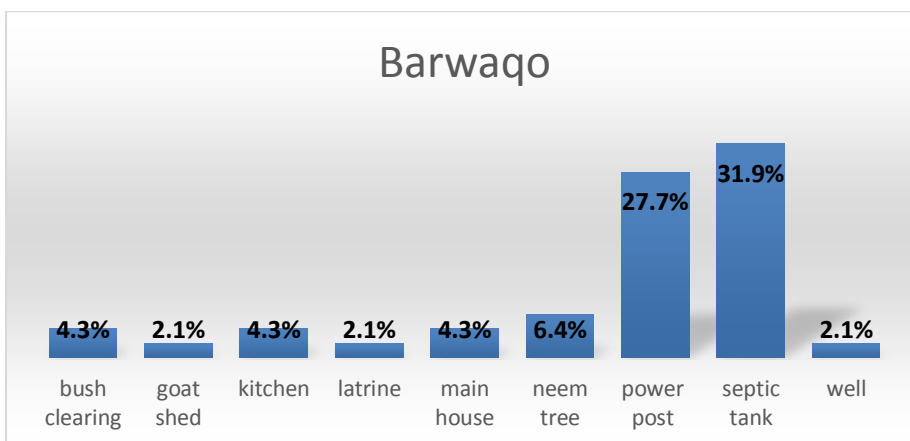


Figure 2-7: Affected Assets in Barwaqo Location

From **Figure 2-7** above, septic tanks are the main assets within the sanitary lanes encroachment in Barwaqo location representing 31.9% of enumerated assets.

It was also established that masonry stone and cement are the most common type of construction material used for affected assets in Barwaqo location as shown in **Table 2-9** and **Figure 2-8**. Typical photographs of Structures on Sanitary Lanes encroachment are given in **Figure 2-9**.

Table 2-9: Materials of Assets Affected in Barwaqo Location

Location	Material of Assets Affected	Quantity	Percentage
Barwaqo	GCI wall, GCI roof, mud floor	1	4.54%
	GCI wall, no roof, concrete floor	1	4.54%
	stone & plastered top	15	68.18%
	stone & plastered wall, GCI roof, concrete floor	4	18.2%
	GCI wall, GCI roof, mud floor	1	4.54%
	Total		22

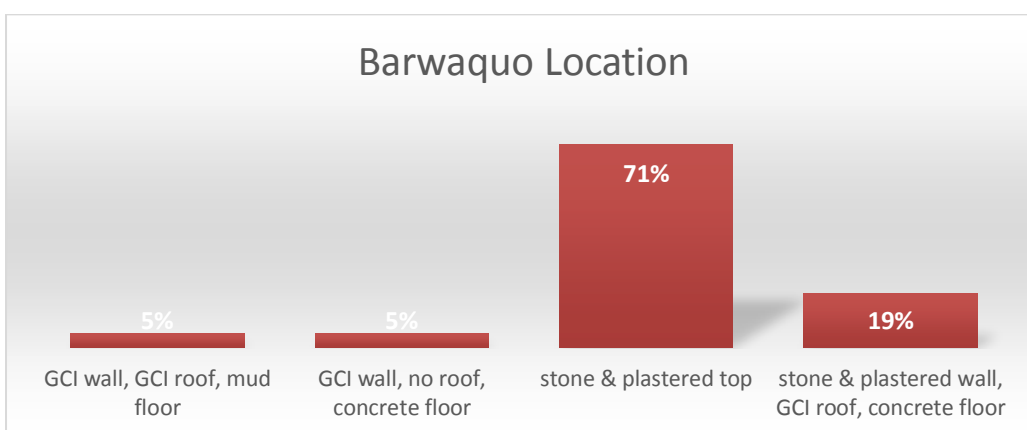


Figure 2-8: Materials of Assets Affected in Barwaqo Location



Figure 2-9: Septic Tanks encroachment on the Sanitary Lanes in Barwaquo Location

2.1.4 Resettlement Impacts in Godade Location

The RAP identified a total number of **53 PAPs** in Godade location. General information and details of RAP impacts are provided in **Tables 2-10** and **2.11**.

Table 2-10: Resettlement Impacts – Godade Location

Location	General Information	PAPs / Assets / Sanitary Lanes
Godade	Number of Sanitary Lanes	26
	Length of Sanitary Lanes	7.85km
	Total number of Plots	970
	Total PAPs	55
Category of Impact	Land Owner	Nil
	Structure Owners	53
	Tenants	Nil
	Loss of Business	Nil
	Community Water Points	7
	KPLC power Poles	Nil
	Bush	2 sanitary lanes

Table 2-11: Details of Affected Assets in Godade Location

Location	Affected Asset	Quantity	Percentage
Godade	Bush clearing	7	12.1%
	canopy	1	1.7%
	community water point	7	3.4%
	fence	20	34.5%
	goat shed	1	1.7%
	hedge	11	19.0%
	latrine	1	1.7%
	main house	3	5.2%
	manyatta	1	1.7%
	septic tank	9	15.5%
	Partial impact shop structure	1	1.7%
	store	1	1.7%
	Total		58

A graphical representation of Affected Assets in Godade location is given in **Figure 2-10**.

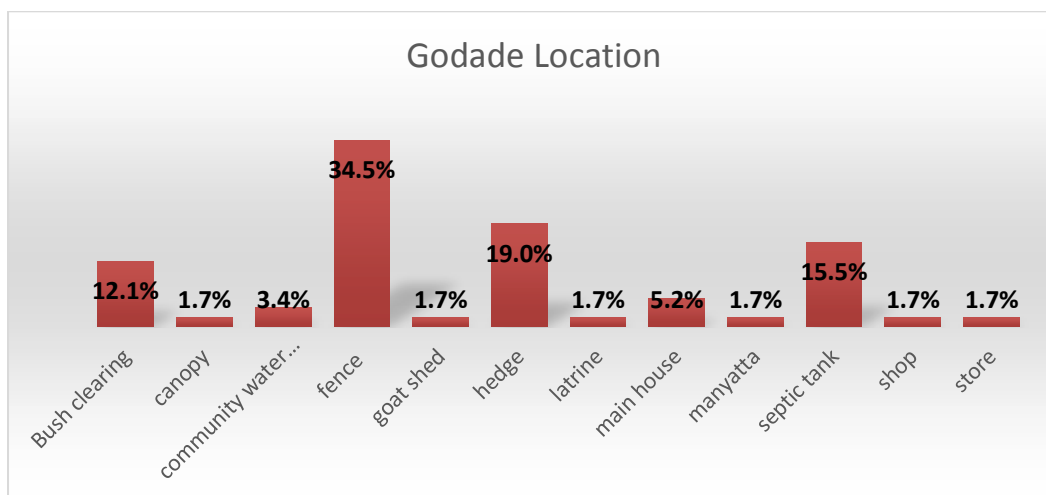


Figure 2-10: Affected Assets in Godade Location

From **Figure 2-10** above, fence and hedge are the main assets within the sanitary lanes encroachment in Godade location representing 34.5% and 19% of enumerated assets respectively.

It was also established that wood and masonry stone or baked bricks and cement are the most common type of construction material used for affected assets in Godade location as shown in **Table 2-12** and **Figure 2-11**. Typical photographs of Structures on Sanitary Lanes encroachment are given in **Figure 2-12**.

Table 2-12: Materials of Assets Affected in Godade Location

Location	Material of Assets Affected	Quantity	Percentage
Godade	barbed wire	1	2.7%
	bricks & plastered	8	21.6%
	GCI wall, GCI roof, concrete floor	1	2.7%
	GCI wall, GCI roof, mud floor	2	5.4%
	stone & plastered	8	21.6%
	stone not plastered	5	13.5%
	wooden wall	12	32.4%
	Total	37	100%

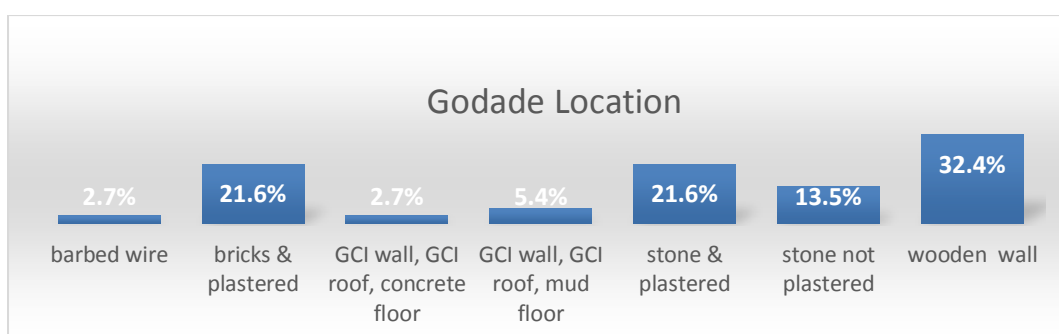


Figure 2-11: Materials of Assets Affected in Godade Location



Figure 2-12: Masonry Walls encroachment in Godade location

2.1.5 Resettlement Impacts in Jogoo Location

The RAP identified a total number of **44 PAPs** in Jogoo location. General information and details of RAP impacts are provided in **Tables 2-13** and **2.14**.

Table 2-13: Resettlement Impacts – Jogoo Location

Location	General Information	PAPs / Assets / Sanitary Lanes
Jogoo	Number of Sanitary Lanes	18
	Length of Sanitary Lanes	15.25km
	Total number of Plots	950
	Total PAPs	44
Category of Impact	Land Owner	Nil
	Structure Owners	44
	Tenants	Nil
	Loss of Business	Nil
	Community Water Points	Nil
	KPLC power Poles	Nil
	Bush	8 sanitary lanes

Table 2-14: Details of Affected Assets in Jogoo Location

Location	Affected Asset	Quantity	Percentage
Jogoo	bush clearing	8	13.6%
	latrine	19	32.2%
	main house	13	22.0%
	neem tree (young)	4	6.8%
	neem tree (medium)	4	6.8%
	neem tree (mature)	8	13.6%
	store	3	5.1%
	Total	59	100%

A graphical representation of Affected Assets in Jogoo location is given in **Figure 2-13**.

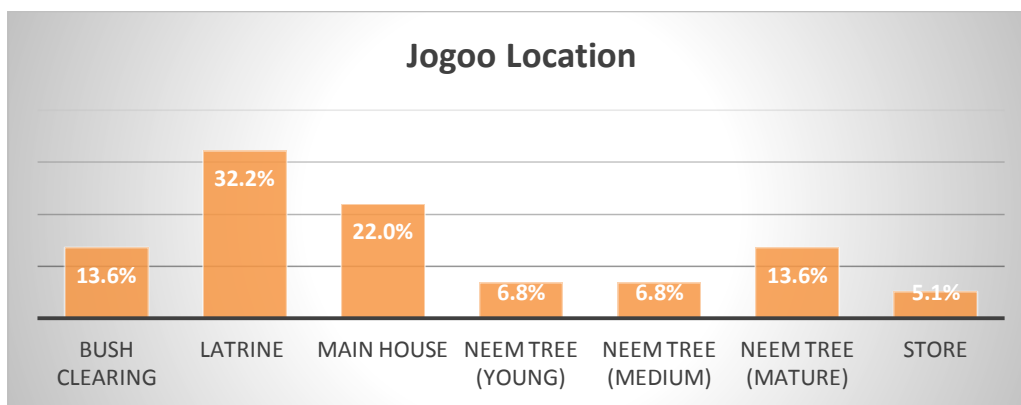


Figure 2-13: Affected Assets in Jogoo Location

From **Figure 2-13** above, latrines and houses are the main assets within the sanitary lanes encroachment in Jogoo location representing 32.2% and 22% of enumerated assets respectively.

It was also established that masonry stone or baked bricks and cement are the most common type of construction material used for affected assets in Jogoo location as shown in **Table 2-15** and **Figure 2-14**. Typical photographs of Structures on Sanitary Lanes encroachment are given in **Figure 2-15**.

Table 2-15: Materials of Assets Affected in Jogoo Location

Location	Material of Assets Affected	Quantity	Percentage
Jogoo	bricks & not plastered wall	3	8.8%
	bush clearing	1	2.9%
	GCI wall, GCI roof, cement screed floor	3	8.8%
	stone & not plastered wall	5	14.7%
	stone & plastered wall	21	61.8%
	wooden wall	1	2.9%
	Total	34	100%

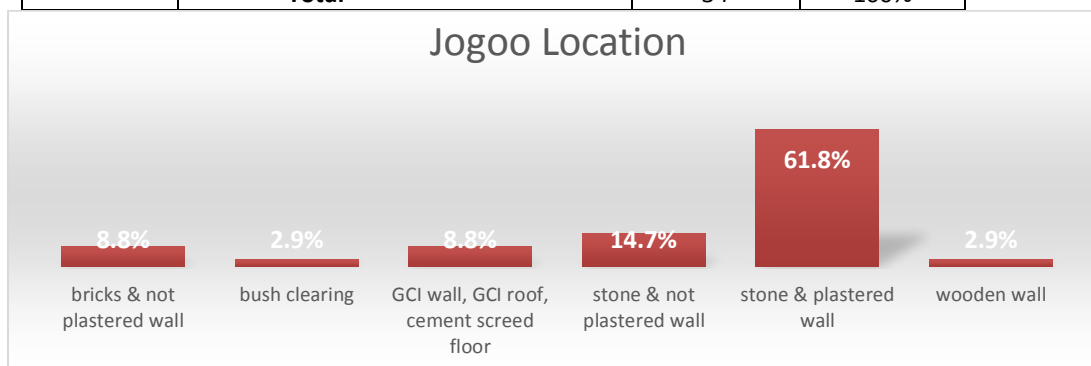


Figure 2-14: Materials of Assets Affected in Jogoo Location



Figure 2-15: Wall and Bucket Latrine encroaching in Jogoo Location

2.1.6 Resettlement Impacts in Wagberi Location

The RAP identified a total number of **41 PAPs** in Wagberi location. General information and details of RAP impacts are provided in **Tables 2-16** and **2.17**.

Table 2-16: Resettlement Impacts – Wagberi Location

Location	General Information	PAPs / Assets / Sanitary Lanes
Wagberi	Number of Sanitary Lanes	27
	Length of Sanitary Lanes	10.4km
	Total number of plots	1200
	Total PAPs	41
Category of Impact	Land Owner	Nil
	Structure Owners	41
	Tenants	Nil
	Loss of Business	Nil
	Community Water Points	3
	KPLC power Poles	7nr
	Bush	5 sanitary lanes

Table 2-17: Details of Affected Assets in Wagberi Location

Location	Affected Asset	Quantity	Percentage
Wagberi	bathroom	3	5.9%
	bush clearing	5	9.8%
	Perimeter wall to a community mosque	1	2.0%
	community water point	3	5.9%
	goat shed	4	7.8%
	kitchen	4	7.8%
	latrine	10	19.6%
	main house	4	7.8%
	neem tree (young)	1	2.0%
	neem tree (medium)	1	2.0%
	poultry house	1	2.0%
	power post	7	13.7%
	septic tank	1	2.0%
	store	4	7.8%
	well	1	2.0%
	fixed business shed	1	2.0%
Total	51	100%	

A graphical representation of Affected Assets in Wagberi location is given in **Figure 2-16**.

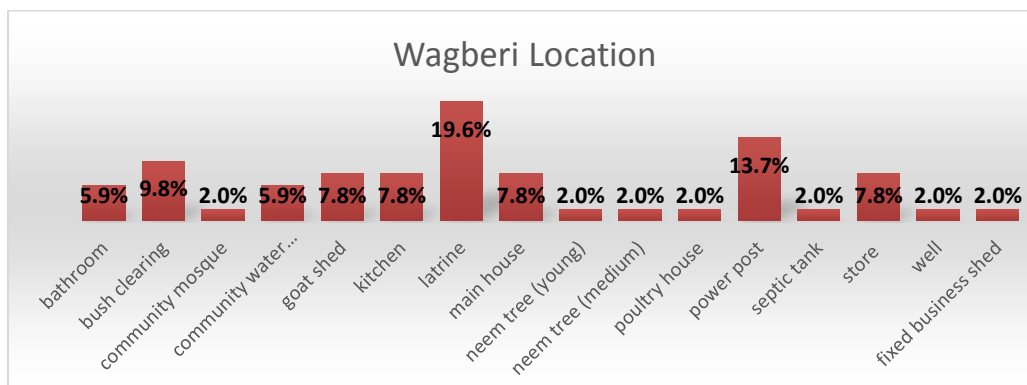


Figure 2-16: Affected Assets in Wagberi Location

From **Figure 2-16** above, latrines and power posts are the main assets within the sanitary lanes encroachment in Wagberi location representing 19.6% and 13.7% of enumerated assets respectively.

It was also established that masonry stone and cement are the most common type of construction material used for affected assets in Wagberi location as shown in **Table 2-18** and **Figure 2-17**. Typical photographs of Structures on Sanitary Lanes encroachment are given in **Figure 2-18**.

Table 2-18: Materials of Assets Affected in Wagberi Location

Location	Material of Assets Affected	Quantity	Percentage
wagberi	bricks & plastered wall	4	10.8%
	GCI wall	5	13.5%
	mud & plastered wall	6	16.2%
	stone & plastered wall	18	48.6%
	stone & not plastered wall	1	2.7%
	wooden wall	3	8.1%
	Total	37	100%

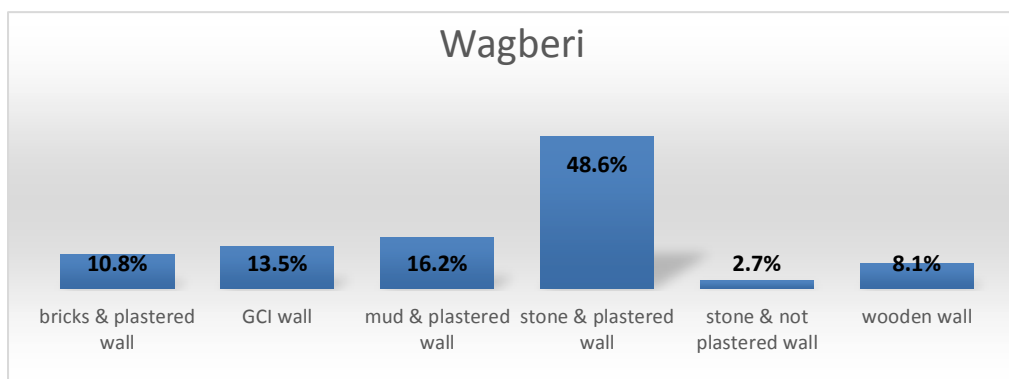


Figure 2-17: Materials of Assets Affected in Wagberi Location



Figure 2-18: Septic Tank and Masonry Wall encroaching in Wagberi Location

2.1.7 Resettlement Impacts in Alimao Location

The RAP identified that rehabilitation and upgrading of sanitary lanes in Alimao will have no impact to people’s assets. However, identified impacts will be on community water wells and Kenya Power consumer poles as summarized in **Tables 2-19** and **2-20**.

Table 2-19: Resettlement Impacts – Alimao Location

Location	General Information	PAPs / Assets / Sanitary Lanes
Alimao	Number of Sanitary Lanes	15
	Length of Sanitary Lanes	10.43
	Total number of plots	1050
	Total PAPs	Nil
Category of Impact	Land Owner	Nil
	Structure Owners	nil
	Tenants	Nil
	Loss of Business	Nil
	Community Water Points	37
	KPLC power Poles	48
	Bush	Nil

Table 2-20: Details of Affected Assets in Alimao Location

Location	Affected Asset	Quantity	Percentage
Alimao	community water point	37	43.5%
	power post	48	56.5%
	Total	85	100%

A graphical representation of Affected Assets in Alimao location is given in **Figure 2-19**.

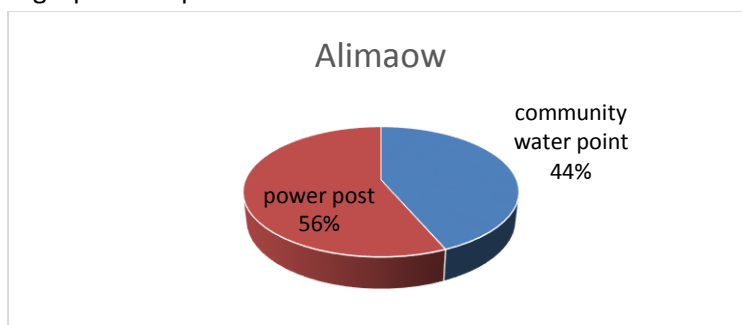


Figure 2-19: Affected Assets in Alimao Location

From **Figure 2-19** above, the main assets within the sanitary lanes encroachment in Alimao location are power posts and community water points.

Typical photographs of Structures on Sanitary Lanes encroachment are given in **Figure 2-20**.



Figure 2-20: Community Water Point and KPLC Consumer Power Pole encroaching Sanitary Lanes in Alimao location

SOCIAL RISK - SPREAD OF COVID -19 AMONGST COMMUNITY MEMBERS DURING CONSULTATIONS

During implementation of the RAP, various consultative activities will be undertaken. For efficient and meaningful engagement, a wide range of individual participants, groups in the local community and other stakeholders will be involved. The consultations will involve verification of PAPs covering the occupants of the affected area and vulnerable persons and groups; awareness raising, sensitization of PAPs and gauging attitude to the project; training and capacity building for livelihoods restoration, grievance redress, execution of site - specific surveys among others. The activities will lead to close interaction between the proponent and the community members leading to a high risk of spreading COVID-19 amongst community members during the consultation process.

To minimize the risk of spread of COVID-19 amongst community members, measures will be required to ensure social distancing and appropriate communication measures. The mitigation measures will be supervised by a communications/ stakeholder engagement / social safeguards experts in the project proponent's team.

CHAPTER 3: SOCIO ECONOMIC PROFILE OF WAJIR TOWN PROJECT AREA

3.1 Wajir Town Project Area

Wajir Town is the headquarter of Wajir County, which is the largest county in the former North-Eastern Province. Wajir County borders Somalia to the East, Ethiopia to the North, Mandera County to the Northeast, Isiolo County to the South West, Marsabit County to the West and Garissa County to the South.

Administratively, the County comprises of eight sub-counties namely Wajir East, Tarbaj, Wajir West, Eldas, Wajir North, Buna, Habaswein and Wajir South. The County has 6 Constituencies namely Wajir East, Tarbaj, Wajir West, Eldas, Wajir South and Wajir North. According to Birch and Shuria (2001), there are three main clans in Wajir – the Dagodia, Ajuran and the Ogaden, which are further sub-divided into sub-clans. Menkhaus (2008) reports that competition for resources and political power between these clans lead to tension and subsequently clashes.

According to the CIDP (Wajir County, 2014), the County had an estimated population of 727,966 in 2012 based on annual growth rate of 3.22% from the 661,941 in year 2009. The population is projected to increase to 800,576 and 852,963 in 2015 and 2017 respectively. Due to limited resources, rapid population growth in Wajir county is disastrous and require control measures.

The Study Area of Wajir Town is however confined within a Wajir Core-Urban and Peri-Urban Area covering a radius of 4 KMS. The Study Area encompasses the following locations;

- Hodhan
- Alimao
- Wagberi
- Township
- Jogoo
- Godade
- Barwaqo

3.2 Land Tenure

Traditionally, the Somalis have no fixed territorial rights to land and seasonal migration is the norm. The right to utilize pasture and water is dependent upon the establishment of effective occupation of an area from competing groups. Presently, as practiced in other ASAL pastoral counties of Turkana, Marsabit, Isiolo, Mandera, Wajir, Ijara and parts of Lamu, land is held as trust land by the respective county governments. There has been no formal land adjudication in the locality and land is held communally under customary tenure. The land for settlement and sporadic agricultural use is allocated to community members by the clan elders, while that for livestock is used freely by the members of the community.

An exception is found in Wajir Town, where land has been adjudicated and people issued with titles. However, land away from the Town is unregistered community land. In accordance with the Constitution, all unregistered community land is held in trust by the County Government on behalf of the community. Research by USAID indicated that approximately 70% of land in Kenya is classified as community land (USAID, 2011).

Cadastral maps for the locations within the Study Area and Wajir town indicates that land has been adjudicated in Hodhan, Township and Jogoo locations; and people have been issued with share certificates by the Ministry of Land. In Barwaqo, Alimao, Godade and Wagberi locations, land parcels have been subdivided but the process of registration and issuance of land ownership certificates is ongoing. As a result, some residents in these four locations lack plot numbers and land ownership documents.

3.3 Demographic Characteristic Attributes of Project Affected Persons

The findings and results of the socio-economic survey carried out in the Study Area are presented in the following subsections;

3.3.1 Age of Household Head

It was established that majority of the respondents are aged between 26 to 35 years (37%) followed by the 36 – 49 years old bracket as shown in **Figure 3-1** below;

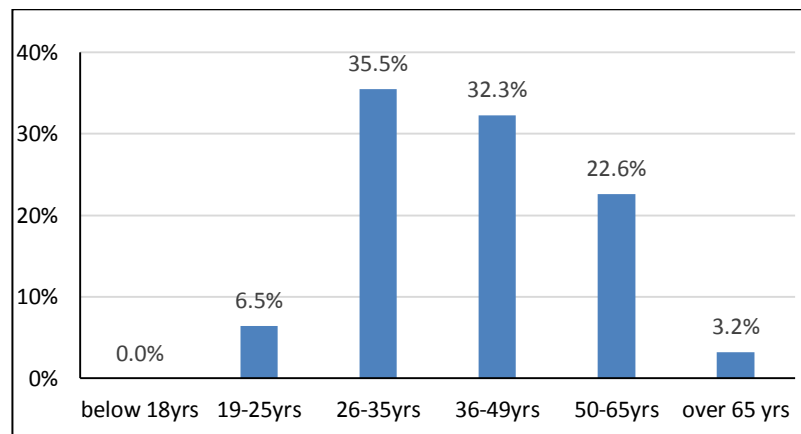


Figure 3-1: Age of Households

This implies that most of the PAPs enumerated are in active age (26 -50 years) and form an effective labour pool for the Project implementation. Thus, few persons are expected under the vulnerable Groups.

3.3.2 Gender Profile of Household Head

The survey indicated that majority of the household heads are male (77%) as presented in **Figure 3-2** below.

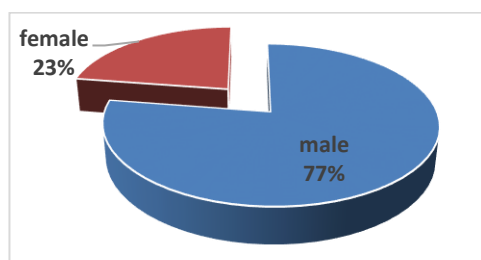


Figure 3-2: Gender Profile of Respondents

The results attest to the biased cultural practice where only males who are required to make and respond to issues touching on households. This negative perception limits women from taking up

opportunities even in Development Projects. A provision is thus required within the Project Implementation to ensure active participation of women in the Project.

3.3.3 Marital Status of Household Head

The Survey results indicates that majority of the respondents are married (74%). However, considerable number of household heads are widowed and divorced (over 20%) as shown in **Figure 3-3**.

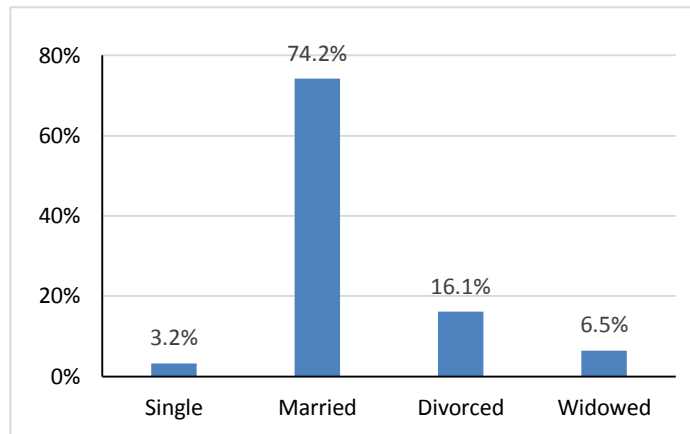


Figure 3-3: Marital Status of Households

This has implications for the proposed Project where widows and widowers are usually among the most dispossessed in rural areas. Also, during disbursement of compensation funds, this *Resettlement Action Plan (RAP)* provides for opening up of joint account for married households, in line with the provision of Kenya’s Matrimonial Property Act No 49 of 2013.

3.3.4 Education Profile of Household Head

The Survey showed that majority of the respondents (58.1%) have no formal education followed by those who have attained primary education level (25.8%). Only 13% have reached secondary level of education as shown in **Figure 3-4**.

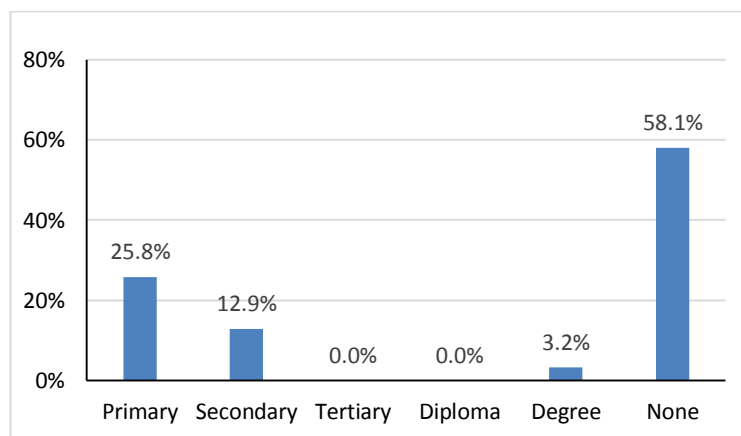


Figure 3-4: Education Profile of Household Head

From the analysis of the education profile results, most of Wajir Town residents would be engaged in the Project implementation as unskilled personnel. To ensure more benefits to the community,

adequate sensitization and empowerment of the community members during RAP implementation by WAJWASCO will be done.

3.4 Water Supply Information

3.4.1 Sources of Water

Findings on the source of water for the Study Area is presented in **Figure 3-5** below.

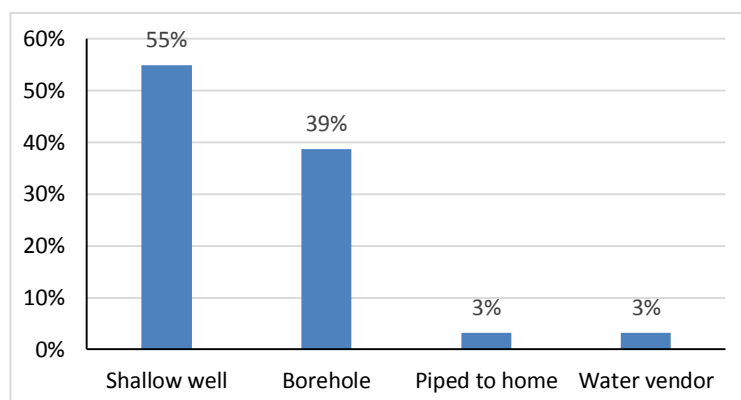


Figure 3-5: Sources of Domestic Water Supply

Shallow wells (55%) and Boreholes (39%) are the main sources of domestic water supply. Boreholes drilled by National /County government and Non-Governmental Organizations are the main water source within the Town while shallow wells serve areas outside Wajir Town.

3.4.2 Water Treatment and Transportation

The study established that the main mode of water transportation is the use of hand. This is mainly done by children using jerrican. Another popular mode is the use of donkey carts.

The study also revealed that majority of households use untreated water (64%) as shown in **Figure 3-6**; only 13% treat their water by boiling.

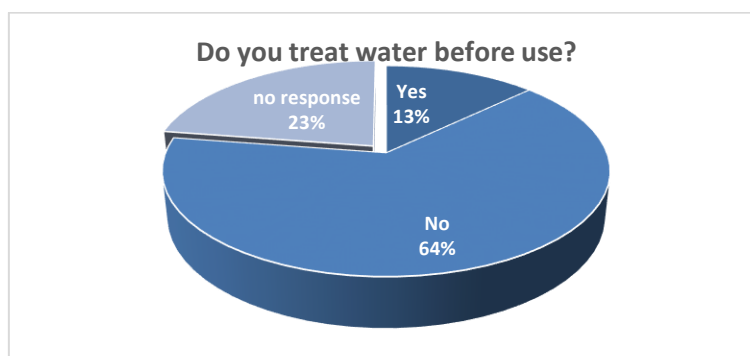


Figure 3-6: Water Treatment by Households

There is a serious health risk considering that the high-water table in the area and prevalent on-plot sanitation systems such as pit latrines and bucket system.

3.4.3 Sustainability of the Wells and Other Water Sources

On water sources reliability and sustainability, the study revealed that the groundwater water resources in the Project Area have high potential since only 6% of the respondents reported experiencing drying up of well used for water supply as shown in **Figure 3-7** below.

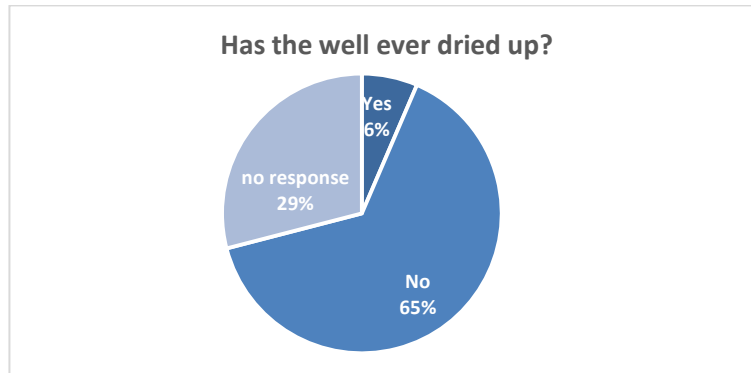


Figure 3-7: Drying up of Shallow Wells

3.4.4 Number of Households Sharing a Water Source

The Survey revealed that most Water Sources are shared as presented in **Figure 3-8** below.

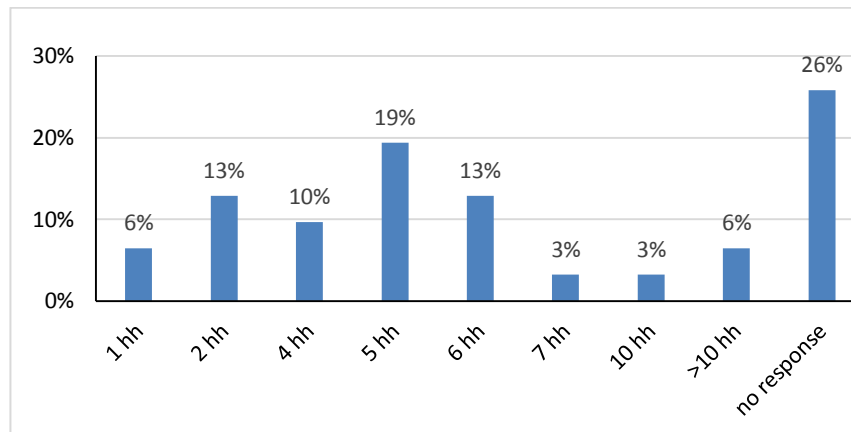


Figure 3-8: Number of Households Sharing a Water Source

3.4.5 Distance Covered and Time Taken to Get Water Source

The Survey revealed that the time taken to get to sources within the Study Area varies from 15 minutes to 8 hours. This translates to approximately 800m distance for those within Wajir Town and up to 5km for villages at the periphery of Wajir Town; an indication of inadequate water services within the Project area.

3.4.6 Cost of Water for the Popular 20 litre Jerrican

The Survey found out that the cost of water varies from village to village, the type of water source and the reliability of the water source. However, the cost of a 20-litre water jerrican ranges from Kshs. 15 - Kshs 30 from borehole source. Owing to poor water quality from shallow wells and water pans, the cost of a 20-litre jerrican ranges from Kshs 5 - 15.

It was also established that cost of watering livestock varies from Kshs 500 to Kshs 1,000 per month depending on the size of the herd.

3.4.7 Problems Associated with Water Supply

The study reported the following problems associated with water supply (**Figure 3-9** below);

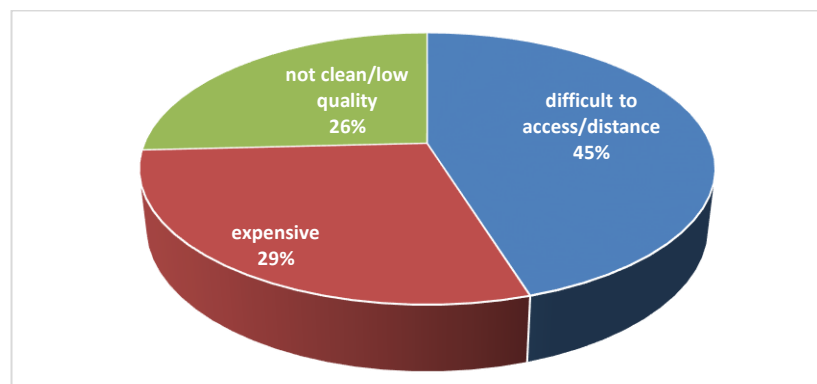


Figure 3-9: Problems with Current Water Supply

The most common problems reported include difficulty to access / long distance (45%) followed by high cost and poor quality at 29% and 26% respectively.

The RAP recommends reinstatement of Community Water Projects to be affected due to encroachment on sanitary lane to alleviate scarcity of water sources.

3.5 Sanitation Status Information

The findings on Sanitation status are summarized in the following sub-sections;

3.5.1 Mode of Human Excreta Disposal

The Survey revealed that the popular mode of human excreta disposal is the use of bucket toilet system (42% of households). Other modes of excreta disposal include EcoSan Toilets (19%) and Open Defecation (32%) as presented in **Figure 3-10** below.

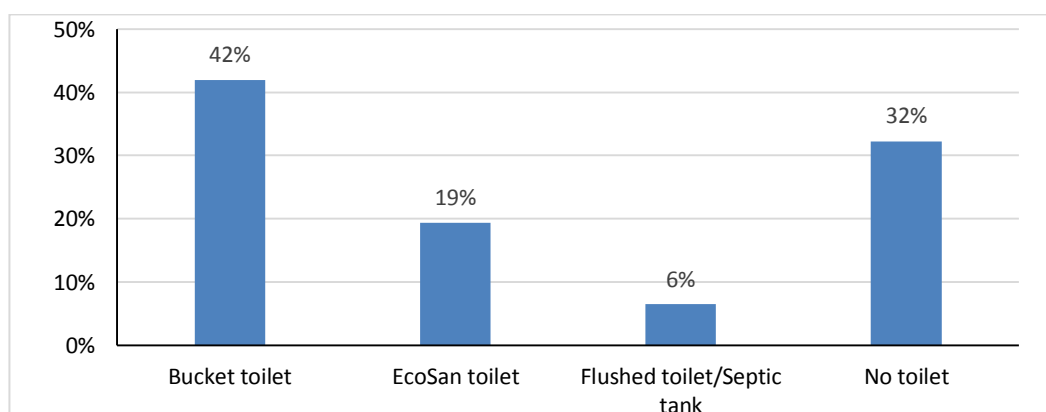


Figure 3-10: Mode of Human Excreta Disposal

The high number of households using open defecation is high indicates that improvement of sanitation within the area is urgently required thus justification for this Sanitation Project.

The bucket toilet systems are also associated with numerous management challenges which ultimately result to contamination of water sources.

3.5.2 Ownership and Locations of Toilet Facilities

On the locations of Toilet Facilities, it was found out that toilet facilities are communally owned with only 9% of respondents indicating individual ownership.

It was also established that toilets facilities are located both within the compound and outside. The location of the facilities outside households pose a security risk to women and children when using the facilities especially at night.

A summary of the above findings is presented in **Figure 3-11** below.

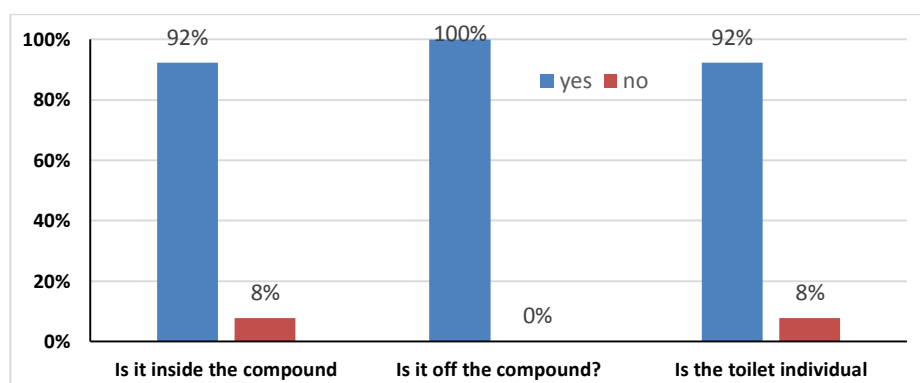


Figure 3-11: location of the toilet facility

It can be deduced that Sewerage System and conventional sanitation facilities such as VIP latrines and ablution blocks are required in Wajir Town and should be considered in the Master Plan.

3.5.3 Users of Sanitation Facility and Time Taken to Fill the Facility

The Survey indicated that 5-8 households share a bucket toilet system with a bucket filling up averagely in 2 weeks. This system is unsustainable, and households incur high expenses in paying night soil handlers for exhausting services and there are risks of water related diseases.

3.5.4 Availability of Hand Wash Basin and Charges for Use of Facility

The Survey revealed that most bucket toilets in Wajir (90%) do not have a hand wash basin and may result to poor hygiene. Some Toilets have hand wash basins outside the facility.

In addition, approximately 90% of the households are charged for use of sanitation facilities, which is averagely Ksh 50 - 100 per month. This is considered affordable for most households.

The findings are presented in **Figure 3-12** on **Page 3-8**.

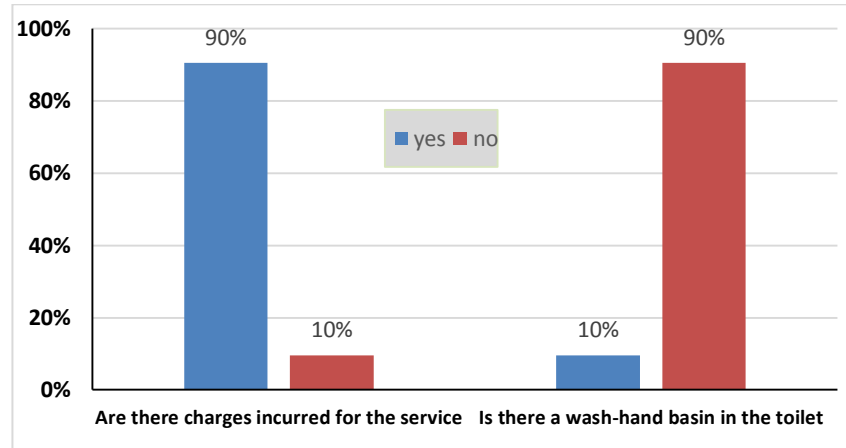


Figure 3-12: Availability of Hand wash Basin Sanitation Services Charges

3.5.5 Disposal Site for the Exhaust

The Survey revealed that the existing Sludge Disposal Facility for Wajir Town is located adjacent to the decommissioned WWTP. At the disposal site, no form of wastewater treatment is carried out. Thus, raw wastewater is discharged to environment which poses serious pollution risk to ground and surface water resources.

The existing Sewage and Solid Waste Disposal Site is presented in **Figure 3-13** below.



Figure 3-13: Existing Site for Sewage and Solid Waste Disposal Site

The Sewage Disposal Facility is meant to serve as a disposal site for the sewage collected by on-plot sanitation facility such as septic tanks and toilets (pit and bucket). The Survey, however revealed the destination of sewage waste as presented in **Figure 3-14**.

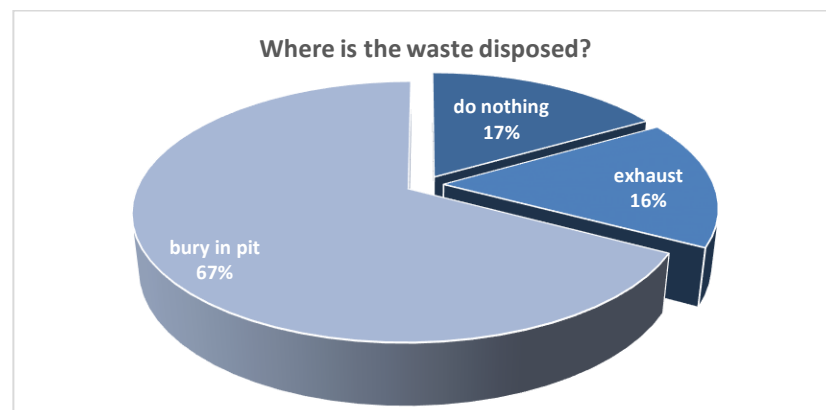


Figure 3-14: Disposal of Sludge from filled up Septic

Minority of the households (16%) empty / exhaust sewage sludge from their Sanitation Facilities while the majority either bury the sewage in the pit (67%) or do nothing (17%).

The challenge anticipated on the desludging is the several structures encroachment on the sanitary lanes and may be a contributor to the low practice of sewage exhausting.

The Project is supporting a multi-pronged approach to improved sanitation that includes consultancies, works, and associated goods. The interventions cover the various aspects of the sanitation service chain, from improvement of the containment, collection, emptying, transportation and treatment of fecal waste. The consultancies include a program of Technical Assistance that is relooking the waste management systems and protocols currently in force in the town, as well as Hygiene and Behaviour Change Campaigns for improved sanitation. On treatment, construction of a new Fecal Sludge Treatment Facility is anticipated, with potential site(s) identified and the requisite safeguards documents and designs under preparation.

3.6 Water Borne Related Illness

The Survey also sought to analyze the health situation in the Project Area and more importantly on the water-borne illness.

A summary of the common water-borne diseases reported in the Study Area is presented in **Figure 3-15**.

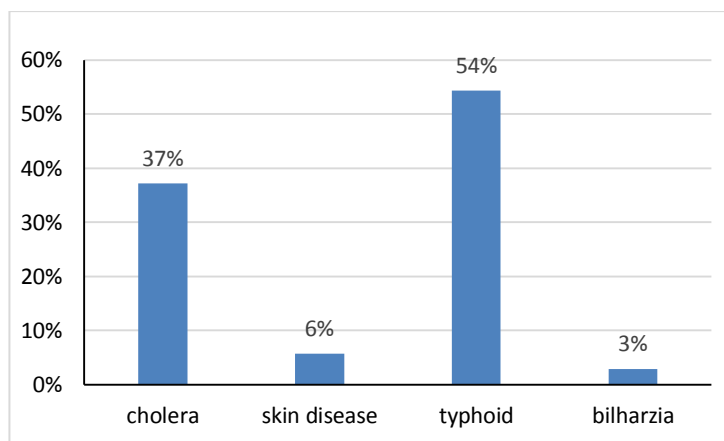


Figure 3-15: Prevalent Water Borne Diseases

It can be deduced from **Figure 3-15** that the most prevalent water borne diseases in the Project Area are typhoid (54%) and cholera (37%). The major cause of these diseases is human waste contamination of water sources especially from use of bucket toilet system.

The proposed project is expected to result to improved access to sanitation facilities and improve hygiene and thus contribute to the reduce occurrence of water-borne diseases.

It was further revealed that majority of the households are not willing to reuse treated wastewater from the sanitation facility due to the above historical concerns as presented in **Figure 3-16** below.

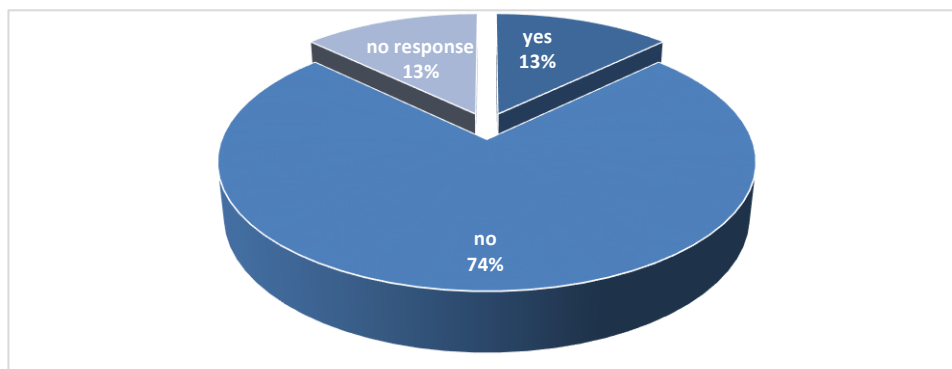


Figure 3-16: Use of reclaimed Water from WWTP

Majority of the respondents are unwilling to use reclaimed water from WWTP and thus if reuse is considered in the Project, public awareness and consultation is necessary.

3.7 Consumption Indicators

3.7.1 Main Source of Income

The main source of income for majority of the households is farming / herding (45%) followed by business (35%). Only 13% of households have formal employment as shown in **Figure 3-17**.

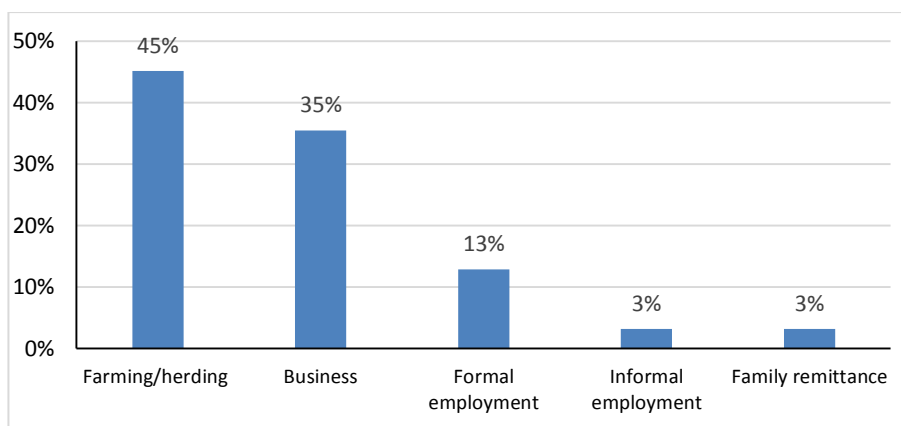


Figure 3-17: Main Source of Income

The results give an indication that consideration is necessary in employment during Project implementation for the people with unstable income sources.

The study sought to find out the respective roles of each gender to inform the Project on how to handle women considering them as vulnerable members of VMG communities. The results obtained are summarized in **Table 3-1** below:

Table 3-1: Role of Women and Men in Households

Role of Women	Role of Men
Sell vegetables and milk	Quarrying
Washing clothes and utensils	Taking care of Camels and Cattle
Cooking	Watering camels and cattle
Cleaning the compound	Chewing Khat (miraa)
Building huts and maintaining them	Collecting firewood on donkey-drawn carts for sale
Taking care of small stock – goats and sheep	

Milking	
Fetching water for domestic use	
Collect firewood for domestic use	
Making gravel for sale	

3.7.2 Connection to Electricity

The Survey also established that majority of the households are not connected to electricity except for 55% as indicated in **Figure 3-18**.

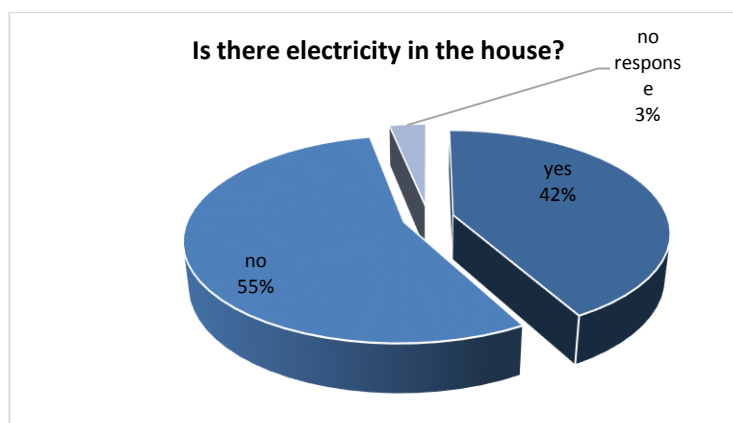


Figure 3-18: Electricity Connection to households

3.7.3 Infrastructure Challenges affecting Quality of Life

The Survey established that the main challenges experienced with respect to quality of life is inadequate Water Supply (54%) followed by poor sanitation (23%) as indicated in **Figure 3-19**.

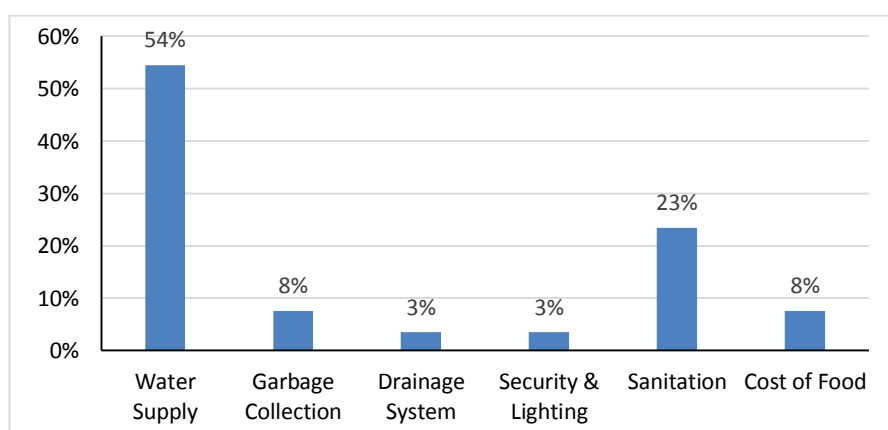


Figure 3-19: Problem Facing the Community

The results highlight water and sanitation as the major problems affecting the quality of life in the Project Area.

3.7.4 School Attendance and Attendance

Majority of children (74%) attend school in the Project Area as shown in **Figure 3-20**.

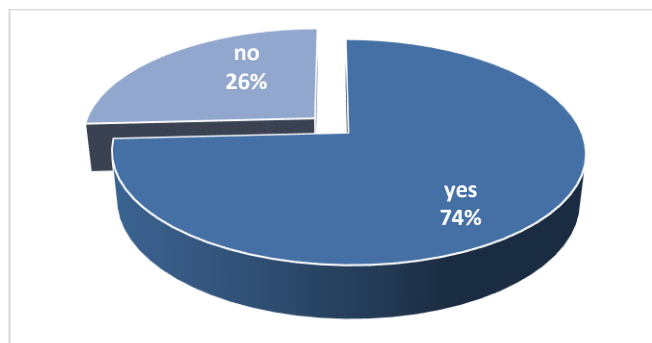


Figure 3-20: School Attendance

This is however low enrolment when compared to national average of 83% in 2010, Sub-Saharan Africa's 76% and the global average of 89% in 2010 (UNESCO, 2012) indicating that the communities are disadvantaged with respect to formal education for children.

The Survey indicated the reasons given in **Figure 3-21** below for low school enrolment.

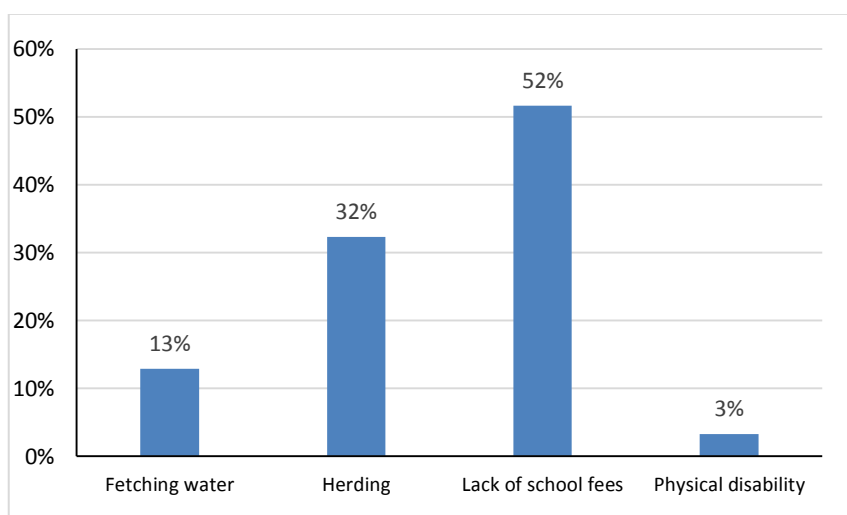


Figure 3-21: Reason for school none attendance

As an incentive, water points and sanitation facilities within schools can be incorporated in the Project to ensure increased enrolment.

3.7.5 Type of Housing Material

To ascertain the quality of housing in the communities, the study inquired on the materials used in the construction of houses. The results are given in **Figure 3-22** below.

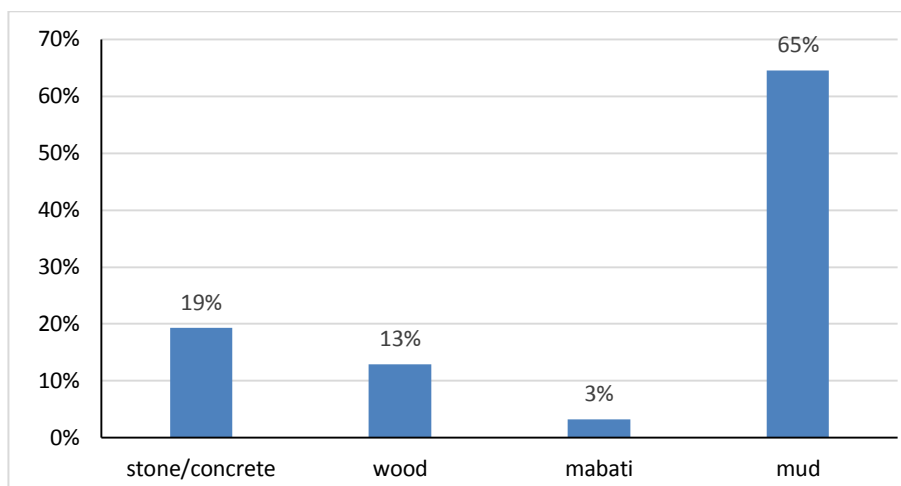


Figure 3-22: Type of Housing Material

It can be noted that majority of the houses (65%) are made of mud followed by stone / concrete (19%). Iron Sheet houses are the rarest (3%); probably due to high temperatures in the region.

The popular roofing materials are grass and iron sheets for households at the periphery of Wajir Town and within Wajir Town respectively. Poor housing is evident in the Project Area with more than 75% of houses with grassed roofs and earthen floors. Such houses will require water kiosks and sanitation systems such as ablution blocks, VIP latrines and EcoSan Toiles in the *bullas*.

3.8 Religious Setting

The responses from survey data showed that all the sampled respondents were Muslims. This has far reaching implication for water service provision because water is an essential ingredient for successful religious practice.

According to the local Sheikh, water is important for cleansing and purifying and that Muslims must be ritually pure before approaching God in prayer. Thus, conventionally, every Mosque is expected to have running water for these purposes.

Thus, provision of water horse pipes and hand wash basins is important in the Project.

3.9 Community Leadership and Dispute Resolution

Traditionally, the sole leadership among the ASAL communities comprises of the clan elders. Today, the community leadership structure at the grassroots in the host community manifest a hybrid system including of representatives of local administration such as Chiefs and their Assistants, elected members of county assembly and the traditional clan elders.

The role of the clan elders is paramount in the community as disputes are first brought to them. They then can either deal with them at their level or work jointly with the chiefs and their assistants. Issues especially those involving members of different communities beyond areas of their jurisdiction are usually referred to higher chain of command. The political leaders i.e. the MCAs and MP, Governor, etc., are involved in the provision of social service and development of

infrastructural as well as representation of community at the County and national policy making
fora.

CHAPTER 4: POLICY AND LEGAL PROVISIONS

4.1 General Information

The Chapter highlights key issues related to Kenyan land legislation with regards to involuntary resettlement, overview of provisions related to land use, planning, acquisition, management and tenure, and more specifically the legislations related with land expropriation or acquisition, land valuation and land replacement.

The Project activities will involve rehabilitation and upgrading of existing sanitary lanes with an aim of improving mobility within the target locations. Therefore, No Impact on Private Land Is Triggered.

However, other resettlement impacts are anticipated owing to the encroachment of the sanitary lanes by assets such as; septic tanks, walls, house extensions, shop canopies, temporal livestock houses, power poles and electricity lines, communal water points, shops, etc.

The Chapter also compares the Kenyan legislation with the World Bank provisions on resettlement, highlighting gaps and making recommendations to fill up gaps.

4.2 Legal and Policy Provision for Vulnerable and Marginalized Community (VMGs)

The Social Assessment Report for Water and Sanitation Development Project (WSDP) (Zamconsult 2017) and Vulnerable and Marginalized Groups (VMGs) Screening Report prepared by Northern Water Services Board (NWSB), categorizes Wajir County as a region for Vulnerable and Marginalized Communities. Project Area of Wajir is predominantly occupied by native Somali communities who according to OP 4.10 are categorized as Vulnerable and Marginalized.

Therefore, the following detailed policy provision will apply when implementing the RAP;

4.2.1 The Constitution of Kenya, 2010

The Constitution of Kenya is the supreme law in the country which recognizes the socio-economic and cultural rights of a citizens as stipulated under Article 43. In recognition of the need to enhance inclusivity, the document outlines key measures meant to address the plight of the VMGs in society. The important sections include:

In Article 56, the State is mandated to put in place affirmative action programmes designed to ensure that minorities and marginalized groups participate and are represented in governance and other spheres of life; are provided special opportunities in education and economic fields; are provided special opportunities for access to education; develop their cultural values, languages and practices; and have reasonable access to water, health services and infrastructure.

This Project under Water and sanitation development Project (WSDP) aim at addressing sanitation challenges in Wajir and Garissa Counties which are classified as marginalized.

4.2.2 The World Bank Operation Policy OP 4.10 on Indigenous People

The OP 4.10 on indigenous people contributes to the Bank's mission of poverty reduction and sustainable development by ensuring that development processes fully respects the dignity, human rights, economies and cultures of indigenous people. It is required that the borrower engages in FPIC to secure broad community support to the project by the affected indigenous people. The Bank advances financial resources, only where the FPIC results in the aforementioned support. In this case then, the financing is inclusive of measures to avoid potentially adverse impacts on the indigenous communities. In addition, the benefits accruing from the projects should be gender sensitive, inter-generationally inclusive and culturally appropriate. The OP.4.10 aligns with Kenya's policy instruments regarding the VMGs. A comprehensive Social Assessment of likely Project impacts on Vulnerable and Marginalized Communities has been prepared (Zamconsult 2017). The assessment objectives were to;

- (i) Assist the Project support the aspirations and needs of the Vulnerable and Marginalized Groups (VMGs) in the project area.
- (ii) Identify and prepare a comprehensive plan to avert potentially adverse effects from project interventions on VMGs where not possible or feasible, mitigate or compensate such adverse impacts
- (iii) Ensure that project benefits reach the VMGs in an equitable manner through institutions that respect and are able to serve them in a decentralized manner.

The Report presents various recommendations of remedial measures including;

- (i) To ensure that the Project supports the aspirations and needs of the Vulnerable and Marginalized Groups (VMGs) in the project area.
- (ii) To identify and prepare a comprehensive plan that will avert any potentially adverse effects from project interventions on VMGs where not possible or feasible, mitigate or compensate such adverse impacts
- (iii) To ensure that project benefits reach the VMGs in an equitable manner and through institutions that respect and serve them in a decentralized manner.

These provisions have been used to develop extra assistance to the VMGs identified in this RAP.

4.3 National Relevant Laws

The National Land Policy ("NLP" or "Policy")⁴ was adopted in August 2009 with the aim of providing an overall framework for new legislation and defining key measures required to address critical issues such as land administration, access to land, land use and restitution related to historical injustices and an outdated legal framework. The NLP addresses constitutional issues such as compulsory acquisition and development control.⁵ Section 45 of the NLP defines compulsory acquisition as "the power of the State to extinguish or acquire any title or other interest in land for a public purpose, subject to prompt payment of compensation."⁶ Under the current Constitution,⁷ the Land Act 2012 empowers the National Land Commission (under the guidance of Minister for Lands) to exercise the power of compulsory acquisition on behalf of the State.⁸ Similarly, the NLP empowers the National Land Commission to compulsorily acquire land.⁹

⁴Sessional Paper No. 3 of 2009 on National Land Policy (referred to as the "National Land Policy" in this report) was adopted in August 2009 by Ministry of Lands. Available at http://www.lands.go.ke/index.php?option=com_content&task=view&id=238&Itemid=48, accessed May 25, 2011.

⁵ Development control is the power of the State to regulate the property rights in urban and rural areas and is derived from the State's responsibility to ensure that the use of land promotes the public interest.

⁶Sessional Paper No. 3 of 2009 on National Land Policy, § 45.

⁷The Constitution of Kenya, 1963, was replaced in 2010.

⁸Land Act, § 6, 2012.

⁹Sessional Paper No. 3 of 2009 on National Land Policy. §233(d).

Table 4-1: Summary of Relevant Resettlement Legal Statutes Applicable to Project

Legal Framework	Functional Relationship to Resettlement	
Constitution of Kenya 2010	Constitution of Kenya 2010 recognizes individuals' right to acquire and own property provided they are citizens of the country in article 40. However, Article 66 of the same Constitution provides for the State to regulate the manner in which these rights may be curtailed for the benefit of the general public. Article 47 of the Constitution provides for administrative action to override the individual rights but the victim must be given written reason for the action taken that undermines the right.	The project complies with the requirements of the Constitution with respect to land and property rights
The Land Act 2012 Laws of Kenya	It is the substantive law governing land in Kenya and provides legal regime over administration of public and private lands. It also provides for the acquisition of land for public benefit. The government has the powers under this Act to acquire land for projects, which are intended to benefit the general public. The projects requiring resettlement are under the provision of this Act.	The project complies with the requirements of the Land Act 2012. Official cadastral maps prepared for Wajir were used in designating the sanitary lanes
Land Registration Act, 2012	The law provides for the registration of absolute proprietorship interests over land (exclusive rights) that has been adjudicated or any other leasehold ownership interest on the land. Such land can be acquired by the state under the Land Act 2012 in the project area.	Survey and registration of plots in Wajir is ongoing, this statute has been complied with
National Land Commission Act 2012	The act establishes the National Land Commission with the purpose of managing public land and carrying out compulsory acquisition of land for specified public purposes.	In the event that way-leave acquisition will be required, NLC Act will be complied
The Land Adjudication Act Chapter 95 Laws of Kenya 2012	Provides for ascertainment of interests prior to land registrations under the Land Registration Act 2012 through an adjudication committee that works in liaison with adjudication officers.	Land adjudication is ongoing in Wajir as required by this statute
The Valuers Act 532	The act establishes a valuers registration board, which has the responsibility of regulating the activities and conduct of registered valuers in accordance with the provision of the act.	The assets presented in this RAP were valued at replacement cost with a registered Valuer as required

4.3.1 Constitution of Kenya 2010

The Constitution of Kenya, 2010,¹⁰ protects the sanctity of private property rights and states that no property can be compulsorily acquired by the Government except in accordance with law.¹¹ Article 40(3) states:

“The State shall not deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation—results from an acquisition of land or an interest in land or a conversion of an interest in land, or title to land, in accordance with Chapter Five; or is for a public purpose or in the public interest and is carried out in accordance with this Constitution and any Act of Parliament that –

*(i) Requires prompt payment in full, of just compensation to the person; and
(ii) Allows any person who has an interest in or right over, that property a right of access to a court of law.¹²*

The Constitution empowers the state to exercise the authority of compulsory acquisition. Land Act 2012 (LA) designates the National Land Commission(NLC) as the agency empowered to compulsorily acquire land.¹³ Article 40 of the Constitution provides that the state may deprive owners of property only if the deprivation is "for a public purpose or in the public interest," which includes public buildings, roads, way leaves, drainage, irrigation canals among others. The state's exercise of this power is left at the discretion of NLC, and requires the state to make full and prompt payment of "just compensation" and an opportunity for appeal to court.

Article 40(3) (a) refers to acquisition and conversion of all kinds of land in Kenya (private, public, community land and foreign interests in land). The Constitution further provides that payment of compensation shall be made to “occupants in good faith” of land acquired by the state who do not hold title for such land.¹⁴An occupant in good faith is a “bona fide” occupant. On the other hand, under the Kenyan Constitution, those who have acquired land illegally are not regarded as deserving any compensation¹⁵Therefore, the RAP implementation will follow OP. 4.12 which recognises the rights of illegal land owners and will compensate them for loss of structure and livelihood/disturbance allowance.

In addition to Article 40, Chapter Five of the Constitution is relevant to compulsory acquisition. Article 60 –68 of Part 1 of Chapter Five, describes the Principles of Land Policy. It explains that land should be held, used and managed in a manner that is equitable, efficient, productive and sustainable and in accordance with security of land rights, sound conservation and protection of ecologically sensitive areas.¹⁶ These principles must be implemented through a national land policy reviewed regularly by the national government and through legislation.¹⁷

The project complies with the requirements of the constitution with respect to land and property rights, land acquisition is not triggered by this RAP hence compulsory acquisition clause will not apply.

¹⁰ The Constitution of Kenya, 2010, was adopted by the Government of Kenya on 27 August 2010. The full text is available at http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution/Constitution_of_Kenya2010.pdf, accessed May 25, 2011.

¹¹Constitution of Kenya, art. 40.

¹² Id.

¹³ The Land Act, 2012 The Government of Kenya, Section 8.

¹⁴Constitution of Kenya.Id. at art.40(5).

¹⁵Constitution of Kenya.Id. at art.40(3).

¹⁶Id. at art. 60.

¹⁷Id. at art.60(2).

4.3.2 The Land Act (2012)

The Land Act 18("LA") is the Kenya's framework legislation regulating compulsory acquisition of land (i.e. land, houses, easements etc.). It provides for sustainable administration and management of land and land-based resources including compulsory acquisition.

The project complies with the requirements of the Land Act 2012. The sanitary lanes were identified using official cadastral maps prepared for Wajir County Government.

4.3.3 The Land Laws (Amendment) Act 2016

The Land Laws (Amendment) Act, 2016 (No. 28 of 2016) was assented to by the President on 31st August, 2016 and came into effect on 21st September, 2016.

The Land Laws (Amendment) Act, 2016 revises the Land Act, 2012, the Land Registration Act, 2012 and National Land Commission Act, 2012. It also sets out regulations to give effect to Articles 67 (2) (e) and 68 (c) (i) of The Constitution of Kenya which deal with the National Land Commission's function of initiating investigations into present or historical land injustices and reparation and prescribed minimum and maximum land holding acreages for private land respectively.

4.3.4 National Land Commission Act 2012

The National Land Commission (NLC) 2012 will undertake compensation. NLC is an independent government commission whose establishment was provided for by the Constitution of Kenya, 2010 to, amongst other things, manage public land on behalf of the national and county governments, initiate investigations into present or historical land injustices and recommend appropriate redress, and monitor and have oversight responsibilities over land use planning throughout the country. [1] It was officially established under The National Land Commission Act, 2012.

4.3.5 The Valuers Act (1985)

Valuation of land is a critical aspect of compulsory acquisition practice and compensation. The National Land Commission based on land valuation determined by registered valuers will make compensation awards. Besides, the Valuers Act¹⁹ establishes the Valuers Registration Board, which regulates the activities and practice of registered valuers. All valuers must be registered with the Board to practice in Kenya. The Board shall keep and maintain the names of registered valuers, which shall include the date of entry in the register; the address of the person registered the qualification of the person and other particulars that Board may find necessary.

As of March 2011, there were 285 registered valuers in Kenya.²⁰ The Valuers Act does not provide for a description of the valuation procedures and methods. The RAP team has made use of the services of registered valuers who are approved by Valuers Registration Board.

¹⁸ Land Act, 2012.

¹⁹The Valuers Act, Chapter 532, http://www.kenyalaw.org/kenyalaw/klr_app/frames.php, accessed May 25, 2011.

²⁰Government of Kenya, Kenya Gazette notice no. 2892, March 18, 2011. Registered and Practicing Valuers.

Under the Valuers Act, professional misconduct of registered valuer will include:

- False or incorrect entry in the register;
- False or misleading statement caused by omission or suppression of material fact;²¹ and
- The acceptance of “any professional valuation work which involves the giving or receiving of discounts or commissions.”²²

In case of professional misconduct, the registered valuer is guilty of an offense punishable with a fine (not exceeding Kshs.10, 000) and/or imprisonment for three years. Fees for land valuation in case of compulsory acquisition are established based on the value of the property as “the first Kshs 400,000 at 1 percent. Residue at 0.5 percent”²³ and are paid by those who requested the valuation.

4.3.6 Housing Policy 2011

The overall goal of this Housing Policy is to facilitate the provisions of adequate shelter and a healthy living environment at an affordable cost to all socio-economic groups in Kenya to foster sustainable human settlements. This will minimise the number of citizens living in shelters that are below the habitable living conditions. It will also curtail the mushrooming of slums and informal settlements especially in the major towns. This RAP identified that no person would lose shelter due the planned Project.

4.3.7 Evictions Guidelines April 2017

According to the Eviction Guidelines, Section 4.9.1 drafted by Ministry of Lands (2010), the Government shall ensure that evictions only occur in exceptional circumstances. Evictions require full justification given their potential extremely negative impact on a wide range of international recognised human rights. Any eviction must be warranted by law, reasonable in the circumstances, proportionate and can only be carried out in accordance with the Guidelines and international human rights and humanitarian law.

The Government shall ensure that exceptions to the prohibition on forced evictions such as the ‘interest of society’ or ‘public interest’ should be read restrictively, to again ensure that evictions only occur in exceptional circumstances.

Where eviction is justified, it should be carried out in strict compliance with the following procedures: -

- a) Appropriate notice given to the affected individual or groups clearly stating the modalities, day and time of the eviction.
- b) Consultations with the affected individual or group on the proposed eviction modalities and resettlement plans.
- c) Holding of public hearing with affected persons and other stakeholders to provide an opportunity to discuss alternative proposals for resettlement.
- d) Provide opportunity for the parties to seek legal redress where there is a stalemate or

²¹ The Valuers Act, § 24 and Legal Notice no. 32.

²² Land Act 2012, article 128.

²³Legal Notice 32.

dispute.

- e) The eviction notice should contain a detailed justification for the decision, among others:
 - i) Be a language that is understood by all individuals concerned
 - ii) The full details of the proposed alternative
 - iii) Where no alternatives exist, all measures taken and foreseen to minimize
 - iv) the adverse effects of evictions

Section 4.95 on Alternative land and housing states that the Government shall ensure that evictions do not result in individuals being rendered homeless or vulnerable to the violation of other human rights. The Government shall, where those affected are unable to provide for themselves, take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

This policy will be adhered to during implementation of the Project, as indicated no one will be evicted because majority of assets identified during RAP census were non-residential as detailed in **Chapter 2** of this report.

4.3.8 Matrimonial Property Act No 49 of 2013, Ownership of Matrimonial Property

Part III (Clause 7) states that subject to Section 6 (3), ownership of matrimonial property vests in the spouses according to contributions of either spouse towards its acquisition and shall be divided between the spouses if they divorce or their marriage is otherwise dissolved. This also includes assets like land.

In complying to this policy provision, this RAP provides for equal right to information regarding compensation of affected structure and disbursement of compensation funds through a joint account opened by both spouse and with consent from children above the age of 18 years.

4.3.9 Constitutional Provisions and Disability

The Constitution of Kenya 2010, (Chapter 4, part III), Application of Rights (Clause 54) states:

A person with any disability is entitled: -

- a) to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning;
- b) to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person;
- c) to reasonable access to all places, public transport and information;
- d) to use Sign language, Braille or other appropriate means of communication;
- e) to access materials and devices to overcome constraint arising from the person's disability.
- f) (2) The State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities.

4.3.10 Wayleave Acquisition Process in Kenya

(i) Proof that compulsory possession is for public good

It is very explicit in the Land Act, 2012, Section 107, that whenever the national or county government is satisfied that it may be necessary to acquire some particular land under section 110 of Land Act 2012, the possession of the land must be necessary for public purpose or public interest, such as, in the interests of public defense, public safety, public order, public morality, public health, urban and planning, or the development or utilization of any property in such manner as to promote the public benefit. Irrigation and drainage are explicitly identified as qualifying for land acquisition as public utility and the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having right over the property, and so certifies in writing, possession of such land may be taken.

(ii) Respective Government Agency or Cabinet must seek approval of NLC

The respective Cabinet Secretary or Government Agency or the County Executive Committee Member must submit a request for acquisition of private land to the NLC to acquire the land on its behalf. The Commission will prescribe a criteria and guidelines to be adhered to by the acquiring authorities in the acquisition of land. Similarly, the Commission has powers to reject a request of an acquiring authority to undertake an acquisition if it establishes that the request does not meet the requirements prescribed.

(iii) Publication of Notice of Intention to Acquire

Upon approval, NLC shall publish a notice of intention to acquire the land in the Kenya Gazette and County Gazette.²⁴ It will then serve a copy of the notice to every person interested in the land and deposit the same copy to the Registrar²⁵ The courts have strictly interpreted this provision, requiring that the notice include the description of the land, indicate the public purpose for which the land is being acquired and state the name of the acquiring public body.²⁶ NLC shall ensure that the provisions are included in the notice.

The Land Registrar shall then make entry in the master register on the intention to acquire as the office responsible for survey, at both national and county level, geo-references the land intended for acquisition.

(iv) Inspection of Land to be acquired

NLC may physically ascertain or satisfy itself whether the intended land is suitable for the public purpose, which the applying authority intends to use as specified. If it certifies that indeed the land is required for public purpose, it shall express the satisfaction in writing and serve necessary notices to land owners and or approve the request made by acquiring authority intending to acquire land.

(v) Valuation of the Land

²⁴ The *Kenya Gazette* is the official government journal in Kenya published by the Government Printing Press.

²⁵ Land Act, 2012, 107

²⁶Government of Kenya 1994.Coastal Aquaculture Limited. The Commissioner of Lands and Settlement and the Minister of Lands and Settlements. Mombasa H.C. Misc. Appl., No. 55 of 1994,

This ruling was upheld by the Court of Appeal. Coastal Aquaculture Limited. The Commissioner of Lands and Settlement and the Minister of Lands and Settlements. Nairobi. No. 252 of 1996, [---

4-8](http://www.kenyalaw.org/CaseSearch/view_preview1.php?link=49186237036025529910634, accessed May 25, 2011.</p></div><div data-bbox=)

Part III of the Land Act 2012, Section 113 (2a) states that “the Commission shall determine the value of land with conclusive evidence of (i) the size of land to be acquired; (ii) the value, in the opinion of the Commission, of the land; (iii) the amount of compensation payable, whether the owners of land have or have not appeared at the inquiry.” This can be interpreted that NLC must determine the value of the land accordingly and pay appropriate just compensation in accordance with the principles and formulae that it will develop. Nonetheless, just compensation²⁷ could also be interpreted as market rate. The final award on the value of the land shall be determined by NLC and shall not be invalidated by reason of discrepancy, which may be found to exist in the area.

(vi) Matters to be considered in Determining Compensation:

The Kenyan law stipulates that the market value of the property, which is determined at the date of the publication of the acquisition notice, must be considered.²⁸ Determination of the value must take into consideration the conditions of the title and the regulations that classify the land use e.g. agricultural, residential, commercial or industrial. However according to the World Bank provision OP 4.12, it dictates that the assets affected by the proposed project be compensated at full replacement cost and as thus, the World Bank provision supersedes the Kenyan provision and hence takes effect.

Increased market value is disregarded when:

- ✓ It is accrued by improvements made within two years before the date of the publication of the acquisition notice, unless it is proved that such improvement was made in good faith and not in contemplation of the proceedings for compulsory acquisition.
- ✓ It is accrued by land use contrary to the law or detrimental to the health of the occupiers of the premises or public health.
- ✓ Any damages sustained or likely to be sustained by reason of severing such land from other land owned by the claimant.
- ✓ Any damage sustained or likely to be sustained if the acquisition of the land had negative effects on other property owned by the claimant.
- ✓ Reasonable expenses, if as a consequence of the acquisition, the claimant was compelled to change his residence or place of business (i.e., compensation for disruption to the claimant’s life).
- ✓ Any damage from loss of profits over the land occurring between the date of the publication of the acquisition notice and the date the NLC takes possession of the land.²⁹

(vii) Matters not to be considered in Determining Compensation:

- The degree of urgency, which has led to the acquisition.
- Any disinclination of the person’s interest to part with the land.
- Damages sustained by the claimant, which will not represent a good cause of action.
- Damages, which are likely to be caused to the land after the publication of the acquisition notice or as a consequence of the future, land use.
- Increased land value accrued by its future use.

²⁷ Schedule explaining ‘just compensation’ has not been assessed and released by NLC. The Land Act 2012 say NLC should develop the schedule.

²⁸*Id.* at article 112 and article 111.

²⁹Schedule 2 governing compensation 2000.

- Any development at the time of acquisition notice, unless these improvements were necessary for maintaining the land.³⁰

(viii) Serve the Notice of Inquiry

Thirty days after the publication of the Notice of Intention to Acquire, NLC will schedule a hearing for public inquiry. NLC must publish notice of this meeting in the Kenya Gazette and County Gazette 15 days before the inquiry meeting and serve the notice on every person interested in the land to be acquired. Such notice must instruct owner of land to deliver to the NLC, no later than the date of the inquiry, a written claim for compensation.³¹

(ix) Holding of a Public Hearing

NLC then convenes a public hearing not earlier than 30 days after publication of the Notice of Intention to Acquire. On the date of the hearing, NLC must conduct a full inquiry to determine the number of individuals who have legitimate claims on the land, the land value and the amount of compensation payable to each legitimate claimant.³² Besides, at the hearing, the Commission shall— make full inquiry into and determine who are the persons interested in the land; and receive written claims of compensation from those interested in the land. For the purposes of an inquiry, the Commission shall have all the powers of the Court to summon and examine witnesses, including the persons interested in the land, to administer oaths and affirmations and to compel the production and delivery to the Commission (NLC) of documents of title to the land.

The public body for whose purposes the land is being acquired, and every person interested in the land, is entitled to be heard, to produce evidence, to call and to question witnesses at an inquiry. It will also provide opportunity to land owners to hear the justification of the public authority in laying claims to acquire the land.

(x) Award of Compensation

The Land Act 2012 does not stipulate that compensation must be in the form of money only. Under the Land Act 2012, Section 117, the State can award a grant of land in lieu of money compensation (“land for land”), provided the value of the land awarded does not exceed the value of the money compensation that would have been allowable³³ The law could be interpreted that any dispossessed person shall be awarded the market value of the land.³⁴ The new law is silent on relocation support or livelihood/disturbance allowance support. Therefore, in this RAP, the principles of OP. 4.12 will take precedence and will be applied instead of the requirements or restrictions of the Land Act which do not seem to offer relocation support or livelihood disturbance allowance. OP. 4.12 require that PAPs be provided with additional support including offer relocation support or livelihood disturbance allowance.

Upon the conclusion of the inquiry, and once the NLC has determined the amount of compensation, NLC will prepare and serve a written award of compensation to each legitimate claimant.³⁵ NLC will publish these awards, which will be considered “final and conclusive evidence” of the area of the land to be acquired, the value of the land and the amount payable

³⁰ Schedule 3 governing compensation for compulsory acquisition

³¹ Land Act, 2012 (112).

³² Id. at article 112.

³³ Land Act, 117.

³⁴ Land Act, Schedule

³⁵ Land Act, 115

as compensation.³⁶ Land Act, Section 115 further stipulates that an award shall not be invalidated by reason only of a discrepancy between the area specified in the award and the actual area of the land. Compensation cannot include attorney's fees, costs of obtaining advice, and costs incurred in preparing and submitting written claims.

(xi) Payment of Compensation

A notice of award and offer of compensation shall be served to each person by the Commission. Section 120 provides that "first offer compensation shall be paid promptly" to all persons interested in land.³⁷ Section 119 provides a different condition and states that the NLC "as soon as practicable" will pay such compensation.³⁸ Where such amount is not paid on or before the taking of the land, the NLC must pay interest on the awarded amount at the market rate yearly, calculated from the date the State takes possession until the date of the payment.³⁹

In cases of dispute, the Commission may at any time pay the amount of the compensation into a special compensation account held by the Commission, notifying owner of land accordingly. If the amount of any compensation awarded is not paid, the Commission shall on or before the taking of possession of the land, open a special account into which the Commission shall pay interest on the amount awarded at the rate prevailing bank rates from the time of taking possession until the time of payment.

(xii) Transfer of Possession and Ownership to the State

Once first offer payment has been awarded, the NLC will serve notice to landowners in the property indicating the date the Government will take possession. Upon taking possession of land, the commission shall ensure payment of just compensation in full. When this has been done, NLC removes the ownership of private land from the register of private ownership and the land is vested in the National or County Government as public land free from any encumbrances.⁴⁰

On the other side also, the Commission has also the power to obtain temporary occupation of land. However, the commission shall as soon as is practicable, before taking possession, pay full and just compensation to all persons interested in the land.

In cases where there is an urgent necessity for the acquisition of land, and it would be contrary to the public interest for the acquisition to be delayed by following the normal procedures of compulsory acquisition under this Act, 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.

On the expiration of that time NLC shall, notwithstanding that no award has been made, take possession of that land. If the documents evidencing title to the land acquired have not been previously delivered, the Commission shall, in writing, require the person having possession of the documents of title to deliver them to the Registrar, and thereupon that person shall forthwith deliver the documents to the Registrar.

³⁶ Land Act, 115

³⁷ Land Act, This language reflects the language of the Kenya Constitution, 1963.

³⁸ Land Act, 119

³⁹ Constitution of Kenya, article 162

⁴⁰ Land Act, 115 and 116

On receipt of the documents of title, the Registrar shall— cancel the title documents if the whole of the land comprised in the documents has been acquired; if only part of the land comprised in the documents has been acquired, the Registrar shall register the resultant parcels and cause to be issued, to the parties, title documents in respect of the resultant parcels. If the documents are not forthcoming, the Registrar will cause an entry to be made in the register recording the acquisition of the land under this Act.

(xiii) Opportunity for Appeal

The Kenya Constitution establishes Environment and Land Court⁴¹. Article 162 of the Constitution provides for the creation of specialized courts to handle all matters on land and the environment. Such a court will have the status and powers of a High Court in every respect. Article 159 on the principles of judicial authority, indicates that courts will endeavour to encourage application of alternative dispute resolution mechanisms, including traditional ones, so long as they are consistent with the Constitution. Section 20, of the Environment and Land Court Act, 2011 empowers the Environment and Land Court, on its own motion, or on application of the parties to a dispute, to direct the application of including traditional dispute resolution mechanisms.

Any person whose land has been compulsorily acquired may petition the Environment and Land Court for redress with respect to:

- The determination of such person's right over the land;
- The amount offered in compensation; and
- The amount offered in compensation for damages for temporary dispossession in the case of the Government's withdrawal of its acquisition of the land.⁴²

Parties will pay fees as determined by Land and Environment or the court may choose to waive them completely or in part on grounds of financial hardship.⁴³

In the event that additional wayleave is required by WAJWASCO for use as a sanitary lane, the above listed procedure will be fully followed for acquisition and registration.

4.4 World Bank Safeguard Policy on Resettlement (OP 4.12)

The World Bank Operational Policy 4.12, Framework of November 2002, is a common standard of approved principles and guidelines for compensation/resettlement for this type of project. It however, requires harmonization with national laws of the subject country to the extent possible. Where there are differences, World Bank OP 4.12, applies.

World Bank's Safeguard Operational Policy O.P. 4.12 on 'Involuntary Resettlement' requires that displaced persons should be compensated at full replacement cost.

The World Bank Group O.P. 4.12 on Involuntary Resettlement is, therefore, applicable to the project. The key features of this directive are as follows:

- (a) All viable alternative project designs should be explored to avoid or minimise the need for resettlement and when it cannot be avoided, to minimise the scale and impacts of resettlement.

⁴¹ Land Act 2012, Section 128

⁴² Land Acquisition Act. at article 29(7).

⁴³ Land Acquisition Act at article 43.

- (b) Resettlement measures are to be conceived and executed as development activities.
- (c) Assistance should be given to the community in their efforts to improve former production levels, income-earning capacity and living standards, or at least restore them to the levels at which they would have been without the project.
- (d) Displaced persons should be:
 - Compensated at full replacement cost prior to the actual move;
 - Assisted with relocation; and
 - supported during the transition period.
- (e) Attention will be given to socially disadvantaged and vulnerable groups as the very poor, the disabled, minorities, orphans and child-headed families, squatters and others without clear legal rights to land, those incapacitated by advanced age, among others. This has been complied with. Vulnerable groups have been identified and earmarked for special assistance **(see sub-section 6.1.3)**.
- (f) Communities will be given opportunities to participate in planning, implementing and monitoring their resettlement/compensation. This has been complied with including extensive community and stakeholder consultations. The views of community members and other stakeholders have been considered and integrated into the RAP **(Chapter 5)**

4.4.1 Differences Between Kenyan Laws and the World Bank Policy

There are some differences between the World Bank Policy and the Laws of Kenya on resettlement and compensation.

Table 4-2 on **Page 4-14** outlines World Bank OP. 4.12 Policy on involuntary resettlement and compares them to the relevant Kenyan legislation.

Recommendations are made on the existing gaps of the Kenyan laws. In general, where there is a difference between Kenyan Law and OP 4.12, the latter shall prevail.

Table 4-2: Comparative Analysis of World Bank OP 4.12 and Government of Kenya requirements including measures to address gaps

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
GENERAL REQUIREMENTS			
<p>World Bank OP4.12 has overall policy objectives, requiring that:</p> <ol style="list-style-type: none"> 1. Involuntary resettlement should be avoided wherever possible, or minimized, exploring all alternatives. 2. Resettlement programs should be sustainable, include meaningful consultation with affected parties, and provide benefits to the affected parties. 3. Displaced persons should be assisted in improving livelihoods etc., or at least restoring them to previous levels. 	<ol style="list-style-type: none"> 1. According to Kenyan Legislation, involuntary resettlement may occur as a result of projects implemented in public interest. 2. The Land Act, 2012 Act outlines procedures for sensitizing the affected population to the project and for consultation on implications and grievance procedures. 3. The Land Act 2012 guarantees the right to fair and just compensation in case of relocation. 	<ol style="list-style-type: none"> 1. The Land Act does not stipulate that resettlement should be avoided wherever possible; on the contrary, as long as a project is for public interest, involuntary resettlement is considered to be inevitable. 2. Same as the World Bank 3. Just and fair compensation as outlined in the Land Act 2012 is not clear and can only be determined by NLC, which can be subjective. It does not talk about improving livelihood or restoring them to pre-project status. 	<ol style="list-style-type: none"> 1. For RAP, ensure that resettlement issues are considered at the design stage of the project to avoid/ minimize resettlement. <p>Implement World Bank OP 4.12 policy – affected persons should be assisted in improving their livelihood to pre-project status.</p>
PROCESS REQUIREMENTS			
<p>Consultation: Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs</p>	<p>The Land Act outlines procedures for consultation with affected population by the NLC and grievance management procedures.</p>	<p>Same as World Bank</p>	<p>Implement consultation procedures as outlined in both Kenyan legislation and World Bank.</p>
<p>Grievance: For physical resettlement, appropriate and accessible grievance mechanism will be established.</p>	<p>Land Act 2012 clearly outline the steps and process for grievance redress that includes alternative dispute resolution, re-negotiation with NLC and is backed by the judicial system through Environmental and Land Court</p>	<p>Kenyan legislation meets OP4.12 requirements.</p>	<p>N/A</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>Eligibility Criteria Defined as: (a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country); (b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets—provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan (see Annex 10 A, para. 7(f)); and (c) those who have no recognizable legal right or claim to the land they are occupying To determine eligibility: Carry out resettlement census. Cut-off date for eligibility is the day when the census begins.</p>	<p>The Land Act 2012 provides that written and unwritten official or customary land rights are recognized as valid land right. The Law provides that people eligible for compensation are those holding land tenure rights Land Act also recognizes those who have interest or some claim in the land such pastoralist or who use the land for their livelihood. The constitution recognizes ‘occupants of land even if they do not have titles’ and payment made in good faith to those occupants of land. However, this does not include those who illegally acquired land</p> <p>Land Act 2012 provides for census through NLC inspection and valuation process</p>	<p>Kenya’s Land Law defines eligibility as both formal (legal) and informal (customary) owners of expropriated land. However, it does not specifically recognize all users of the land to be compensated. The constitution of Kenya on the other hand recognizes ‘occupants of land’ who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition is made.</p> <p>Same as World Bank</p>	<p>Ensure ALL users (including illegal squatters, laborers, rights of access) of affected lands are included in the census survey or are paid</p> <p>Implement cut-off procedures as outlined in the RPF and Kenyan Law</p>
<p>Measures: Preference should be given to land based resettlement strategies for displaced persons whose livelihoods are land-based. Cash based compensation should only be made where (a) land taken for the project is a small fraction of the affected asset and the residual is economically viable; (b) active markets for lost assets exist and there is sufficient supply of land and housing; or (c) livelihoods are not land-based.</p>	<p>Legislation provides for land for land compensation, but the Land Act 2012 does not state whether preference should be granted to land compensation. Land Act 2012 appears to prefer mode of compensation by the Government to the affected population.</p>	<p>Land for Land provided for in the Land Act based on agreement by the PAP. Cash based compensation seems to be the preferred mode of awarding compensation to the affected population by Government of Kenya</p> <p>‘Just compensation’ as stipulated in the Land Act not yet specifically defined.</p>	<p>Ensure ALL users (including illegal squatters, laborers, rights of access) of affected lands are included in the census survey or are paid</p> <p>(b) If the impacts include physical relocation include measures to ensure that the displaced persons are (i) provide assistance (such as moving allowances) during</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>World Bank OP4.12 Article 6(a) requires that displaced persons are provided with prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project. If physical relocation is an impact, displaced persons must be provided with assistance during relocation and residential housing, housing sites and/or agricultural sites to at least equivalent standards as the previous site. Replacement cost does not take depreciation into account. In terms of valuing assets, if the residual of the asset being taken is not economically viable, compensation and assistance must be provided as if the entire asset had been taken.</p> <p>Compensation and other assistance required for relocation should be determined prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required</p>	<p>Land Act talks of prompt, just compensation before the acquisition of land. However, interpretation of just compensation is yet to be clearly outlined through a specific schedule defining just compensation have not been put in place.</p> <p>Attorney’s fees, cost of obtaining advice or cost incurred in preparing and making written claim not in the Land Act other than ‘just compensation’</p> <p>The Act does not out rightly stipulate assistance for relocation but can be interpreted that relocation cost will be included in just compensation.</p>	<p>OP 4.12 provides related land transaction fees. Land Act not clear on this.</p> <p>OP4.12 requires that displacement must not occur before all necessary measures for resettlement are in place, i.e., measures over and above simple compensation</p>	<p>relocation; and</p> <p>(ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.</p> <p>(c) Ensure that displaced persons are</p> <p>(i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living;</p> <p>(ii) provided with development assistance in addition to compensation measures</p> <p>(iii) such as land preparation, credit facilities, training, or job opportunities.</p> <p>Implement prompt and effective compensation at full replacement cost for the losses of the assets.</p> <p>Ensure that ALL resettlement options are agreed on with PAPs and put in place BEFORE displacement of affected persons.</p>

OP 4.12	Kenyan Legislation	Comparison	Recommendation to Address Gap
<p>Valuation: With regard to land and structures, “replacement cost” is defined as follows:</p> <p>For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.</p> <p>For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors’ fees, plus the cost of any registration and transfer taxes.</p>	<p>Valuation is covered by the Land Act 2012 and stipulates, as already mentioned, that the affected person receive just compensation from NLC, as determined by National Land Commission. Valuers Act stipulates that a residual amount of 0.5% of the total valuation of an asset is expected to pay the valuer. Land Act 2012 talks of just compensation for the lost assets but it is not specific of the exact amount or procedures on the same.</p> <p>The Land Act 2012 stipulates just compensation.</p>	<p>Though one could argue that there is some form of consistency between the Kenyan Law and World Bank OP.4.12, interpretation of ‘just compensation’ has not been defined.</p> <p>Interpretation of just compensation not clear</p> <p>Interpretation of just compensation not clear.</p>	<p>Apply the World Bank OP4.12 valuation measures, as outlined in Section 6, to fully value all affected assets in a consistent manner.</p> <p>Apply World Bank OP4.12 on valuation and compensation measures.</p> <p>Apply World Bank OP4.12 on valuation and compensation procedures.</p>
<p>Monitor Adequate monitoring and evaluation of activities to be undertaken.</p>	<p>According to Land Act can be undertaken County Land Boards.</p>	<p>Both Kenyan Law and World Bank policy advocates for Monitoring and Evaluation</p>	<p>Implement as prescribed in the World Bank OP4.12 and Kenyan Law.</p>

CHAPTER 5: STAKEHOLDER CONSULTATIONS AND PUBLIC PARTICIPATION

5.1 Legal and Policy Provisions for Stakeholder Consultations

5.1.1 World Bank Group (WBG) OP 4.12 on Involuntary Resettlement and Land Act 2012

World Bank OP 4.12 on Involuntary Resettlement requires that under Clause (14) Eligibility for benefits that upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project to determine who will be eligible for assistance, and to discourage inflow of people ineligible for assistance. The borrower also develops a procedure, satisfactory to the Bank, for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance. *The procedure includes provisions for meaningful consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs), and it specifies grievance mechanisms.*

The Land Act 2012 on the other side outlines procedures for consultation with affected population by the NLC and grievance management procedures.

Therefore, to conform to the above discussed legal and policy provisions, detailed stakeholder consultations was held in Wajir Project Area as presented in sub chapters below.

5.1.2 Objectives of Stakeholder Consultations

Stakeholder and public consultation during RAP process is undertaken during the design, implementation and initial operation stages of the Project. The aim is to disseminate information to interested and affected parties, solicit their views and consult on sensitive issues. The specific aims of the public consultation and participation process during the Preparation of the RAP at the design stage include:

- To inform the local people, leaders and other stakeholders about the proposed Project and its objectives
- Obtain the main concerns and perception of the community and their representatives of the Project
- To promote Project ownership by the proponent and beneficiaries in order to minimize conflicts
- Obtain opinions and suggestions from the directly affected persons on the Project impacts and best suited measures to mitigate them
- Obtain opinions and suggestions on the Project Concepts, Designs, etc. and therefore minimize conflicts and delays in implementation
- To facilitate the development of appropriate and acceptable entitlements options
- To increase long term Project sustainability and ownership
- To reduce problems of institutional coordination, especially at the different Governments levels.
- Create awareness and garner broad support for the proposed project.
- -Engage local community on anticipated problems and challenges and possible solutions.

5.2 Schedule of Stakeholder Consultations

To comply with the above discussed statuses, the assessment involved consultations with relevant stakeholders in Wajir Town Project Area. The specific objective of consultation was to ensure that disclosure and engagement during present and forthcoming phases of the project is done to establish broad community support and employ the principles of free (free of intimidation or coercion), prior (timely disclosure of information) and informed (relevant, understandable and accessible information) consultation. The consultations were held with Project Interested Persons as listed in Table 5-1 below. The outcome of the meetings and resulting issues were then analyzed and presented to design team for finalization of Project designs and planning on how best to implement the Project. **Table 5-1** below presents a summary of focused Group Discussion meetings and institutional consultations held in Wajir Town Project target locations.

Table 5-1: Schedule of Focused Group Discussions

Date	Location	Stakeholder Consulted	Total	
			Male	Female
		•		
27 th September 2017	Wajir Township Chiefs Office	<ul style="list-style-type: none"> • Chief and Sub Chief Wajir Township • Local Public Health Committee • Women, youth and general public 	22	9
26 th September 2017	Jogoo Location at ADC Market	<ul style="list-style-type: none"> • Chief and Sub Chief • ADC Market Steering Committee • Local Public Health Committee • Women, youth and general public 	25	7
26 th September 2017	Wagberi Location LMO AP Camp Grounds	<ul style="list-style-type: none"> • Chief and Sub Chief • Local Public Health Committee. • Women, youth and general public 	22	11
4 th December 2017	Wajir Red Cross training hall	<ul style="list-style-type: none"> • Chief and Sub Chief • Local Public Health Committee. • Women, youth and general public • Enumerators 	46	34

Key informants representing various relevant intuitions within Wajir Town Area were consulted as summarized in **Table 5-2** below.

Table 5-2: Schedule of Focused Group Discussions

Name of Institutions	Designation of Officers Consulted	Date Consulted
Town Administration	Town Manager – Wajir	26 th Sep 2017
Local Administration	Senior Chief Wajir Town	26 th Sep 2017
Wajir Water and Sanitation Company (WASWASCO)	Managing Director – WASWASCO	27 th Sep 2017
Wajir County Department of Health	County Department of Health	28 th Sep 2017
Wajir County Department of Health	Public Health Officer	28 th Sep 2017
Wajir County Department of Health	Deputy Director of Health	28 th Sep 2017
Wajir County Department of Health	Chief Health Public Officer	28 th Sep 2017
Wajir County Department of Health	Director of Special Programmes	28 th Sep 2017
Local Administration	Senior Chief Wajir Township	4 th Dec 2017
Local Administration	Senior Chief Alimao location	4 th Dec 2017
Local Administration	Senior Chief Hodhan Location	4 th Dec 2017
Local Administration	Senior Chief Jogoo Location	4 th Dec 2017
Local Administration	Senior Chief Godade Location	4 th Dec 2017
Local Administration	Senior Chief Wagberi Location	4 th Dec 2017

Local Administration	Senior Chief Barwaquo Location	4 th Dec 2017
----------------------	--------------------------------	--------------------------

In Summary, issues discussed are presented in **Table 5-3** on **Pages 5-3 to 5-5** and **Table 5-4** on **Page 5-7**.

Photographs taken during the stakeholders' consultations are given on **Page 5-6**.

The activities necessary for effective and meaningful consultations will lead to close interaction between the proponent and the community members leading to a high risk of spreading Covid – 19 amongst community members during the consultation process. The activities may take the form of one –on –one or onsite presence in the community, large gatherings and long duration of engagement sessions. To minimize the risk of spread of COVID-19 amongst community members, the following measures will be required to ensure social distancing and appropriate communication measures. The mitigation measures will be supervised by a communications/ stakeholder engagement / social safeguards experts in the project proponent's team:

- (i) Electronic means of consulting stakeholders and holding meetings shall be encouraged whenever feasible. One on one engagements for the PAPs while observing social distance and adhering to PPE wearing shall be enforced;
- (ii) Avoid concentrating of more than 15 community members at one location. Where more than one person are gathered, maintain social distancing of at least 2 meters;
- (iii) The team carrying out engagements within the communities on one-on-one basis will be provided with appropriate PPE for the number of people they intend to meet;
- (iv) Use traditional channels of communications (TV, newspaper, radio, dedicated phone-lines, public announcements and mail) when stakeholders do not have access to online channels or do not use them frequently. Ensure to provide and allow participants to provide feedback and suggestions.
- (v) Hold meetings in small groups, mainly in form of FGDs if permitted depending on restrictions in place and subject to strict observance of physical distancing and limited duration.
- (vi) In situations where online interaction is challenging, disseminate information through digital platform (where available) like Facebook and WhatsApp & Chart groups.

Table 5-3: Summary of Issues discussed in Focused Group Discussions

No	ISSUE	RESPONSE	INCLUSION IN THE PROJECT
1	<p><u>Likely Project Resettlement Impacts of Projects identified in the Master plan</u> The residents were worried that the Projects might impact of people’s private assets and sources of livelihoods. However, with proper participatory approach the community might provide land for WWTP voluntarily</p>	<ul style="list-style-type: none"> • The project is implemented within provisions of World Bank safeguards policies in particular OP 4.12 that require that the Project resettlement impacts are adequately addressed and PAPs properly compensated. • NO land acquisition will be triggered by planned rehabilitation and upgrading of sanitary lanes. • RAP impacts will be limited to structures encroaching into the sanitary lane and bush clearing. 	<p>The RAP has been developed to provide an overview of likely Project Impacts to people’s assets and sources of livelihood within the identified sanitary lanes</p>
OTHER ISSUES DISCUSSED			
2	<p><u>Poverty Prevalence</u> Residents raised the issue of high poverty levels in the area. Most residents depend on livestock rearing as the main source of income, however due to the extended drought that has hit most parts of the country has led to massive loss of livestock thus exposing them to poverty.</p>	<ul style="list-style-type: none"> • The meeting resolved that the national and county governments should invest more in constructing water troughs for their animals to counter the adverse effects of drought. The county should offer extension services on livestock so that farmers can get improved breads that can adopt to the current climatic dynamics and also offer affordable micro credit facilities to residents so that they can start businesses to supplement income from livestock rearing. • This Project (Water and Sanitation Development Project WSDP) is among government initiative of addressing the issue of poverty affecting Wajir residents. The project will provide conventional sanitation facilities as discussed in Chapter 2 of this assessment. These facilities will improve health and hygiene of the residents hence eliminate recurrent water borne diseases that make the residents spent a lot of money on medication. • The other component of WSDP will provide clean domestic water supply and water for livestock hence addressing the severe water problem of Wajir 	<p>Implementation of the overall WSDP Project is part of the government commitment of addressing improving living standards of Wajir people hence a step towards addressing poverty problem.</p>
3	<p><u>Health and Hygiene Status</u> Community members raised the issue of poor sanitation occasioned by a high-water table in the area. Residents were concerned that the high-water table has led to prevalence of water borne diseases. This risk is made worse during the rainy season. Most</p>	<ul style="list-style-type: none"> • The aim of the project is to address health and sanitation challenges experienced by Wajir peoples due to the nature of water table that is high and susceptible to bacteriological contamination. • Community members in attendance were informed that in this component, there will be construction of 1 Nr Faecal Sludge Treatment Facility to be located at the existing Wastewater Stabilization Ponds site, 6 Nr Ablution Blocks to be 	<p>Implementation of this Project will address the health and sanitation challenges suffered by Wajir residents</p>

No	ISSUE	RESPONSE	INCLUSION IN THE PROJECT
	<p>residents depend on bucket toilets which can lead to the spread of ailments like cholera and typhoid. Bucket toilets are also expensive to maintain because they require regular emptying which is costly.</p>	<p>located in public schools namely (Wagberi Primary, Wajir Primary), 2 Nr Pilot Communal Septic Tanks to be constructed for Wajir Hospital staff quarters and Wajir Police Station Police line Staff quarters, 5 Nr Pilot Ecological Sanitation (Eco-San) Toilets, locations to be identified by Wajir Water and Sanitation Company.</p> <ul style="list-style-type: none"> The pilot projects will be monitored and if they work well, more will be constructed to solve the issues of poor sanitation. 	
4	<p><u>Employment opportunities to locals</u> The issue of exclusion in participation in paid labour during construction was also raised in the meeting. Residents especially the youth noted that in the previous projects the contractors outsourced most of the workforce, yet they were willing and to work. Residents further noted that if the contractor does not hire some of the local youth it might lead to resistance and delays in project implementation.</p>	<ul style="list-style-type: none"> It was resolved that the contractor should hire casuals from the area during project implementation phase. Recruitment will be overseen by local 'Bula' heads and existing local administration who will vet and hire local labourers and at the same time ensuring that each clan is represented. Vulnerable PAPs will be accorded priority in the hiring of casual labourers and other technical skill. Those with other technical skill ware encouraged to apply for consideration. Residents were informed that the contractors must come with his permanent staff and only hire when job opportunities are available. 	<p>The Project will provide approximately 100 job opportunities to be shared appropriate among men, women and youth. Gender Policy 2011 and considerations for Vulnerable PAPs will apply.</p>
5	<p><u>Water Tariff uncertainties</u> Residents were concerned that the cost of connecting to the sewer line might be too expensive for them to afford. They sighted hive levels of poverty in the area as a major challenge facing them. The nature of housing in the areas also is a challenge to them in terms of connection to the sewer system. Their houses are mostly temporary makeshift structures.</p>	<ul style="list-style-type: none"> The Water Services Regulatory Authority (WSRB) is responsible for tariff regulation across various parts of the country However, considering the vulnerability and marginalization of Wajir Community, appropriate tariff and connection fee will be discussed between the community, WSRB, Wajir County Government, Northern Water Services Board (NWSB) and Wajir Water and Sanitation Company (WAJWASCO) Where the temporal housing structure cannot be connected to a sewer system, residents suggested that the toilets should be constructed at designated areas within the homesteads (Bula). The toilets will be shared by several homesteads. 	<p>The Project steering committee to initiate discussion with WASREB and WAJWASCO on appropriate tariff and connection fees to be adopted as per the provisions of the law and Constitution of Kenya with a consideration that Wajir has been classified as VMGs region</p>
	<p><u>Solid Waste Management Component</u></p>		

No	ISSUE	RESPONSE	INCLUSION IN THE PROJECT
	<p>Community members wanted to know if the project will incorporate any component on solid waste management since it was a major problem faced by residents. They informed the meeting that the area is fairly flat with high prevalence of wind. This leads to blowing away of solid waste like old clothes and polythene paper. The waste then clings on trees and shrubs owing to the fact that most trees and shrubs have thorns. This has resulted in massive environmental degradation.</p>	<p>Community members in attendance were informed that in this component, 1Nr. 15-tonne tipper will be bought to handle solid wastes and also 500Nr. Personal Protective Equipment (PPE) will be purchased for people who will be charged with the responsibility of garbage collection and an 80HP Multipurpose tractor. Residents were also encouraged to give in more proposals on solid waste handling for future deliberation.</p>	<p>The tippers and multipurpose tractors proposed in the immediate urgent Work will support to a great deal solid waste management challenges in Wajir town.</p> <p>A separate consultant will be recruited to analyses solid waste management component for Wajir.</p>

Sample Photos of Public Consultation Forums



Focused Group Discussion at Wajir Township Chief's Office



Focused Group Discussion at LMO AP Camp in Wagberi



Focused Group Discussion at ADC Market in Jogoo



Training of Enumerators at Kenya RED CROSS Hall in Wajir Town

Table 5-4: Summary of Institutional Consultations

Name of Institutions	Issue discussed
Wajir County Government	<ul style="list-style-type: none"> • The County Government will support WAJWASCO and affected PAPs in opening of sanitary lanes as provided in the RAP • The Project is welcome as it will address health and sanitation challenges related to popular bucket toilet system • The tippers and multipurpose tractors proposed in the Immediate Urgent Works will support to a great deal, solid waste management challenges in Wajir Town
Wajir Water and Sanitation Company (WAJWASCO)	<ul style="list-style-type: none"> • The main challenge is the in accessibility of the sanitary lanes due to encroachment. • The consultant to mark and label all sanitary lanes, the lanes should be identified using Cadastral maps available at Wajir County Government • WAJWASCO to dedicate an officer who will help the consultant map out all the encroachment with all targeted sanitary lanes. • The consultant to share the asset register of all affected PAPs once the report is ready and approved for disclosure.
Wajir County Department of Health	<ul style="list-style-type: none"> • Wajir County Government Health Department supports the Project especially the pilot communal septic tank for the Wajir Hospital staff quarters • The Ministry of Health has developed a Master Plan for upgrading of Wajir Hospital. This Master Plan should be referred to by the design engineers during establishment of site for communal septic tanks
Wajir Police	<ul style="list-style-type: none"> • The police have suffered for many years because of the existing bucket system toilet facility. All latrines at the police line staff quarter are either dilapidated and in a poor state. • The project is highly welcome as it will improve the living conditions of the Police Force in Wajir ultimately improving the police work output.

5.3 Public Disclosure of RAP and Annual Monitoring Reports

In accordance with EMCA 2015 and World Bank OP 4.01 and OP 4.12, the Project Proponent in this case WAJWASCO will ensure that the results of public consultations including RAP is disclosed to the Project beneficiary.

- (i) This will be achieved through making the reports available to all relevant host communities within the *Bulla* organization
- (ii) This RAP also provides for translation of the executive summary to local language which are Dagodia, Ajuran and Ogaden which is popularly spoken in the area.

CHAPTER 6: ELIGIBILITY AND ENTITLEMENT MATRIX

6.1 Eligibility for Compensation

The concept of eligibility is used with respect to the definition of PAPs and the criteria for determining their qualification for compensation and other resettlement assistance. This concept was applied in this RAP as described in the Sub chapters below.

6.1.1 Eligibility for Compensation and 'cut-off' date

The affected persons, irrespective of their status, will be eligible for some form of assistance if they owned the asset or engaged in any livelihood income-generating activity at the affected sites before the entitlement '**cut-off date**', the date was established to be **8th December 2017**.

The entitlement 'cut-off' date refers to the time when the census and assessment of PAPs and their property in the project begun. This was explained to the community members and PAPs during community dialogues and the PAP census. Thereafter, no new cases will be entertained for compensation.

Upon completion of the census and asset inventory surveys, and to avoid an influx of additional persons, the cut-off dates, this RAP provides for publishing of the date in the in the Kenya Gazette, disclosed to PAPs through discussions organized by local '*Bulla*' leaders and via the dissemination of posters in the project area. Those who encroach on the area after the established cut-off date will not be eligible for compensation or assistance.

The concept of eligibility is used with respect to the definition of PAPs and the criteria for determining their qualification for compensation and other resettlement assistance. The affected persons, irrespective of their status, are eligible for some form of assistance if they occupied the land or engaged in any livelihood income-generating activity at the affected sites before the entitlement 'cut-off date', the date will be determined at detailed RAP stage.

The following PAPs categories were identified in Wajir and will be eligible for compensation assistance;

- (i) People whose structures will be affected by Project activity implementation, the RAP identified that common structures affected were; Septic tanks, walls, goat houses, house extension, shop canopies, community water points, neem trees and hedges and KPLC power poles.
- (ii) People who rent structures (residential) or (tenants) on the Right of Way (RoW) designated as sanitary lane. The structures could be used as kiosks, and whose kiosks are to be temporarily removed or relocated.

Applicable Entitlement Matrix for the above described loses is presented in **Table 6-2**.

6.1.2 Exclusion from Eligibility

As described in earlier, all involuntary displacement (resettlement) is eligible for compensation with the exception of four main categories of loss, which are explicitly classified as ineligible for compensation as described below:

- (i) Losses arising from structures or activities in the ROW of the sanitary lanes, or in any of the sub-project areas impacted by the Project, that post-date the cut-off date;
- (ii) Losses claimed on the basis of intention to use the land for a particular purpose (actual prior investment in plans and permissions may be compensated, but expected future value arising from proposed future investments is excluded);
- (iii) Losses arising from structures or activities outside the ROW [fully justified exceptions could be considered by the Grievance Redress Mechanism (GRM)];
- (iv) Losses claimed on a fraudulent basis or by material misrepresentation of facts e.g. of identity, ownership, employment, or nature of asset or use of land.

6.1.3 Vulnerable Groups

As per the Social Impact Assessment Report (Zam Consult 2017) and Northern Water Services Board (NWSB) Vulnerable and Marginalized Groups (VMGs) Screening, the entire Wajir County is predominantly occupied by native Somali speaking communities who according to OP 4.10 are categorized as Vulnerable and Marginalized.

Therefore, these are social and distinct groups of people who might suffer disproportionately or face the risk of being marginalized as a result of resettlement compensation and specifically include: (i) female-and child-headed households, (ii) disabled household heads, (iii) households where the head is unemployed and (iv) Households headed by elderly persons with no means of support.

This RAP assessment further analyzed vulnerability using several indicators which included:

- (i) Gender dimension regarding ensuring equal right to knowledge and decision on RAP process and management of compensation funds eligible to a household. This vulnerability was identified during census exercise by analysing households with history of misunderstanding and gender abuse between the wife and husband.
- (ii) An analysis of the affected livelihood and assets with regards to ultimate dependency of the on asset or sources of livelihood by the household. This vulnerability was identified during census exercise by analysing and recording other sources of livelihood that the households depend on.
- (iii) Vulnerable and Marginalized Communities likely to be impacted by the Project, this factor was considered with an understanding that Wajir is categorized as a region which is home to native Somali community which is marginalized according to OP 4.10 and Kenyan Constitution 2010.

The RAP also recognizes that vulnerability is a socio-economic dynamic situation and people can stream into a situation of vulnerability as well as stream out. The RAP implementation team will, therefore, need to screen, review and update the vulnerable PAP households identified and update special assistance packages for such vulnerable PAPs; and develop

strategies to deliver such assistance. This responsibility has been re-emphasized in the role of the RAP implementation team. The RAP implementation team will ensure that vulnerable PAP households understand the RAP implementation process and that their specific needs and concerns at that time are taken into consideration, through targeted consultations with them.

This RAP therefore identified VMGs during the field census as summarized in **Table 6-1** below and **Figure 6-1**.

Table 6-1: Vulnerable and Marginalized Groups

Location	Type of Vulnerability					Total
	Elderly	Lost Livestock due to Drought	Business Collapse	Chronically Ill	Disabled	
Alimao	Nil	Nil	Nil	Nil	Nil	Nil
Barwaqo	1	4	Nil	Nil	Nil	5
Godade	2	50	Nil	Nil	Nil	52
Hodhan	11	14	31	4	8	68
Jogoo	5	14	1	3	3	26
Township	3	Nil	2	3	Nil	8
Wagberi	2	16	7	5	3	33
	24	98	41	15	14	

Proposed Assistance to Vulnerable Groups

- (i) Deliberate efforts to be put in place by WAJWASCO to ensure that spouses are included in the opening of joint bank accounts for payment of compensation monies
- (ii) Linkage to government social programme such as the "Inua Jamii 70 years and above cash transfer programme for aged PAPs
- (iii) Linkage to Livestock extension services where PAPs can receive information about; improved breeds of livestock, veterinary services to livestock and technical assistance for livestock management
- (iv) Targeted and localized house-to-house or group sensitization for the vulnerable PAP households during pre-payment consultations.
- (v) Priority consideration will be given in processing resettlement compensation payments and specialized assistance in explaining and filling out compensation payment forms.
- (vi) Specific support will be provided to the vulnerable groups by WAJWASCO in regard to either aiding these PAPs in relocating, moving property or any support that may be deemed appropriate.
- (vii) Consideration of eligible members of the vulnerable PAP households in the employment in project activities

6.1.4 Strategy for Property Compensation

The resettlement measures or strategies will be developed in close consultation with community members including the Vulnerable PAPs, the PAPs, and institutional stakeholders and in reference to the national legal regimes, the World Bank Involuntary Resettlement Policy. Two main strategies have been identified and are discussed below. All PAPs will be made aware of these options, including those who requested further consultations with other household and family members.

- (i) Strategic Option for compensation
- (ii) Strategic option two: In-kind compensation and resettlement measures
- (iii) Disturbance allowance

6.2 Livelihood Restoration

No livelihoods were affected in this RAP as clarified above that what was affected was either shop canopies or shop wall extensions. However the RAP provides for below listed Livelihood restoration measures to be implemented during RAP implementation stage.

Financial Management Training

All PAHs who will receive cash compensation for loss of assets will be eligible for financial management training as per the entitlement matrix. This is in recognition that the absence of financial training could lead to mis-use of the compensation funds leading to increased vulnerability of the PAHs when the PAHs run broke. Financial training will commence as soon as possible but before households get paid their cash compensation. The aim of the training is to ensure adequate money management skills and use of cash to enable livelihood restoration. The financial management training will be based on assessment of existing income-generating patterns which is mainly farming.

Linking to Micro-Credit Facilities

Project Affected Households will also be linked to micro-credit facilities in the area. This is to encourage savings and enable households to invest and restore their livelihoods.

Employment During Construction

PAHs will be offered priority in employment a part of transitional allowance especially with respect to unskilled and semi-skilled employment. The contractor will prepare a Labour Recruitment Plan (LRP) to oversee employment opportunities for PAHs and locals.

Continued Asset Use

Consideration for allowing PAPs to continue to use assets even after they receive compensation (if the assets do not need to be accessed for the project for some time). This will make the transition easier and less stressful. It may reduce the transition period costs for the client. If proceeding with this scenario, ensure there is a written agreement signed by the client and the affected person, specifying their right to continue to use the asset, in which way and for how long.

6.3 Entitlement Matrix

The Entitlement Matrix developed for this RAP is presented in **Table 6-2** on **Page 6-5**.

Table 6-2: Entitlement Matrix

Loss	Category of PAP	Entitlement
Land	Informal and occupiers/users	<ul style="list-style-type: none"> No compensation for loss of land because the Project does not trigger land acquisition
	Temporary Land leased by the Contractor for camps, storage sites, working areas, access, etc.	<ul style="list-style-type: none"> Cash compensation or rent payment as per lease agreement to be drawn between Contractor and the land owner. Cash compensation at replacement cost of any loss of crops and trees and other standing assets which include structures
Residential or Business structure (kiosk, eateries, workshop, rental property, etc.);	Structure Owners.	<ul style="list-style-type: none"> Cash compensation based on the market value (= replacement value and 15% of the full replacement cost as the disturbance allowance to cater for the cost of transportation and labour during removal of the structures). (market value of new material to re-establish the respective structure) 3month notice to the PAPs of intention to use the site The structure owners have a right of salvage to their property.
	Tenants	<ul style="list-style-type: none"> 3month notice to the PAPs of intention to use the site for the tenants to look for alternative structure.
Loss of Income	Business operators	<ul style="list-style-type: none"> Cash compensation based on a calculated average loss of income over an appropriate period (normally 3 months) 3-month notice to the PAPs of intention to use the site
	Landlords	<ul style="list-style-type: none"> Cash compensation based on a calculated average loss of income over an appropriate period (3 months) 3-month notice to the PAPs of intention to use the site
	Employees	<ul style="list-style-type: none"> Casual, day to day labourers will receive advance notice (3) that businesses will be removed, this will allow them time to look for alternative enterprises away from the reserve.
Community Asset	Example communal worship or communal water points	<ul style="list-style-type: none"> Full replacement of a similar community asset in consultation with the affected persons / community
	Kenya Power Electricity Poles	<ul style="list-style-type: none"> Realignment of the poles away from the sanitary lane in consultation with Kenya Power as the utility.
Trees and crops	Trees and crops owners	<ul style="list-style-type: none"> Cash compensation for lost trees and crops at full replacement cost valued at market rate Allowed adequate time to harvest the crop and trees. 3-month notice to the PAPs of intention to use the site
Other	Vulnerable and Marginalized PAPs	<ul style="list-style-type: none"> Deliberate efforts to be put in place by WAJWASCO to ensure that spouses are included in the opening of joint bank accounts for payment of compensation monies Linkage to government social programme such as the "Inua Jamii 70 years and above cash transfer programme for aged PAPs Linkage to Livestock extension services where PAPs can receive information about; improved breeds of livestock, veterinary services to livestock and technical assistance for livestock management Targeted and localized house-to-house or group sensitization for the vulnerable PAP households during pre-payment consultations.

Loss	Category of PAP	Entitlement
		<ul style="list-style-type: none"> • Priority consideration will be given in processing resettlement compensation payments and specialized assistance in explaining and filling out compensation payment forms. • Specific support will be provided to the vulnerable groups by WAJWASCO in regard to either aiding these PAPs in relocating, moving property or any support that may be deemed appropriate. • Consideration of eligible members of the vulnerable PAP households in the employment in project activities
Livelihoods restoration measures	All categories	<ul style="list-style-type: none"> • Financial Management training of PAPs • Linking to Micro-Credit Facilities • Employment During Construction • Continued Asset Use
All categories	All categories	<ul style="list-style-type: none"> • Sensitize community members and consulting with the vulnerable groups constantly in order to understand their needs regarding the project to ensure that is relevant, culturally appropriate and responsive to their needs and aspirations. • Support and facilitate the use of customary institutions for grievance and complaints handling. It is cheaper, more appropriate, fairer and acceptable for vulnerable groups to engage 'bulla' elders in mobilization for Project Consultation Meetings.

CHAPTER 7: GRIEVANCE REDRESS MECHANISM

7.1 Grievance Procedure and Rationale

This section describes the procedure and mechanism through which community members and PAPs will be able to report, make, place/lodge or express a grievance against the Project and its staff or contractors as part of the RAP implementation. It also describes the roles and responsibilities of different structures in resolving grievances. A grievance is any dissatisfaction or sense of injustice or unfairness felt by a person – in this respect a PAP or his/her representative in connection with his/her compensation entitlements, the RAP implementation process, the project developer, the contractor and other scenarios related to project implementation. The grievance is usually brought to the attention of the person(s) in charge, referred to in this RAP as the Grievance Officer (GO). This grievance procedure is intended to put in place and facilitate accessible, prompt and cost-effective handling of grievances at the nearest points of service to community members and the PAPs.

The aim and purpose of this system is to make the grievance handling procedures accessible, prompt and affordable to the PAPs given the generally low values of some of the properties to be affected, and also provide an alternative to the costly and time-consuming formal court procedures for handling grievances and disputes. The objective of the grievance handling systems and procedure is to establish PAPs mechanism for raising complaints related to compensation for loss of structures and assets and having such complaints resolved as amicably as possible through acceptable and binding corrective actions. This grievance management system will be in place throughout the Project construction period, including the exit period.

7.2 Customary Grievance Redress Mechanism

The Somali people who are dominant in the Project area have developed their customary mechanisms for conflict resolution. At the core of the customary are the clan elders who meet and discuss a dispute to determine who is wronged and how they will be compensated. Disputes and grievances are resolved by elders who act in various capacities and levels.

- (i) Level (1), at the '*bulla*' or village level where they came together to deal with local intra-clan issues. At that level they were convened by village elders.
- (ii) Level (2) refers to the clan level where they still dealt with intra-clan issues including disputes between sub-clans or with inter-clan issues when joined by elders from other clans. At this level elders mobilized each other as need arose or were convened by chiefs.

7.3 General Principles of Grievance Redress Process

The Social Assessment for the Project (Zam Consult 2017) developed principles that will apply in the grievance and complaints handling mechanisms that will be used in the proposed Project. These principles are crucial in ensuring that the VMGs are involved and participate in the GRM process. The principles were therefore adopted by this RAP and are listed below.

- (i) **Equity** –The Project interested Persons and the VMGs will have a chance to be heard even in situations that require them to write their complaints when some cannot write. The project will put in place mechanisms to allow proxies draft complaints for VMG members who cannot write.
- (ii) **Transparency** – grievances or complaints will be dealt with openly before elders or other formal institutions with facts being disclosed as and when required without favour.
- (iii) **Language** – the language of discussion in the process of handling grievances shall be that that is used by the Project interested Persons and the VMGs namely, Somali. When VMG members shall not read or write in this language they will be assisted by the project to grasp what is written that affects them.
- (iv) **Participation** – The Project interested Persons and the VMGs and their representatives will be allowed to understand matters under discussion and to help actors in disputes understand where community members stand with regard to disputes being discussed. This approach will allow implications of disputes and grievances for project progress will be disclosed to VMG communities.
- (v) **Options** – parties to any dispute or any person with a grievance will be given options openly to follow customary procedures or formal procedures. If they begin with customary procedures and are not happy with outcomes they will be allowed to proceed to formal processes. These options and courses of action will be made known to them beforehand.
- (vi) **Monitoring** – grievances and complaints will be monitored with a view to having them settled within the shortest possible time. The project will to the extent possible facilitate speedy resolution of grievances.

7.4 Grievance Redress Procedure

(i) Local Residents Complaints Procedure

The purpose and scope of local resident's complaints procedure is to ensure all complaints from local residents are dealt with appropriately with corrective actions being implemented and the complainant being informed of the outcome. It will be applicable to all complaints received from any local within the project area. The communities have already established a local customary grievance redress mechanism as discussed above.

The contractor will employ a Community Liaison Officer and or sociologist who will be responsible for collating written complaints and co-coordinating responses to all complaints with local mechanisms.

(ii) Procedure

The project will set up a mechanism for receiving and registering grievances at 'bulla' (village) level and disclose the same to Project interested parties including VMG members in appropriate community meetings. Therefore, grievances will be registered: (a) by 'bulla' elders (b) by community development officer in the project. Once the grievances are registered and reach the project office, the office will respond exhaustively providing options open to the aggrieved party and helping activate such options to the expressed preference of the aggrieved party in the earliest opportunity not later than seven working days of grievance registration.

(d) Level (1-) Bulla Elders

This is part of the customary mechanisms for dispute resolution and will be the institution of grievance/complaint debut unless dealt with fully by the community development office in the first instance or not preferred by the aggrieved party. Once the 'bulla' elders deal with a dispute, the project through the community development officer will monitor the process and update project leaders on progress every seven days until resolved or referred to the chief and clan elders within 30 days of registration, whichever is earlier.

(e) Level (2) Chiefs and Clan Elders

Grievances to be handled at this level will be referred by the 'bulla' elders or originate directly from the community development officer or when the grievance touches on inter-clan issues. The elders and chief responsible will be facilitated to resolve the dispute within 30 days. Monitoring will be done by the project community development officer.

(f) Level (3) Formal Judicial System

If an aggrieved person chooses not to use the above customary institutions for grievance resolution or ignores pronouncements of either or both the customary institutions; such a dispute will be forwarded to the formal justice system that includes courts of law, the National Land Commission to the extent that a grievance is relevant.

7.4.1 Procedure of Receiving and Resolution of Complaints

Step 1: Receipt of Complaint/Grievance

A verbal or written complaint from a PAP or community member will be received by the Grievance Officer (GO) on behalf of the local committee chaired by the Bulla heads (refer to Box7-1 for the roles of the GO) or an assigned contract officer in a given administrative jurisdiction/authority near to community level and recorded in a grievance log which will be held in the offices of the contractor.

Box 7.1: Role of a Grievance Officer

A Grievance Officer (GO), who will be a member of the Project Implementation Team, will lead the grievance mechanism. Principal responsibilities of the GO will include:

- a) Recording the grievances, both written and oral, of the affected people, categorising and prioritising them and providing solutions within a specified period.
- b) Discussing grievances on a regular basis with the *Bulla* elders and coming up with decisions/actions regarding issues that can be resolved at that level.
- c) Informing the *Bulla* elder to serious cases within an appropriate time frame.
- d) Reporting to the aggrieved parties about developments regarding their grievances and the decisions of the *Bulla* elders and mediation committee.
- e) Providing inputs into the monitoring and evaluation process.

The grievance team will hold meetings at site level grievances are received by a contact person who would then hand over the received complaints to the GO, for entering into the grievance log using the grievance form.

The grievance log will indicate grievances, date opened/lodged, actions taken to address or reasons why the grievance was not acted upon (e.g. the grievance was not related to the resettlement process), information provided to complainant and date on which the grievance was closed.

Grievances can be lodged at any time, either directly to the *Bulla* elders, GO, contractor's site office or the sub county offices. The process of lodging complaint is outlined below:

- (i) The GO will receive a complaint from the complainant.
- (ii) The GO will ask the claimant questions in their local Somali language, write the answers in English and enter them in English onto the grievance form.
- (iii) The local leader (representative of an independent local civil society organisation) and the complainant both sign the grievance form after they have both confirmed the accuracy of the grievance.
- (iv) The GO lodges the complaint in the grievance log.

Step 2: Determination of Corrective Action

If in their judgment, the grievance can be solved at this stage and the GO and *Bulla* elders will determine a corrective action in consultation with the aggrieved person. A description of the action, the time frame within which the action is to take place, and the party charged with implementing the action will be recorded in the grievance data base.

Grievances will be resolved and the status reported back to complainants within 30days. If more time is required, this will be clearly communicated and in advance to the aggrieved person. In cases that are not resolved within the stipulated time, site investigations will be undertaken and results discussed in the monthly meeting with the affected persons. In some instances, it may be appropriate to appoint independent third parties to undertake the investigations.

Step 3: Meeting with the Complainant

The proposed corrective action and the time frame in which it is to be implemented will be discussed with the complainant within 30 days of receipt of the grievance. Written agreement to proceed with the corrective action will be sought from the complaint (e.g. by use of an appropriate consent form). If no agreement is reached Step 2 will be revisited.

Step 4: Implementation of Corrective Action

Agreed corrective actions will be undertaken by the project developer or its contracts within the agreed time frame. The date of the completed action will be recorded in the grievance database.

Step 5: Verification of corrective action

To verify satisfaction, the aggrieved person will be approached by the GO and *Bulla* elders to verify that the corrective action has been implemented. A signature of the complainant will be obtained and recorded in the log and/or on the consent form (see Step 3). If the complainant is not satisfied with the outcome of the corrective action, additional steps may be undertaken to reach agreement between the parties. If additional corrective action is not possible, alternative avenues may be pursued.

Step 6: Action by Grievance and Resettlement Committee

Grievances to be handled at this level will be referred by the '*bulla*' elders or originate directly from the community development officer when the grievance touches on inter-clan issues or not solved at *Bulla elders* level. The elders and chief responsible will be facilitated to deal with the matter exhaustively within 30 days of being seized of it. Monitoring will be done promptly by the project community development officer in charge.

Once this has determined its approach to the lodged grievance, this will be communicated to the GO, who will communicate this to the complainant. If satisfied, the complainant signs to acknowledge that the issue has been resolved satisfactorily. If the complainant is not satisfied, however, the complainant notes the outstanding issues, which may be re-lodged with the Grievance Committee or the complainant may proceed with judicial proceedings.

Step 7: Alternative Action/Judicial Recourse and National Land Commission

In case this mechanism will lead to resolution of the grievance, the complaint is free to seek redress at the courts of law at any given time.

7.4.2 National Land Commission Grievance Mechanism

The Land Act 2012 and National Land Commission Act 2012 obligate the NLC to manage grievances and disputes related to resettlement or land amicably. NLC will be expected to arbitrate or negotiate with PAPs or landowners that have any grievances concerning their compensation. The cascading structures they put in place are also expected to take up this responsibility.

7.4.3 Capacity-Building for the Grievance Officer and Grievance Committees

It will be important for the GO to be appointed based on his/her experience and training in conflict resolution through mediation and reconciliation. It will also be important for the GO to have sufficient skills in data management, including data entry, data analysis and storage. This notwithstanding, it will be important that steps are taken to orient and build the capacity of the GO as part of the project implementation team in conflict resolution procedures, such as mediation and reconciliation, and other management areas such as record-keeping, report-writing and ICT equipment management.

The Grievance Committee members will also need to be oriented to the grievance management system suggested in the RAP as adopted from the RPF. The capacities of the Grievance Committee Members will also need to be built around issues of conflict identification, conflict information analysis and conflict resolution as provided for in the land legislation.

7.4.4 Other Alternatives

The other alternative recourse suggested as a last resort is for the complainant to seek redress informal courts of law. The constitution establishes the Land and Environment Court (high court) and empowers this court to determine disputes relating to the amount of compensation to be paid for land acquired compulsorily in public interest.

CHAPTER 8: RESETTLEMENT ARRANGEMENT

8.1 Resettlement Implementation Principles

The main objective of resettlement and compensation is to ensure that the PAPs get fair and prompt compensation. In this way it is expected that their income, production capacity and standard of living will be improved, or at least restored to their former levels. The guiding principles for the implementation of the RAP at detailed design stage of the identified sub Projects will be as follows:

- (i) Resettlement or relocation has been minimised by taking into consideration all feasible alternative measures.
- (ii) The compensation awards will be paid out according to the preference of the PAPs;
- (iii) A statutory disturbance allowance of 15 percent of the compensation value will also be included;
- (iv) All other activities related to the RAP will be communicated in advance to the PAPs using the preferred channels of communication;
- (v) Where grievances arise, the respective PAPs will be given an opportunity to be heard, fairly and promptly as using the Somali customary system discussed in **section 7.4**.
- (vi) Measures will be taken to ensure that vulnerable groups get special assistance and support; and where spousal and children consent is needed, the provision will be enforced.
- (vii) The communities in Wajir Town have been categorized as Vulnerable and Marginalized Groups (VMGs) by the Water and Sanitation Development Project (WSDP) Social Assessment Report Feb. 2017. Therefore, special assistance will be considered when designing extra compensation measures eligible to PAPs as discussed in **section 6.1.3**

8.2 Resettlement Implementation Arrangements

This Chapter provides a list of all agencies and institutions that are involved in the implementation of the RAP. This list will be reviewed and updated at detailed RAP stage during implementation of the identified Sub Projects in the Master Plan.

These organizations are crucial in the RAP implementation process and are mandated to perform their respective roles and have capacity to undertake their specific responsibilities even though WAJWASCO implementation unit will be charged with the overall responsibilities of implementation of the RAP.

8.2.1 Project Management at Ministry level

Ministry of Water and Irrigation (MWI) will interface with other sector ministries, agencies and Wajir County on matters and policies relating to the Project and more specifically RAP issues. The (MWI) will interface with the National Treasury on issues pertaining to RAP budget financing. The ministry will also communicate directly with the Bank on technical issues RAP preparation, approvals, disclosure and even implementation being among them.

8.2.2 The Project Coordinator (PC)

Project Coordinator (PC) is the overall technical coordinator in the implementation of the Water and Sanitation Development Project (WSDP), this is the head of donor Programmes Coordination Unit at the (MWI).

The Project Coordinator will supervise the project team and ensure that project implementation activities and reports are on schedule and in compliance with the financing agreement. The coordinator will report to the Principle Secretary (PS) (MWI) and will from time to time draw the attention of the PS to all emerging policy issues for decision at that level or a higher level.

The office will oversee coordination of the entire process, from development to implementation and monitoring.

The National Coordinating Unit has the following roles:

- (i) Coordinate the effective implementation of the ESMF/RPF and ensure compliance with agreed implementation procedures and guidelines.
- (ii) Prepare Progress Reports on the implementation of the environmental and social safeguards.
- (iii) Procure and supervise consultants for Social and Environment Assessments.
- (iv) Build the capacity at all levels to implement the ESMF/RPF.
- (v) Supervise ESMF/RPF implementation during and after project implementation.
- (vi) Ensure integration of EMPs and RAPs into Contract and Bid Documents.
- (vii) Ensure adequate community participation.

The project team is responsible for routine implementation and technical austerity of the WSDP Project the team has put together a Safeguards team which has an environmental and social safeguard specialist responsible of ensuring that the environmental and social safeguards are implemented to and complied to under the project. The officer will be responsible under this RAP to do quality checks and review the RAP reports before forwarding to the World Bank safeguards specialist. The officer oversees actual implementation of the RAP with the help of Resettlement Implementation Committee constituted for the project.

8.2.3 Wajir Water and Sanitation Company (WAJWASCO) RAP Implementing Committee

WAJWASCO will establish a RAP implementation committee to be appointed by the Managing Director. The committee will be comprised of a specialist representation of expertise which includes Social Expert, Environmentalist, Accountant, Legal and Monitoring and Evaluation Expert.

The committee will work with a representative of Local County office in Wajir and the Project Affected Persons for each host community. The committees' roles are as presented below.

- (i) To ensure the list of all PAPs has been verified and documented in the PAP register. The register shall have, among other parameters, (1) the name of the person, (2) type of loss (structure / Livelihood) (3) identification number of the PAP, (3) Compensation Amount (3) Bank Details or Mpesa details of the PAP.
- (ii) To verify the correctness of each PAP as stated in the register and ascertain that every identity card holder is correctly documented in the register.
- (iii) An appropriate framework for delivering the compensation payments to the PAPs will be decided by in line with government financial management regulations and as much as possible keeping in mind that most PAPs have no bank accounts. In the event that an individual is absent during payment, the Compensation Committee will immediately communicate a new date of payment to such individual(s).
- (iv) On completion of the PAP Audit list, the committee shall recommend payment and compensation. Payments will be made according to locations and adequate information will be made available to all affected persons prior to payment. Such information will include date and locations of payment, List of eligible people and amount Mode of payment, etc.

8.2.4 RAP Activities Implementation Process Flow

This RAP provides for coordinate approach in RAP implementation, therefore during the RAP preparation process, several key institutions were identified as critical to both preparation and implementation of the RAP.

This is summarized in **Table 8-1** on **Page 8-4**, consultations with and involvement of the Project-Affected Persons will be sought during the process.

8.3 RAP Implementation Schedule

The implementation schedule provides a set of activities from the 1st stage of planning to 2nd stage of implementation. The schedule is given in **Table 8-2** on **Page 8-5**.

Table 8-1: Roles and Responsibilities for Planning and Execution of Resettlement

Activity	Purpose	Period	Responsible Authority	Implementation
Preparation of Resettlement Action Plan	To provide census of project affected households, socio-economic baseline data of PAPs, Asset inventory, notification and preliminary consultation with PAPs in line with international good practice & Donor requirements	Planning	MoWS and WAJWASCO	RAP Consultant in cooperation with the Environment and Social Interests Team
RAP approval and disclosure	Banks Approval of the RAP and public disclosure	Planning	MoWS and World Bank	MoWS and World Bank approved RAP
Communication of intention to disrupt structures	To inform PAPs of the intention to disrupt structures notify them of the meetings to hear their issues	Planning	Wajir County and WAJWASCO Project Unit	To insert RAP disclosure notice
Survey & Loss assessment	To assess all land assets, impacts as basis for valuation	Planning	MoWS and WAJWASCO	RAP Consultant in cooperation with the Environment and Social Interests Team
Validation of assets being affected and their assets owners	To ensure that rightful asset owners and interested persons are identified for compensation	Planning	Wajir County Government and WAJWASCO Project Unit	RAP unit
PAPs Disclosure and Acceptance of compensation valuers	To formalize acquisition of rights necessary for construction	Pre-construction	Wajir County Government and WAJWASCO Project Unit	RAP unit
Opening of Bank Accounts for compensation	For ease in facilitation of safe payments of compensation	Pre-construction	Wajir County Government and WAJWASCO Project Unit	RAP unit
Payments of compensation	To disburse cash compensation to all eligible affected property owners and users	90 days before construction	Wajir County Government and WAJWASCO Project Unit	RAP unit
Issue Notices to Vacate	To prepare PAPs compensated to relinquish the property compensated for	90 days before taking over	Wajir County Government and WAJWASCO Project Unit	RAP unit
On-going consultation and disclosure	To keep project affected communities informed about project activities	Planning, Preconstruction and construction period	Wajir County Government and WAJWASCO Project Unit	RAP unit
Reception and redress of grievances	To receive and promptly redress grievances	Planning, pre-construction, construction and post construction period	Wajir County Government and WAJWASCO Project Unit	-GRC

Table 8-2: RAP Implementation Schedule

Sl. No.	TASK NAME	Period in Months															
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1.	RAP Review and Update		■	■													
2.	Approve of RAP Updated Report				■												
3.	Disclosure of Updated RAP					■											
4.	Setting up of GRM					■	■										
5.	Validation of asset values						■	■									
6.	Validation of ownership						■	■									
7.	Issuance of Awards							■									
8.	Payment of compensation							■									
9.	Activation of Grievance management committees						■	■	■								
10.	Capacity building of PAPs committee						■	■	■								
11.	Monitoring activities									■	■	■	■				

CHAPTER 9: VALUATION METHODOLOGY AND BUDGET

9.1 Valuation of Assets in Kenya

The section describes the applicable methodology that was used to value people and community assets impacted by the Project. The section presents fundamentals and basic appraisal methods which enabled the valuer to arrive at a logical and supportable estimate of value of property owned by PAPs.

The following methods considered were reviewed in this RAP.

9.2 Methods of Valuations

In property valuations there are 5 generally accepted methods or approaches to value. These are the Sales Comparison, the Income Capitalization, the Gross Replacement Value Method, the Residual, and the Profits method. These methods are discussed below in detail.

9.2.1 Investment Method

The investment method treats property like any other investment in the market, where the main factors influencing investment decisions are security of principal, adequate yield, security of income, administrative costs and capital growth. The procedure is to capitalize the rental income (net of expenses or outgoing) using a coefficient based on the prevailing market yield. Yield adjustments will have to be made where income is terminable. Where ownership will accrue in future or the expected income stream is likely to change, the benefit is deferred at an appropriate rate, where adequate market data are available. Where sale and rental transactions are rare, and there is scarcity of comparative data on rental and capitalization rates, the method will not be used.

9.2.2 Direct Comparison Method

The method value assets by comparing like with like. It is a very reliable method if current market information is available on sale prices and rentals. It is usual to reduce sales or rented information to unit price for compensation purpose.

9.2.3 Replacement Cost Approach

Replacement Cost Approach, is where market sale and rental information is not available, value can be arrived at by using the cost approach - that the costs of replacing assets is based on damages caused by project operations. The approach involves direct replacement of expropriated assets and covers an amount that is sufficient for asset replacement, moving expenses and other transaction costs.

Applicable Valuations method in this RAP: This is the method was adopted when developing applicable compensation packages for affected assets, also this method was preferred when compensating project affected persons affected under the Sanitation Master Plan (WSDP RPF February 2017).

9.2.4 Gross Current Replacement Cost

Gross Current Replacement Cost (GCRC) is defined as the estimated cost of erecting a new building having the same gross external area as that of the existing one, with the same site works and services and on a similar piece of land.

9.3 Other Methods

9.3.1 Rates from Contractors:

When rate schedules do not exist, or are out of date, recent quotations by contractors for similar types of construction in the vicinity of the project is used for calculating replacement costs. In projects offering the options of cash compensation or alternative accommodation, the construction cost estimates for alternative accommodation could be used for calculating cash compensation payable.

9.3.2 Schedule of Rates from Ministry of Public Works:

Ministry of Public Works have a schedule of rates for preparing estimates for construction projects, which the consultant can use to assess costs for construction materials and labour. When applied to calculate replacement cost, rates current for the period of actual replacement must be used.

As noted earlier, to comply with OP 4.12, under at the time of RAP for impacts triggered by sanitary lanes rehabilitation the replacement cost approach was used, which includes all expenses to replace a lost property and/or land. No depreciation was used since the crux of this approach is that the people who lose assets will be able to replace them at least at the pre-project level.

9.3.3 Calculation of Compensation by Assets

The following methods of calculation will be adopted for the preparation of the aforementioned standardized asset valuation tables and/or the application of specific case by case valuations in the case of projects that have significant impacts.

9.3.4 Compensation for Buildings and Structures

Compensation will be paid by replacing structures such as houses, buildings, huts, 'Manyattas' farm, outbuildings, latrines and fences on alternative land provided as an in-kind compensation. Cash compensation would be available as preferred option for structures lost, that are not the main house or house in which someone is living. The ongoing market prices for construction materials will be determined. Alternatively, compensation will be paid in-kind for the replacement costs without depreciation of the structure. The second option is provision of cash compensation at full replacement value.

Replacement values were based on:

- *Measurements of structures and detail of materials used; common material used in Wajir Project area are grass and poles.*
- *Average replacement costs of different types of household buildings and*
- *Structures based on collection of information on the numbers and types of materials used to construct different types of structures (e.g. poles, bricks, rafters, bundles of straw, corrugated iron sheets, doors etc.).*

- *Prices of these items collected in different local markets;*
- *Costs for transportation and delivery of these items to acquired/ replacement land or building site;*
- *Estimates of construction of new buildings including labour required;*
- *Any associated taxes, registration fees.*

9.4 Compensation for Community Assets

This RAP identified that potential communal water points as the main community resource likely to be impacted by the proposed Project. This Community water points were identified through the census and enumerated, the entitlement matrix presented in table 6-2 provides for full replacement of a similar community water point.

9.5 Compensation for Loss of Enterprises

Business structures in project areas will be replaced in an appropriate location as outlined in the entitlement matrix in table 6-2. In addition, compensation will be paid for the lost income, profits and production during the transition period (time lag between losing the business and re-establishment). If it is not possible or preferable to provide replacement site for an affected business/enterprise, the full replacement cost to re-establish the business, as described above were provided.

9.6 RAP Budget

The RAP provides that PAPs will be paid their resettlement and compensation entitlements prior to the rehabilitation and upgrading of the sanitary lanes. Monitoring of the RAP implementation Process will be the role of Wajir Water and Sanitation Company (WAJWASCO). An external monitoring and evaluation independent party will be necessary in order to ensure the effectiveness and RAP objectives are achieved.

The total budget for resettlement compensation **Kshs 51,813,375**the budget includes a 10 percent Contingency item for RAP administration costs, 10% item and extra assistance to VMGs and a 5% item for Monitoring and Evaluation as detailed in **Table 9-1** below.

Table 9-1: Resettlement Action Plan Budget

Total RAP Cost	Number of PAPs	Kshs
Township location	33	4,802,630
Hodhan location	53	6,275,550
Barwaqou location	41	2,406,950
Godade location	55	3,098,790
Wagberi Location	41	4,897,090
Jogoo location	44	3,420,100
Alimao location	Nil ⁴⁴	13,064,000
Sub Total 1		37,965,110
Add 10% Contingency item for RAP administrative costs		3,796,511
Add 10% extra compensation for vulnerable groups including VMGs		3,796,511

⁴⁴ The Cost provided is for re-construction of 37nr community water kiosk and 48KPLC power poles in ALIMAO

Add 10% for Livelihood Restoration measures	3,796,511
Sub Total 2	49,354,643
Add 5% for RAP Implementation Costs including Monitoring and Evaluation	2,467,732
Grand Total	51,813,375

CHAPTER 10: MONITORING AND RAP COMPLETION AUDIT

10.1 Introduction

Monitoring and Evaluation (M&E) procedures establish the effectiveness of all resettlement activities, in addition to the measures designed to mitigate adverse social impacts. The procedures include internal track-keeping efforts as well as independent external monitoring.

The purpose of resettlement monitoring for the Project is to verify that:

- (i) Actions and commitments described in the RAP are implemented;
- (ii) Eligible project-affected persons receive their full compensation prior to the start of the construction activities on the project area;
- (iii) RAP actions and compensation measures have helped the people who sought cash compensation in restoring their lost incomes and in sustaining/improving pre-project living standards;
- (iv) Complaints and grievances lodged by project-affected persons are followed up and, where necessary, appropriate corrective actions taken;
- (v) Changes in RAP procedure are made, if necessary, to improve delivery of entitlements to project-affected persons.

The World Bank Operational Policy (OP 4.12) states that the project sponsor is responsible for adequate M&E of the activities set forth in the resettlement instrument. Monitoring will provide both a warning system for the project sponsor and a channel for the affected persons to make known their needs and their reactions to resettlement execution.

Monitoring and evaluation activities and programs will be adequately funded and staffed. In-house monitoring may need to be supplemented by independent monitors to ensure complete and objective information. Accordingly, the primary responsibility for monitoring rests with proponent. These groups, in cooperation with each other and with guidance from the external actors, will monitor the Project.

10.2 Monitoring and Evaluation Framework

10.2.1 RAP Monitoring Plan

The RAP Monitoring Plan to be adopted is presented in **Table 10-1** on **Page 10-2**. It involves:

- (i) Internal monitoring by MoWS and WAJWASCO
- (ii) Impact monitoring commissioned to specialized firms; and
- (iii) RAP Completion Audit

Table 10-1: RAP Monitoring Plan

Component Activity	Type of Information/ Data Collected	Source of Information/ Data collection Methods	Responsibility for Data Collection, Analysis and Reporting	Frequency/ Audience of Reporting
Performance Monitoring	Measurement of input indicators against proposed time-table and budget including procurement and physical delivery of goods, structures and services	Monthly or quarterly narrative status and financial reports	MoWS and WAJWASCO Project Implementation Team	Semi-annual/annual as required by the Proponent (MoWS WAJWASCO)
Impact Monitoring	Tracking effectiveness of inputs against baseline indicators Assessment of PAP satisfaction with inputs	Quarterly or semi-annual quantitative and qualitative surveys Regular public meetings and other consultation with people affected by the project; review of grievance mechanism outputs	Project resettlement unit or contracted external monitoring agency	Annual or more frequently as required by the Proponent MoWS and WAJWASCO
Completion Audit	Measurement of output indicators such as productivity gains, , and developmental impact against baseline	External assessment/sign-off report based on performance and impact monitoring reports, independent surveys and consultation with affected persons	Contracted external auditing and evaluation agency	On completion of the RAP time table

10.2.2 Stakeholders Engagement

The activities necessary for effective and meaningful consultations will lead to close interaction between the proponent and the community members leading to a high risk of spreading Covid – 19 amongst community members during the consultation process. The activities may take the form of one –on –one or onsite presence in the community, large gatherings and long duration of engagement sessions. To minimize the risk of spread of COVID-19 amongst community members, the following measures will be required to ensure social distancing and appropriate communication measures. The mitigation measures will be supervised by a communications/ stakeholder engagement / social safeguards experts in the project proponent’s team:

- (i) Electronic means of consulting stakeholders and holding meetings shall be encouraged whenever feasible. One on one engagements for the PAPs while observing social distance and adhering to PPE wearing shall be enforced;
- (ii) Avoid concentrating of more than 15 community members at one location. Where more than one person are gathered, maintain social distancing of at least 2 meters;
- (iii) The team carrying out engagements within the communities on one-on-one basis will be provided with appropriate PPE for the number of people they intend to meet;
- (iv) Use traditional channels of communications (TV, newspaper, radio, dedicated phone-lines, public announcements and mail) when stakeholders do not have access to online channels or do not use them frequently. Ensure to provide and allow participants to provide feedback and suggestions.
- (v) Hold meetings in small groups, mainly in form of FGDs if permitted depending on restrictions in place and subject to strict observance of physical distancing and limited duration.
- (vi) In situations where online interaction is challenging, disseminate information through digital platform (where available) like Facebook and WhatsApp & Chart groups.

10.2.3 RAP Monitoring Framework

RAP Monitoring framework provides for the following provisions;

- Internal RAP Implementation Reports will be verified by a field check of the following:
 - Payment of compensation including its levels and timing
 - Adequacy of training and other developmental inputs
 - Rehabilitation of vulnerable Persons
 - Infrastructure repair, relocation or replacement
 - Enterprise relocation, compensation and its adequacy
 - Transition allowances
- (i) Random samples of affected people will be interviewed in open-ended discussions to assess their knowledge and concerns regarding the resettlement process, their entitlements and rehabilitation measures.
- (ii) Public Consultations with affected people at the community level will be observed.
- (iii) Resettlement operation will be observed at all levels to assess effectiveness and compliance with the RAP.
- (iv) The type of grievance issues and the functioning of grievance redress mechanisms will be checked by reviewing the appeal at all levels and interviewing aggrieved affected people.
- (v) The standards of living of the affected people before and after implementation of

resettlement will be surveyed to assess whether the standards of living of the affected people have improved or been maintained.

(vi) Project management will be advised regarding necessary improvements in the implementation of the RAP, if any.

Table 10-2 below shows Internal Monitoring Indicators that will be checked during Internal Performance Monitoring by MoWS and WAJWASCO.

Table 10-2 Internal Monitoring Indicators

Activity/Parameters	Indicators
Compensation payments to PAPs	<ul style="list-style-type: none"> • Number of PAPs promptly paid • Number of PAPs not paid promptly and reasons • Amounts of money paid to PAPs
Community participation and public engagement	<ul style="list-style-type: none"> • Number of local consultative meetings held • Number of PAP consultative meetings held
Grievance management	<ul style="list-style-type: none"> • Number of grievances received • Number of grievances resolved promptly (within the duration allowed in the Grievance Redress Mechanism) • Number of grievances not resolved in time but completed • Number of outstanding grievances not resolved

MoWS and WAJWASCO will initiate the process of external evaluation. To avoid conflict of interest, the external evaluation will be undertaken by an external evaluation agency.

Table 10-3 below shows External Monitoring Indicators that will be checked during External Performance Monitoring.

Table 10-3: External Monitoring Indicators

Parameters	Indicators
Adequacy (of staff number/skills/knowledge levels; equipment and facilities) at RIC and PIU	<ul style="list-style-type: none"> • Number of grievances resolved by the RIC and PIU and durations taken to resolve them • Number of grievances referred to Level 3 (Courts of Law)
Legislative compliance with national and international standards	<ul style="list-style-type: none"> • Number of grievances referred to Level 3 (Courts of Law) • Number of complaints referred to World Bank Safeguards team
Compensation payments, community engagement, reporting, grievance redress mechanisms	<ul style="list-style-type: none"> • Number and amounts of payments made • Number of local consultative meetings held • Number of PAP consultative meetings held • Number of grievances received • Number of grievances resolved promptly (within the duration allowed in the Grievance Redress Mechanism) • Number of grievances not resolved in time but completed • Number of outstanding grievances not resolved

The indicators presented in Table 10-3 above will be revised and appropriate Terms of Reference (ToR) established for the external monitoring consultant.

Evaluation will be done against the existing baseline information identified in the RAP and indicators identified in Tables 10-2 and 10-3 above. MoWS and WAJWASCO to engage an external evaluation consultant who will be assigned as soon the RAP is approved; this is because tracking

will start immediately after PAPs are impacted.

Therefore, monitoring and evaluation will be undertaken regularly during implementation and also at the end for the purposes of compiling the Project Completion Report. The report will include an evaluation that ascertains whether resettlement compensation goals and objectives have been realised. Monitoring will be thematically carried out at two process levels: during the resettlement compensation payment period and after that period (post-compensation payment period).

10.3 Resettlement Completion Audit

The purpose of the Completion Audit is to verify that the resettlement process has complied with resettlement commitments defined by the RAP. Reference documents for the Completion Audit are the following:

- (i) This RAP Report,
- (ii) Kenyan Policies and Legal Statutes as defined in Section 3 of this Report
- (iii) The World Bank policies 4.10 and 4.12
- (iv) The - AF project RFP

The Completion Audit will have the following specific objectives:

- (i) General assessment of the implementation of the RAP against the objectives and methods set forth in the RAP,
- (ii) Assessment of compliance of implementation with laws, regulations and safeguard policies;
- (iii) Assessment of the fairness, adequacy and promptness of the compensation and resettlement procedures as implemented;
- (iv) Identification of potential corrective actions necessary to mitigate the negative impacts of the program, if any, and to enhance its positive impacts.

The Completion Audit will be based on documents and materials generated by internal and external monitoring. In addition, auditors will make their own assessments, surveys and interviews in the field and with Project-Affected- People.

ANNEXES

ANNEX 1
ASSET REGISTER

ANNEX 2

PUBLIC PARTICIPATION (MINUTES AND LIST OF ATTENDANCE)

1
