



NATIONAL MUSEUMS OF KENYA

WHERE HERITAGE LIVES ON

REF: NMK/UN/2

23rd January 2017

Dr. Mechtild Rossler
Director
UNESCO World Heritage Centre
7 Place de Fontenoy 75007, Paris

FRANCE

Dear Dr. Rossler,

RE: SUBMISSION OF STATE OF CONSERVATION (SOC) REPORTS FOR KENYA

On behalf of the State Party of Kenya, and as per the previous decisions of the World Heritage Committee, I wish to submit the following reports:

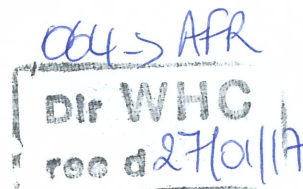
1. SOC report for Lamu Old Town (C1055) Decision 40COM 7B.12,
2. SOC report for Lake Turkana National Parks (N 801bis), a revised TORS for the SEA as per Decision, 40 COM 7B.80 and a copy of EIA report for the wind farm,
3. SOC report of the Kenya Lakes System (1060 rev), 39 COM 7B.5

As regards the SEA process for the LAPSSET project that has implications on the Lamu Old Town, a consultancy tender was awarded in March 2016 and thus, the SEA process has started. A copy of the SEA report will be submitted when the study is complete.

I wish to thank your office for the continued support you have given us in the conservation of Kenya's World Heritage Properties.

Yours sincerely,


Mzalendo N. Kibunjia. PhD, EBS
Director General



State of Conservation Report

Lamu Old Town (Kenya) (C1055)

Response from the State Party to the World Heritage Committee's Decision: 40 COM 7B.12,

Year of inscription on the World Heritage List

2001

Criteria (ii) (iv) (vi)

The World Heritage Committee,

- 1. Having examined Document WHC/16/40.COM/7B,**
- 2. Recalling Decisions 34 COM 7B.46, 35 COM 7B.3 9, 36 COM 7B.43, 37 COM 7B.40, 38 COM 7B.49, and 39 COM 7B.40, adopted at its 34th (Brasilia, 2010), 35th (UNESCO, 2011), 36th (Saint-Petersburg, 2012), 37th (Phnom Penh, 2013), 38th (Doha, 2014), and 39th (Bonn, 2015) sessions respectively,**
- 3. Welcomes the assurance of the State Party that the Lamu -Southern Sudan-Ethiopia Transport (LAPSSET) corridor project will exclude the Lamu archipelago; but notes that the project will cause strong related development pressures for the entire region including the archipelago;**
- 4. Expresses its concern that ongoing work on the LAPSSET project, including the completion of the first two buildings on the Lamu mainland, along with the construction of Manda airport, are progressing, without the development of a Strategic Environmental Assessment (SEA), as requested by the Committee,**

The Kenya government through the LAPSSET Authority has commissioned a Strategic Environment Assessment (SEA) exercise which commenced in June 2016 and whose details are provided under paragraph 5

- 5. Urges the State Party to undertake, as a matter of priority, the already requested SEA of the overall LAPSSET project, as a basis for identifying ways to strengthen the protection, development control and management of the property, including a reconsideration of the buffer zone, and to ensure that the Port project and its associated infrastructure and**

development do not have a major negative impact on the property and its setting; and requests the submission of the SEA to the World Heritage Centre, for review by the Advisory Bodies, by 1 February 2017;

LAPSSET SEA

The Kenya government through the LAPSSET authority issued a request for professional services to undertake the SEA through tender ref no LCDA/SEA/01/2015-16 dated the 13th August 2015. The SEA consultancy services were awarded to Repcon Associates as published in the Public Procurement Oversight Authority (PPOA). A report on the summary of tenders awarded by public procuring entity was published in March 2016.

In June 2016 the Director General of the LAPSSET Authority made a formal request to the National Museums of Kenya (NMK) for the use of NMK's facilities and resources by the SEA consultants' stakeholder meeting. The SEA consultant undertook a stakeholder consultative meeting in Lamu on the 21st June 2016.

The National Museums has formally requested from the LAPSSET Authority, an authenticated copy of the scoping report which will be submitted in due course. (attached is a summary raw copy in PowerPoint slides)

6. Reiterates its request to the State Party to submit to the World Heritage Centre, as soon as possible in advance of the SEA being undertaken, and by 1 October 2016, for review by the Advisory Bodies, full details of the overall scope of the LAPSSET project, including the Lamu resort city, and clarification of fishing plans, mangrove planting, and surveys of coastal morphology;

The LAPSSET feasibility study report has already been forwarded to the WHC.

7. Regrets that details of the project for Manda airport, including the construction of a new terminal building and the lengthening of the runway, was not submitted to the World Heritage Centre with a Heritage Impact Assessment (HIA), as requested, before the project was approved, and also requests the State Party to provide details of this project to the World Heritage Centre;

The Manda Airport rehabilitation is not part of the LAPSSET Corridor project and as stated earlier it was initiated by the government as part of its efforts to improve air travel services within the country. The project was undertaken between 2010-2013 to renovate existing facilities that were in a poor state. The Manda Airport was a facility already in existence and the works undertaken involved refurbishment of the old arrival and departure terminals as well as upgrading part of the runway from a gravel surface to a bitumen surface. As highlighted in the Lamu 2016 SOC a new terminal building was constructed to replace the makeshift structures that were used as passenger terminal. The new building is not visible from Lamu Island and has improved the processing of passenger's through the airport including provision of enhanced electronic security surveillance equipment.

8. Also regrets that no progress has been reported on the revision of the management plan to include a new chapter covering the LAPSSET development project on how the impacts identified within the 2014 HIA on the first phase would be mitigated, how recommendations from the HIA will be implemented, and how the wider setting of the property will be protected, whether by an enlarged buffer zone or other means;

The County Government of Lamu is currently enacting new laws in line with the 2010 Kenya Constitution among which are revised legislations relating to the management of the Lamu Old Town and other historic sites. The County Government came into existence in March 2013. The HIA report and the management plan chapter have been forwarded to the county executive for consideration after which it will be forwarded to the county assembly for adoption as an official policy documents to guide the new developments. The NMK has been on the forefront in providing technical support towards this initiative.

9. Also reiterates its request to the State Party to take into account the recommendations of both the 2014 HIA and the 2015 Reactive Monitoring mission as it continues to develop the LAPSSET project and to strengthen the integration of the LAPSSET project with the Lamu City Council and the National Museums of Kenya (NMK), including, in particular, by appointing an NMK representative on the LAPSSET Board, and to widen and strengthen community engagement;

The NMK entered into a Memorandum of Understanding with the LAPSSET Authority to cater for its heritage conservation interests and has taken into account these recommendations with regular consultations with the LAPSSET Authority.

10. Considers that in the absence of adequate detailed information and impact assessments on the overall major LAPSSET project, and any detailed understanding as to how the already identified negative impacts from the first phase will be mitigated, that the property is under potential danger from the acknowledged development pressures associated with the port project;

11. Further requests the State Party to submit to the World Heritage Centre, by 1 February 2017, an updated report on the state of conservation of the property and the implementation of the above, for examination by the World Heritage Committee at its 41st session in 2017.

As has already been stated, a SEA study has already been commissioned for the LAPSSET project. It is only after the study report is presented that the full impacts can be understood and the necessary mitigations presented. At present, the negative impacts are potential. Kenya also holds the position that the built heritage of Lamu Old Town is off the LAPSSET project sites and thus the feared negative impacts will not be direct and this will however be addressed adequately after detailed information from SEA report have been availed.

The State Party of Kenya remains committed to preserve its heritage for the benefit of the present generation and for posterity.

Signed on behalf of the State Party

Mzalendo Kibunjia PhD, *EBS*

Director General,

National Museums of Kenya

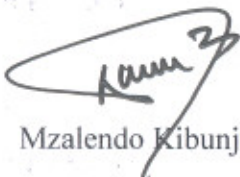
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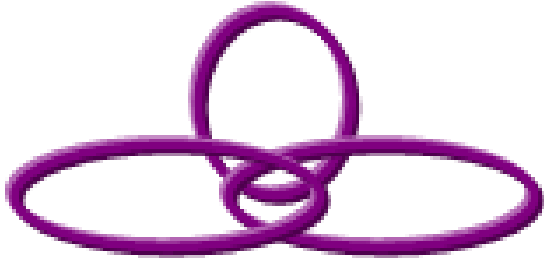
Mzalendo Kibunjia PhD, *EBS*
Director General,
National Museums of Kenya

**Strategic Environmental Assessment (SEA) for
the LAPSSET Corridor Infrastructure
Development Project
(LCIDP)**

Disclosure of the LCIDP and SEA Study
Process



The SEA Team: Repcon Associates



REPCON ASSOCIATES

The Repcon Center

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The SEA Proponent



LAPSSET Corridor Development Authority–LCDA
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P.O. Box 45008 00100, Nairobi.
Telephone: 020–22190968
Fax: 020–221896
Email: dg@lapsset.go.ke

Structure of the Presentation

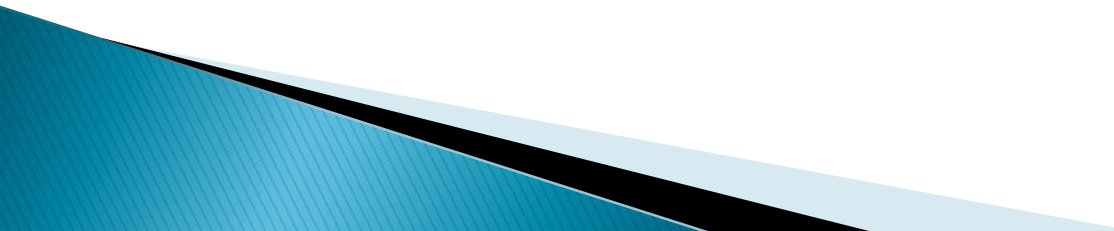
Entire presentation comprises 2 parts:-

- ▶ Part I: Introduction to the SEA Process
- ▶ Part II: Discussion on Study Progress and Interim findings

Part One: Introduction to the SEA Process

THE ENVIRONMENTAL MANAGEMENT AND
CO-ORDINATION (AMENDMENT) ACT, 2015
No. 5 of 2015

"strategic environmental assessment" means a formal and systematic process to analyse and address the environmental effects of policies, plans, programmes and *other strategic initiatives.*



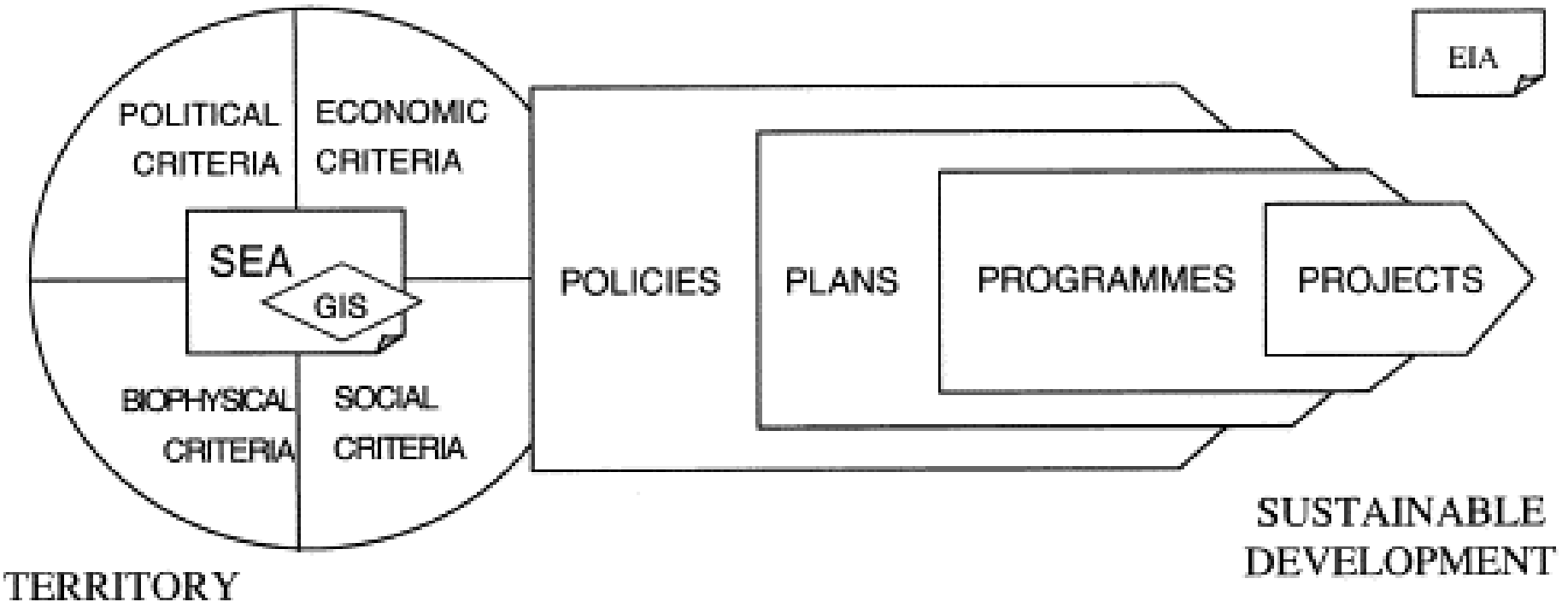
What is Strategic Environmental Assessment (SEA)?

- ▶ SEA is a tool for safeguarding and in-building *sustainability* in the formulation of **Policies**, **Plans** and **Programmes** (PPPs).
- ▶ It seeks to ensure that PPPs are Environmentally Sound, Technically Feasible, Economically Viable, Socially and Politically Acceptable.
- ▶ It is an environmental and social safeguard tool for initiatives at the Planning Stage.
- ▶ It contributes to an environmental and sustainable decision-making process.
- ▶ Therefore: SEA strengthens and facilitate project's Environmental and Social Impact Assessments.

Statutory Environmental Assessments in Kenya

	Policy/Plan/Programme strategic initiative	Project level	
		Implementation Stage	O&M Stage
Nature of Assessment	SEA	EIA	Annual Env. Audit
Legal Standards	EMC(A)A 2015 42 (57A) LN 101 of EMCA +others SEA Guidelines	EMC(A)A 2015 43(a) LN 101+others Sectoral Laws	EMC(A)A 2015 43(c) LN 101 +others
Output	<ul style="list-style-type: none"> • SEA Report analysing:- <ul style="list-style-type: none"> ✓ Proposed development ✓ Core Stakeholders ✓ Core Issues/concerns ✓ ESMP ✓ Requirements for future EIA Studies 	EIA Report ESMP	Self Audit Report outlining status of practice and compliance to ESMP
Approval Standards	NEMA Approval	EIA Licence for Project	NEMA Improvement Orders

The relationship between SEA and EIA in minimizing the significant environmental impact of a proposed action



(Arce & Gullon, 2000)

Specific legal framework for SEA Studies (i)

- ▶ The SEA Study for LCIDP is being conducted within prevailing legal standards namely:–
 - The Constitution of Kenya, 2010 69(1)(d)
 - EMC(A)A 2015 6(b)
 - Legal Notice 101 of EMCA
 - Other Regulations under EMCA
 - National Guidelines for SEA
 - Other Sectoral Legislation and Policies
- ▶ Both National Constitution and EMC(A)A, 2015 demand Disclosure and Stakeholder Participation *hence the need for this workshop*

Legal foundation

- ▶ Constitution
- ▶ Participation as:
 - A governance value (to be observed) – Article 10(2)a
 - A substantive right (ensures it accrues to individuals) – Art 69(1)d
 - Governance system: devolution (the need for participation is the essence of devolution) – Art 169

SEA is a tool for safeguarding and in-building *sustainability* in PPP and strategic initiatives – LCIDP



Sustainability

- ▶ *Is a process about desired futures*
- ▶ It must be constructed through an essentially social process whereby scientific and other “expert” information is combined with the values, preferences and beliefs of affected communities, to give rise to an emergent, “co-produced” understanding of possibilities.

Specific legal framework for SEA Studies (ii)

Regulation 42(1) of Legal Notice 101 of EMCA 1999 provides the legal requirement for SEA Studies thus: *Lead Agencies in consultation with NEMA to subject all proposals for public policy, plans and programmes to a strategic environmental assessment to determine which ones are the most environmentally friendly and cost effective when implemented individually or in combination with others.*

Regulation 42 (2) sets the scope for SEA Studies thus: *The assessment carried out under this regulation shall consider the effect of implementation of alternative policy actions taking into consideration :-*

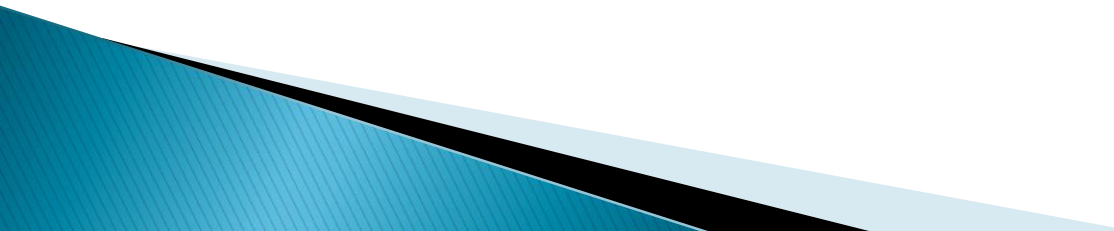
- (a) the use of natural resources;*
- (b) the protection and conservation of biodiversity;*
- (c) human settlement and cultural issues;*
- (d) socio- economic factors; and*
- (e) the protection, conservation of natural physical surroundings, built environment of historic or cultural significance.*

Specific legal framework for SEA Studies (iii)

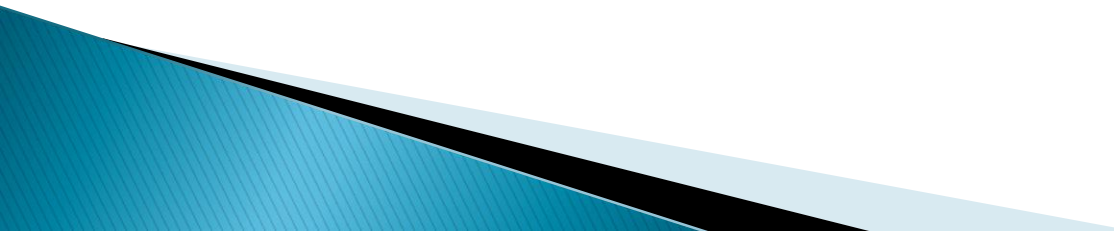
*Regulation 43 (1) prescribes the content of a SEA Report
Thus: A strategic environmental assessment report
prepared under this regulation shall include information
on:-*

- (a) the title of the report;*
- (b) a summary of the potential significant impacts of a proposed policy, programme or plan;*
- (c) potential opportunities to promote or enhance environmental conditions;*
- (d) recommendations for mitigating measures; and*
- (e) alternative policy, programme or plan options to ensure compliance with the Act.*

Key stages in a SEA process

- ▶ **Screening:** determining whether the initiative is likely to have significant environmental effects, and whether an SEA is required;
 - ▶ **Scoping:** deciding on the scope and level of detail of the Environmental Report, and the consultation period for the report;
 - ▶ **Environmental Report:** publishing an Environmental Report on the initiative and their environmental effects thereof, and consulting on that report;
- 

Key stages in a SEA process

- ▶ **Adoption:** providing information on – the adopted Plans; how consultation comments have been taken into account; and methods for monitoring the significant environmental effects of the implementation of the Plans; and
 - ▶ **Monitoring:** monitoring significant environmental effects in such a manner so as to also enable the Responsible Authority to identify any unforeseen adverse effects at an early stage and undertake appropriate remedial action.
- 

Steps in the SEA process as per the National Guidelines

	Stage	Output
1	Screening	Project Brief for NEMA Review
2	Scoping	Scoping Report for NEMA Review
3	Detailed SEA	Draft SEA Report
4	Public Review	Stakeholder Comments
5	Validation Workshop	Validation Report
6	Final SEA	Final SEA Report NEMA Approval

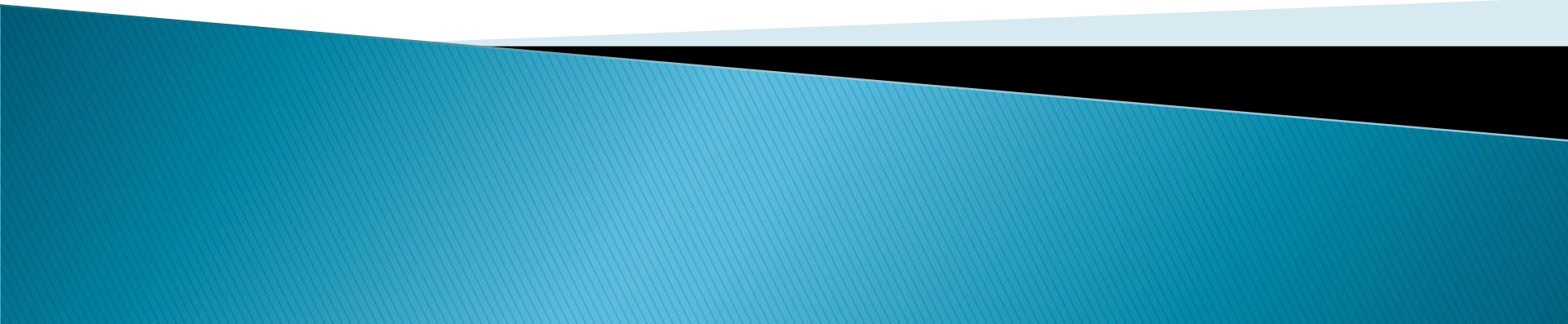
Steps in the SEA process

Stage	Activity	Output
Screening Stage	Brief on PPP submitted to NEMA NEMA Decision	Briefing Report & NEMA Approval
Scoping	Define proposed intervention (PPP)	Scoping Report & NEMA Approval
	Identify and engage all Stakeholders	
	Identify and Collate SH Concerns	
	Identify all Env. & Social Concerns	
	Prepare Scoping Report with:–	
	• Documented PPP	
	• Analysed Concerns	
• TORs for Detailed SEA Study • CVs for SEA Team		
	NEMA review and approval for SEA Study	

Next steps in the SEA Process

Stage	Activity	Output
Detailed SEA	Detailed Investigations	Draft SEA Report
	Review of Legal Framework	
	Detailed SH Analysis and engagement	
	Screen MP harmony/conflict with pre-existing mandates	
	Analysis of Env & Social Concerns	
	Analysis of Alternatives in implementation	
	Identification of requisite Mitigation	
	Develop ESMP	
Public Review	Prepare Draft SEA Report for NEMA review	
	Subject Draft SEA Report to public review (45-60 days)	Stakeholder Comments
	Publish in a local dairy twice	
	Issue Kenya gazette Notice Once	
Validation Workshop	Collate all comments emanating	
	Subject SEA Report to Stakeholder review Stakeholders to ascertain whether comments have been addressed	Validation Report
Final SEA	Prepare and issue Final SEA Report NEMA review process and approval	Final SEA Report NEMA Approval

Progress Report in the SEA Process



- ▶ SEA Screening complete (SEA No 37 approved by NEMA)
- ▶ Scoping process underway:–
 - Review of available documentation–mainly Master Plans on LCIDP Components
 - Visits to LCIDP sites in all 9 Counties
 - Contacts and discussion with diverse stakeholders
 - Outline of information and data from Stakeholders
 - Identification of priority issues for further study at the detailed SEA Stage
 - Aim of this meeting is to share the same outputs
 - **Draft Scoping Report already shared with NEMA**

Stakeholder Engagement

Three Stakeholder Categories Identified and engaged thus:

- ❑ Fundamental Rights Holders
- ❑ Legal Mandate Holders
- ❑ Other Interested Parties

Stakeholder Category One

»» Fundamental Rights
Holders

Category	Identity	Stake in LAPSSET
Fundamental Rights Holders	Kenyan Citizens	Constitutional right to a Healthy Environment, Right to a good life as anticipated in Kenya Vision 2030
	Wildlife	Right to migratory corridors, breeding sanctuaries and habitats
	Pastoral land users and ranchers	Right to ancestral grazing and watering grounds and migratory routes
	Indigenous communities e.g. the Wasanye and Boni people	Right to traditional livelihoods and lifestyles
	Downstream communities	Access to adequate potable water for livelihood and production
	Fishing based livelihoods	Right to livelihoods
	Other land owners	Right to a clean healthy environment, Right to information
	Pre-existing business interests	Right to a level playing field

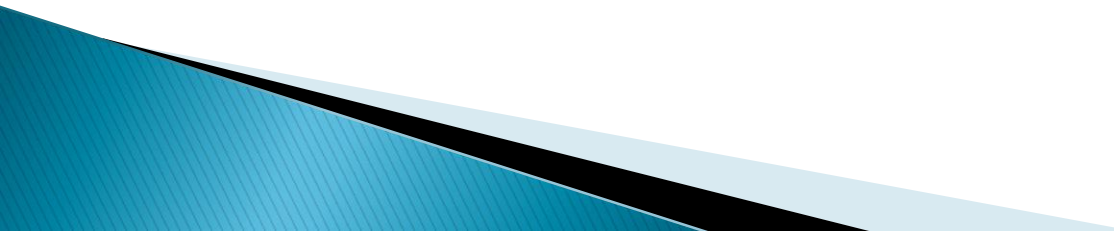
Stakeholder Category Two

- » Legal Mandate Holders

Legal Mandate Holders:- GOK Agencies with legal jurisdiction over the area and sectors	County Governments	Legal planning mandate for all 8 counties of traverse
	Regional Development Authorities	Planning mandate for specific river basins based on the shared water resource
	Ministry of Interior and Coordination of Government	Legal administrative mandate
	Political representation	Right to information and a voice
	Local Administration	Right to information
	Road Agencies KeNHA, KURA	Planning and management mandate for roads sector
	NEMA	Regulatory mandate
	WRMA	Regulatory mandate on water quantity and quality
	Water Service Boards, NWCPC	Mandate for bulk water supply
	KFS, KWS, NMK	Mandate to conserve fauna and flora
Research Institutions	Research mandate	

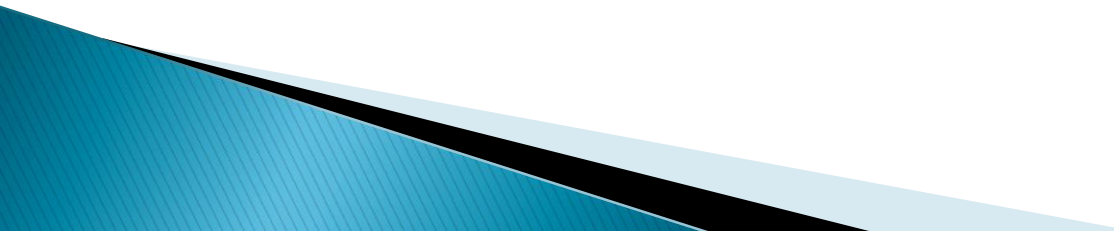
Stakeholder Category Three

- » Other Interested Parties

- ▶ Partners in Rangeland/Wildlife Conservation
 - ▶ Partners in NRM
 - ▶ Partners in Agricultural sector
 - ▶ Current and Potential Investors
 - ▶ On-going Contracts (Civil Works, Studies, etc)
 - ▶ NGOs/CBOs/WRUAs/CFAs etc.
 - ▶ Others
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Core observations from the Scoping Study

General Observations

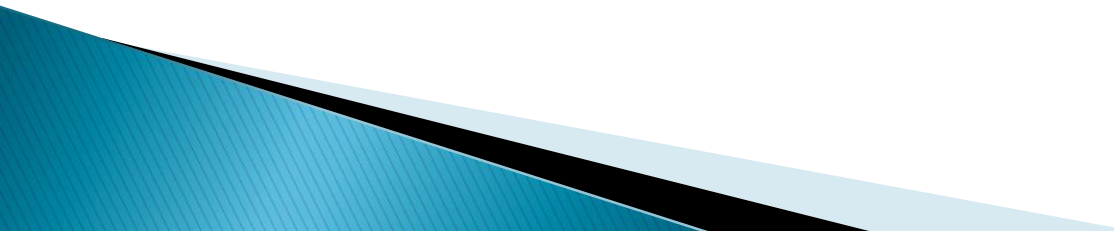
- ▶ General feeling is that LAPSSET is inadequately disclosed
 - ▶ Effective disclosure would facilitate County Governments and other planners to make provision in the County Spatial Plans, CIDPs among others
 - ▶ Both the Constitution (2010) and EMC(A)A 2015 require full disclosure to enable stakeholders to make informed decisions
 - ▶ The need for disclosure is core motivation for the currently series of County based stakeholder workshops
- 

LAPSSET is preceded by numerous pre-existing concerns
(i): The changing Order in Land Use

ASAL landscapes are undergoing drastic change:-

- ▶ Communities becoming more sedentary especially around permanent water sources
- ▶ Increased land-use change in favour of settlement and urbanization
- ▶ Increased clamour for individual land ownership
- ▶ Increased adoption of both rain-fed and irrigated agriculture
- ▶ Restricted livestock grazing range leading to overstocking and localised overgrazing
- ▶ Increased human/wildlife conflicts
- ▶ Increasing land degradation and reduced carrying capacity
- ▶ Increasing severity and impact of droughts
- ▶ Pastoral Livelihoods under great threat

Pre-existing Concerns (ii): The Question of Escalating Poverty

- ▶ ASAL Livelihoods under threat from:-
 - ▶ Reduced carrying capacity
 - ▶ Increased severity and impact of cyclic droughts
 - ▶ Increased unemployment especially for young adults
 - ▶ Dwindling water resource base
 - ▶ Cases of ASAL dropouts on the increase
- Overall poverty levels in ASALs remain high
- 

Pre-existing Concerns (iii): The Question of Community land management

- ▶ ASAL lands are undergoing drastic and accelerated change marked by:–
- ▶ Intensified clamour for individual ownership of formerly communally owned land
- ▶ Accelerated and contentious allocation of communally owned land
- ▶ Official and unofficial encroachment on community land
- ▶ Lack of appropriate legal mechanism to govern Community Land
- ▶ Increasing conflict over access and control of land

Priority Concerns/Issues in the SEA for LCIDP

- i. The Question of water demand management
 - To support urbanization, industrialization, port functions, etc.
- ii. Modalities for co-existence between LAPSSET Investments and Wildlife
 - Wildlife dispersal areas and corridors
- iii. Impacts on biodiversity and ecosystem services
 - Endemic and rare species
 - Loss of forest cover, mangrove ecosystem, breeding areas for fish
- iv. Potential impacts on land, land ownership and associated benefits
 - Rush to alienate community land to private individuals and firms

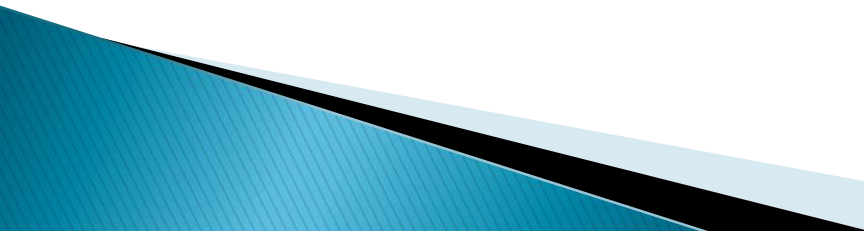
Priority Concerns/Issues in the SEA for LCIDP

- v. Impacts on pre-existing livelihoods and production systems
 - Indigenous forest-dependent communities
 - Pastoral systems
 - Fishers
- vi. Overall strategic impact of LAPSSET
- vii. Modalities for sustainably managing Change
 - Immigration, cultural dilution, political implications
 - Urbanization and industrialization –social services
- viii. Management of the environmental balance
 - Environmental flows
 - Waste management
 - Pollution

Way forward in the SEA Study

1. Conclusion of County-based consultation Workshops
2. Refocusing of Priority Concerns
3. Review/ Updating of the Scoping Report

Detailed SEA

1. Consultations with grassroots communities (at least 1 meeting per county)
 2. Focussed engagement with Stakeholders to identify workable models in implementing the LCIDP
 3. Data analysis and Write-up (July 2016)
 4. Public Review of Draft SEA Report (August 2016)
 5. Validation Workshop (Sept/ Oct 2016)
- 

Thank you for listening

Your comments are most welcome

