



NATIONAL LAND COMMISSION

**ANNUAL REPORT
2020/2021**

**Enhancing Land Governance for
Sustainable Development**

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NATIONAL LAND COMMISSION

ANNUAL REPORT
2020/2021

**Enhancing Land Governance for
Sustainable Development**



NATIONAL LAND COMMISSION

OUR VISION

Excellent administration
and management of land
for improved livelihoods
and sustainable
development

OUR MISSION

To secure and manage public
land and exercise oversight
on use of land for the
benefit of all Kenyans

OUR CORE VALUES

Professionalism
Integrity
Innovation
Sustainability
Inclusivity
Equity

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ACRONYMS

ADR	Alternative Dispute Resolution
AIDS	Acquired Immuno-Deficiency Syndrome
AJS	Alternative Justice System
ASALs	Arid and Semi-Arid Lands
CCD	Climate Change Directorate
DCI	Directorate of Criminal Investigations
CLA	Community Land Act
CLAN	Community Land Action Now
CoG	Council of Governors
CoK	Constitution of Kenya
COVID-19	Coronavirus Disease 2019
CPD	Continuous Professional Development
CSP	County Spatial Plan
CSOs	Civil Society Organizations
DRR	Disaster Risk Reduction
DRSRS	Department of Resource Surveys and Remote Sensing
EACC	Ethics and Anti-Corruption Commission
EIA	Environmental Impact Assessment
ESA	Ecologically-Sensitive Areas
EU	European Union
FAO	Food and Agricultural Organization
FES	Friedrich Ebert Stiftung
FY	Financial Year
GDC	Geothermal Development Company
GHGs	Greenhouse Gases
GIM	Geo-Information Management
GIS	Geographical Information System
GPA	Group Personal Accident Cover

HIV	Human Immunodeficiency Virus
HLI	Historical Land Injustice
HoAGDP	Horn of Africa Gateway Development Project
ICD	Inland Container Depot
ICT	Information Communication Technology
IEC	Information Education Communication
IGA	International Geothermal Association
IGAD	Inter-Governmental Authority on Development
ISK	Institute of Surveyors of Kenya
KCSAP	Kenya Climate Smart Agriculture Project
KELIN	Kenya Legal & Ethical Issues Network on HIV and AIDS
KENAO	Kenya National Audit Office
KenGen	Kenya Electricity Generating Company
KeNHA	Kenya National Highways Authority
KeRRA	Kenya Rural Roads Authority
KETRACO	Kenya Electricity Transmission Company
KFS	Kenya Forest Service
KIP	Kenya Institute of Planners
KIPPRA	Kenya Institute for Public Policy Research and Analysis
KLA	Kenya Land Alliance
KNCHR	Kenya National Commission On Human Rights
KoTDA	Konza Technopolis Development Authority
KU	Kenyatta University
KWS	Kenya Wildlife Services
LAN	Local Area Network
LAPSSET	Lamu Port Southern Sudan Ethiopia Transport Corridor
LLB	Legum Baccalaureus (Bachelor Degree In Law)
LLR	Law Africa Law Reports
LSK	Law Society of Kenya

LUP	Land Use Planning
MBS	Moran of the Burning Spear
MGR	Meter-Gauge Railway
MoH	Ministry of Health
MoICT	Ministry of Information, Communications and Technology
MoLPP	Ministry of Lands and Physical Planning
MoU	Memorandum of Understanding
MPIDO	Mainyoito Pastoralist Integrated Development Organization
MTP	Medium Term Plan
NDC	Nationally Determined Contribution
NEMA	National Environment Management Authority
NGOs	Non-Governmental Organizations
NLC	National Land Commission
NLIMS	National Land Information Management System
NLP	National Land Policy
NLUP	National Land Use Planning
NNP	Nairobi National Park
NRF	National Research Fund
NRM	Natural Resource Management
NSP	National Spatial Plan
PAPs	Project Affected Persons
PDPs	Part Development Plans
PHCF	Policy Holders Compensation Fund
PLI	Public Land Inventory
PLIM	Public Land Information Management
PLM	Public Land Management
RICS	Royal Institution of Chartered Surveyors
RRI	Resource Rights Initiative
SDGs	Sustainable Development Goals

SEZs	Special Ecological Zones
SGR	Standard Gauge Railway
SLM	Sustainable Land Management
SoK	Survey of Kenya
SP	Strategic Plan
TDR	Traditional Dispute Resolution
TRI	The Restoration Initiative
UN	United Nations
UNDP	United Nations Development Programme
UN-Habitat	United Nations Human Settlements Programme
UoN	University of Nairobi
WAN	Wide Area Network
WARA	Water Resource Authority
WGICLA	Working Group on Community Land Act
WIBA	Work Injury Benefits Act
WWF	World Wildlife Fund

MESSAGE FROM THE CHAIRMAN



The National Land Commission (NLC) is a Constitutional Commission established under Chapter 15 of the Constitution of Kenya 2010 and operationalized through the enactment of the NLC Act, 2012. The current Commission consists of the Chairman and eight Commissioners who were sworn in office on 15th November 2019 and the Secretariat headed by the Secretary who is the Chief Executive Officer.

It gives me pleasure to present the NLC annual report for the period July 2020 to June 2021 to H.E. the President of the Republic of Kenya, Parliament, and the people of Kenya. The report highlights key milestones undertaken to realize the letter and spirit of the Constitution of Kenya as far as Land Reforms are concerned.

During the planning and implementation of its activities, the Commission aligned its strategies to the Third Medium Term Plan (2018-2022) of the Kenya Vision 2030, UN Sustainable Development Goals and the Big 4 Agenda, among other Government blueprints.

The strategic focus of the Commission during the period was on the following key areas:

- i. Management and administration of public land
- ii. Use of land and security of land rights
- iii. Revenue generation from land and land-based resources
- iv. Land disputes, resolutions, and conflict management
- v. Institutional strengthening

During the reporting period, the Commission ensured the seamless implementation of incomplete programmes and projects. Further, mitigation

measures were developed to address gaps that had contributed to the challenges faced the previous year.

The second year in office for the Commissioners saw a revitalized Commission with a clear road map, timelines and targets that resonate with the expectations of the people of Kenya. This has been guided by the 2021-2026 Strategic Plan developed through multi-stakeholders' participation given that land reform is not a domain of a single institution.

Moving forward and in order to achieve a more holistic reform agenda, the Commission continuously endeavors to enhance its working relationship with other actors in the land sector (i.e. Government Ministries, Departments and Agencies, Academic and Professional entities, Faith-based and Community-based Organizations, Development partners and the general public). The Commission anticipates that the land reform path it has purposed to pursue during this Strategic Plan period will result in improved livelihoods and sustainable development in Kenya.

I would like to thank our partners for their technical and financial support during the implementation of various aspects of the Commission's mandate. I would also like to appreciate the effort and commitment of the Commissioners and Secretariat for ensuring that the planned programs were effectively implemented over the reporting period.

Thank you.



Gershom Otachi Bw'Omanwa
Chairman - National Land Commission

STATEMENT FROM THE SECRETARY /CEO



The National Land Commission (NLC) is privileged to publish the Annual Report for the financial year 2020/21. The report captures our mandate and functions, key areas of focus and corresponding achievements, as well as the financial statements for the reporting period. It also highlights the challenges encountered, recommendations to mitigate the challenges, lessons learnt and the way forward.

I am delighted to report that the Commission has achieved major milestones in service delivery for the period under review. During the financial year 2020/21, the Commission was able to:

- i. Develop and launch the 2021-2026 Strategic Plan that will be the blueprint for the Commission for the next five years.
- ii. Handle and resolve various land disputes.
- iii. Facilitate acquisition of land for public projects
- iv. Recruit additional skilled human resource

Amidst the successes, the Commission also faced challenges arising from the global pandemic of COVID-19, insufficient funding, changes in land laws and limited civic engagement.

These challenges notwithstanding, the Commission would like to appreciate the enabling environment and support provided by both National and County Governments in enabling the Commission to achieve its mandate. We are equally thankful to our development partners who offered material and technical support that was necessary to ensure the attainment of the Commission's mandate.

Our rallying call in the coming years will be premised on dynamism, efficiency, vibrancy and teamwork to meet the expectations of the people of Kenya.

Thank you.



Kabale Tache Arero

Ag. Secretary/ Chief Executive Officer

National Land Commission

EXECUTIVE SUMMARY

Article 254(1) of the Constitution of Kenya mandates the National Land Commission to submit a report to the President and Parliament at end of each financial year. Further, Section 33(1) of the National Land Act 2012 stipulates the contents of this report. It is in line with these Constitutional and legislative mandates, that NLC publishes its Annual Report for the 2020/21 financial year.

The report highlights the Commission's mandates, activities undertaken, key achievements, financial statements and information relating to the progress made in the registration of title in land. Additionally, the report reviews the advisories and recommendations that the Commission issued to the County and National Governments and other state agencies and organs in relation to the administration and management of public land. All these contents of the report are anchored on five (5) Key Results Areas derived from the Commission's Strategic Plan for the period 2021-2026.

Precisely, the Commission's major achievements in the FY2020/21 include:

- i. The launch and adoption of and launch of the Strategic Plan (2021-2026),
- ii. Issuance and verification of 293 allotment letters,
- iii. Facilitation of acquisition of land for key public projects for the Big 4 Agenda and legacy
- iv. Monitoring and oversight of Land Use Planning throughout the Country.
- v. Development of various advisories to Government agencies
- vi. Handling of HII cases
- vii. Promotion and application of Alternative Justice System (ADR and TDR) in the resolution of land-related cases
- viii. Various research studies on land and use of natural resources
- ix. Participation in land digitization in support of the creation of PLIS

Moreover, the Commission dealt with various aspects of natural resource management such as the creation of the Kenya Natural Resource Atlas and identification and inventorying of the Ecologically-Sensitive Areas and assessments of fragile ecosystems. Lastly, the Commission resolved several disputes relating to land conflicts and management.

Despite these achievements, FY2020/2021 was arguably the most challenging in recent history. Majorly, inadequate funding adversely affected the Commission's ability to carry out its functions and mandates. Constant changes in various land laws was also a significant impediment to the Commission's operations during the period under review. The other challenge worth highlighting is the COVID-19 pandemic whose outbreak almost crippled the Commission's operations.

Moving forward, the Commission plans to continue engaging relevant stakeholders to enhance its resource mobilization efforts to complement the Government funding. More efforts will also be put to ensure the realization of planned activities as guided by the 2021-26 Strategic Plan.

1.0 CHAPTER ONE: BACKGROUND INFORMATION

Land is a critical component being one of Kenya's most valuable natural resources and a major enabler in the realization of the country's development agenda especially the Third Medium Term Plan (MTP III) of the Kenya Vision 2030, the Big 4 Agenda, the global Sustainable Development Goals (SDGs) among others. It has a great impact on the citizens' social well-being and material wealth as it is one of the most important pillars of our long-term economic, social, political, and cultural development.

The Government recognizes that secure access to land, sustainable land use planning, and equitable land distribution remain critical for food and nutrition, security, employment, industry expansion, foreign investor attraction, foreign exchange profits, and the country's overall socio-economic development. Thus, several reforms have been initiated to address the above land related issues. However, management and administration of land in Kenya still remains a thorny issue despite the many policy reforms instituted by the Government. The National Land Commission (NLC) is a constitutional Commission established under Article 67 (1) and Chapter 15 of the Constitution of Kenya 2010 and operationalized by the National Land Commission Act of 2012. The Commission was primarily formed to spearhead the land reforms in Kenya especially the administration and management of 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 among other functions. The specific mandate and functions of the Commission are spelt out through various Acts, NLC Act 2012, Land Act, 2012, Land Registration Act, 2012, and the Land (Amendment) Act, 2016.

To ensure effectiveness and efficiency in attaining its mandate, the Commission developed and implemented work plans based on the Strategic Plan (2021-26). This enabled the Commission to enhance organizational tracking and performance management.

This annual report provides a holistic analysis of the performance of the Commission in delivering on its Constitutional and Statutory mandate

1.1 Legal and Policy Framework

In the performance of the planned activities and consequently the preparation of this report, the provisions contained in the following legal and policy framework guided the Commission

- 1 The Constitution of Kenya
- 2 The National Land Policy (2009)
- 3 Kenya Vision 2030 -Sector Plan for Land Reforms (2018-2022)
- 4 The Big 4 agenda
5. The National Land Commission Act (2012)
6. Land Registration Act (2012)
- 7 Land Act (2012)
- 8 Environment and Land Court Act (2011)
9. Land Laws (Amendment) Act 2016
10. The Third Medium Term Plan (MTP III, 2018-2022)
- 11 Commission's approved annual work plans
- 12 County Spatial Development Plans
13. The County Government Act 2012
14. The County Integrated Development Plans
15. The Physical and Land Use Planning Act (2019)

1.2 Mandate, Functions and Powers of the Commission

1.2.1 Mandate and Functions

The Commission derives its mandate from:

1. Constitution of Kenya 2010
- 2 The National Land Policy 2009
3. The National Land Commission Act 2012
4. The Physical and Land Use Planning Act 2019
5. The Land Act 2012

6 The Land Registration Act 2012

The broad mandate of the National Land Commission as per the Constitution is to:

- 1) Manage Public land on behalf of the national and County Governments, Recommend a National Land Policy to the national Government,
- 2) Advise the national Government on a comprehensive program for the registration of title in land throughout Kenya,
- 3) Conduct research related to land and the use of natural resources, and make recommendations to appropriate authorities,
- 4) Initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress,
- 5) Encourage the application of traditional dispute resolution mechanisms in land conflicts,
- 6) Assess tax on land and premiums on immovable property in any area designated by law,
- 7) Monitor and have oversight responsibilities over Land Use Planning throughout the country,
- 8) Perform any other functions prescribed by national legislations, which include NLC Act (2012), Land Act (2012), Land Registration Act (2012) and Community Land Act among others.

1.2.2 Powers of the Commission

In line with the National Land Commission Act 2012, the Commission has powers to:

- (a) Gather, by such means as it considers appropriate, any relevant information including requisition of reports, records, documents or any information from any source, including any State organ, and to compel the production of such information where it considers necessary,
- (b) Hold inquiries for the purposes of performing its functions under this Act,
- (c) Take any measures it considers necessary to ensure compliance with the principles of land policy set out in Article 60 (1) of the Constitution

Further, in the exercise of its powers and the discharge of its functions, the Commission:

- (a) May inform itself in such manner as it may consider necessary,
- (b) May receive written or oral statements,

In exercising the above powers, the Commission is not bound by the strict rules of evidence.

1.2.3 County Coordination Offices

The Commission has decentralized its services through establishment of County coordination offices as provided for under sections 4(2) and 16(5) of the NLC Act, 2012. The decentralized units perform specific functions and serve as the face of the Commission in management and administration of land especially with the abolishment of the County Land Management Boards (CLMB) following the repeal of section 18 of the NLC Act in September 2016.

2.0 CHAPTER TWO: ACHIEVEMENTS

The Commission undertook activities focusing on five key strategic areas relating to its constitutional and statutory mandate and functions. These were:

Key Result Area 1 Management and Administration of public land

Key Result Area 2 Use of land and security of land rights

Key Result Area 3 Revenue generation from land and land-based resources

Key Result Area 4: Land dispute resolution and conflict management

Key Result Area 5 Institutional strengthening

2.1 Key Result Area 1: Management and Administration of Public Land.

Land is classified into three categories namely Public, Private and Community. Public land which is administered by the National Land Commission mainly falls within urban areas, leaseholds of agricultural nature, land held by public institutions and natural resources classified as public land in the Constitution. Articles 62 (2) and (3), as well as Article 67 (2) of the Constitution, provide the Commission the authority to govern and manage public land.

The Commission is thus responsible for ensuring efficient administration and sustainable management of public land resource in the country. Its mandate is to recommend and participate in formulating and implementing land policy, initiate processes that lead to registration of land rights within the public land category, approval and monitoring development control through conditional leasing of public land; mediate and resolve general land disputes related to ownership of public land, ensure proper public land record management, put in place efficient and effective service delivery systems especially at County level, ensure secure land rights and build capacity at County level for land administration.

2.1.1 Land Administration and Management

Land administration is the process of determining, documenting, updating, and disseminating information regarding land ownership, value, and usage, whereas land management is the process of managing land use and development in both urban and rural settings. As a result, the Commission administers public land in accordance with

numerous laws by coordinating the distribution and reservation of public land to diverse applicants. All allocations have usage conditions that trigger the Commission's management operations, such as coordinating and overseeing development applications.

The link between land rights and duties is decided, codified, and executed in land administration and management systems, which are juridical in character. Land administration and management as currently undertaken is heavily a shared responsibility between the Ministry of Lands Department of Land Administration and the National Land Commission.

2.1.2 Land Allocation and Regularization

Land Allocation

In accordance with section 12 of the Land Act 2012, all applications for land are received at the respective County or National Government, for consideration and thereafter the application are forwarded to the County Coordination office of the Commission who conducts due diligence and forwards to Headquarters for processing. In the period under review, the Commission allocated **293 plots** in various counties and prepared **293 letters of allotment** for Government institutions.

Regularization

Regularization is allocation of urban public land which has already been developed without planning, survey or documents that can be traced as formal from any authority. This activity is a multi-sectorial process that requires planning, surveying and enumeration of the occupants or claimants. The Commission received five (5) regularization requests for urban areas in the country but only managed to process one (1) area in Isiolo County. The County Governments had not factored the need to undertake survey before submitting requests.

2.1.3 Renewal of Leases

In fulfilment of Article 62 (2) and 67(2) of the Constitution and section 13 of the Land Act; and considering that leases are issued by the Commission as an agent of the County and National Governments, applications for renewal of leases are submitted in the first

instance to the NLC County offices. During the period under review, the Commission renewed leases for 78 properties.

2.1.4 Subdivision

Subdivision is the process of re-parceling of land into two or more portions. In every lease of public land, a condition is given that no land shall be subdivided without prior consent of the lessor. Subdivision adds value to land by increasing density, availing land into the market, ensuring optimum utilization of land and generating more revenue to both the lessor and lessee. It is also through the process of subdivision that land is availed for public purpose and infrastructure development through surrenders of parcels identified for public utilities.

In the period under review, the Commission undertook activities related to land administration and management as shown in table below:

Table 2.1 Summary of Land Administration Achievements

S/No.	Development Application	Applications in process	Applications Finalized	Pending	Remarks
1.	Allocation of Land /Application for ownership documents/Land Regularization & Formalization	360	293	67	Cases pending are for institutions referred for survey to be done
2.	Renewal of lease	79	78	1	Processing is demand driven and meeting of the requirements
3.	Regularization of Town Settlements	5	1	4	Submissions were made after planning and the cases were returned for survey to be done as per current land laws
4.	Verification of letters of allotment	798	798	0	Micro and Small Enterprises Authority allocations and Bula Pesa Estate in Isiolo verified
5.	Transfer of Public Land	10	9	1	Mostly these are cases where institutions are

S/No.	Development Application	Applications in process	Applications Finalized	Pending	Remarks
					surrendering land to other institutions
6.	Reservation of Public Land for Settlement	8	7	1	Identification of land and request is by the Ministry of Lands
7.	Public Notices Issued on intention to allocate public land	4	4	0	Notices issued on completed cases
8.	Parliamentary Questions responses	5	5	0	All cases referred were successfully completed
9.	Court Attendance to testify & Give Professional Opinion	2	2	0	Court cases are mainly by legal Directorate
10.	Site inspections carried out	22	17	5	Pending inspections are outside Nairobi and have budget constraints
11.	Preparation of policy, guidelines & Procedures of Land Administration Processes	6	6	0	Procedures and guidelines on allocations, regularization and renewal of leases had to be done to align with the land regulations of 2016
12.	Advise on land management to agencies/Land sector stakeholders	3	3	0	Requests were made by two agencies
13.	Vesting land to acquiring authority	298	0	298	The acquiring authorities have not finalised with the authentication of survey

S/No.	Development Application	Applications in process	Applications Finalized	Pending	Remarks
14.	Recommendation received from relevant land stakeholders on transactions	217	217	0	The recommendations are analysed as received to inform decision making
15.	Consent to transfer	1	1	0	Function demand driven

The Commission has also received several requests on formalization and regulation of land in urban areas, documentation of public institutional land and application for issuance of allotment letters. Similarly, other applications are access to land, Inter-ministerial/sector and transfer of land for affordable housing project as analysed in Table 2.2

Table 2.2 Key Activities and Achievements

Key Activities	Achievements	Comments
Formalization and Regularization of land in urban areas.	Received 4 urban plots applications from Baringo, Voi, Bula Pesa estate in Isiolo, and Chesinende market.	Bula Pesa has been finalised. The others returned to County for survey.
Documentation of public (Schools) institutions land	Received about 2,277 cases for public schools transfer of land	2,277 documents under process by way of developing a policy on the instruments to be executed.
Process development application	Renewal of 78 leases approved	Processing is demand driven and meeting of the requirements
Process applications for land issuance of allotment letters	58 cases of public institutions approved for allotments pending survey	Most institutions need to have their land surveyed to enable issuance of allotment letters
	National housing corporation. 163 cases issued with allotment letters	Cases are forwarded on the basis of payment clearance by allottees
	58 letters of allotments issued to institutions with survey done	Survey submissions is slow

Key Activities	Achievements	Comments
	23 cases of Civil Servants allotments handled	Cases are forwarded on the basis of payment clearance by allottees

Other notable achievements towards the key result area include:

1. Engaged in the process of having agreements reached on access to land for the construction of the 1.2 Km Likoni Car Cable (floating bridge), which serves as a gateway for Mombasa port.
2. Inter-ministerial/sector transfer of land where the Commission facilitated Land Exchange between Kenya Police and Central Bank as well as Kenyatta National Hospital and Kenya Police.
3. Availed land for affordable housing in Ngara and are working on availing more lands within Shauri Moyo in Nairobi County.
4. Resolved issues surrounding planning of the Meteorological Land in Industrial area for release to the State Department of Housing and Urban Development for affordable housing programme.
5. Developing policy guidelines and position on how Government agencies will be releasing land to each other for development without entering into inter-Governmental land leasing arrangements.

2.1.5 Enhanced Management of Natural Resources

Natural resources contribute immensely to socio-economic, ecological and political development of the country taking cognizance of the fact that land hosts other natural resources. The free existence of natural resources dictates the survival of human and all forms of life on earth.

Land and natural resources enable the execution of projects relating to Kenya's Vision 2030 and the Government's Big Four Agenda. Specifically, the pivotal role of natural resources in agricultural production and food security through provision of water and suitable climatic conditions as well as manufacturing, cannot be ignored. Equally, Article 260 of the Constitution defines natural resources as the physical non-human factors and components, whether renewable or non-renewable, including sunlight, surface and groundwater, forests, biodiversity and genetic resources, rocks, minerals, fossil fuels and other sources of energy.

The Commission as a manager of public land which constitutes natural resources continues to execute the natural resources management function in line with the Constitution and relevant land laws. This function is bundled within the following key areas including:

1. Inventorving and monitoring of natural resources including ecologically sensitive lands to secure fragile lands and enhance access to natural resources.
2. Execution of actions to prevent and mitigate environmental degradation and climate change as well advocate for climate change mainstreaming in land administration and management.
3. Development of guidelines, regulations and frameworks for sustainable management of natural resources to support policy and legislative reforms.
4. Provision of science-led and cutting-edge advisories for policy and action on sustainable management and development of the country's natural wealth,
5. Strengthening capacity and structured engagements with natural resources actors.

During the review period, the Commission expedited key activities and achieved remarkable milestones as discussed in this section.

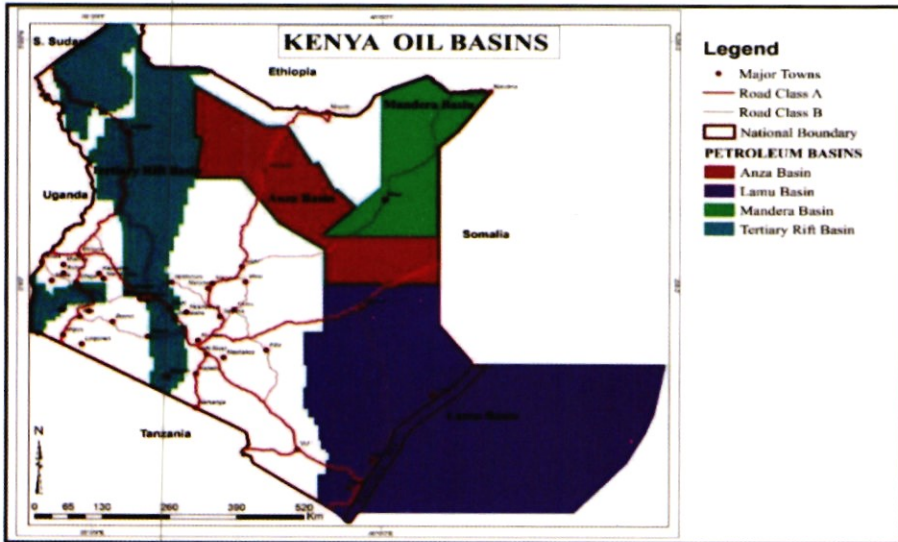
2.1.6 Inventory and Monitoring of Natural Resources

i. Kenya Natural Resource Atlas

This is a policy document which is the Commission's target under the Third Medium Term Plan (MTP 3) of Kenya Vision 2030 and it's also anchored in the Big Four Agenda in support of manufacturing and food security. The Commission has developed the Country's Natural Resources Atlas as an information hub to integrate multiplicity of actors/agencies' data on land-based resources. The atlas provides how the entire natural capital is distributed and interconnected as well as the changing patterns within the land/seascape towards enhancing and informing sustainable socio-economic development in the country in line with section 15 (3) of the Land Act, 2012.¹

¹ This document is awaiting public participation so as to be published and shared with Water Resources Authority, Kenya Wildlife Service, Kenya Forest Service, National Museum of Kenya, Fisheries, Ministry of Agriculture & Livestock, Extractive Industries among other land related Institution. Geo-portal map to be developed.

Figure 2.1 Map of Kenya's Oil Resources



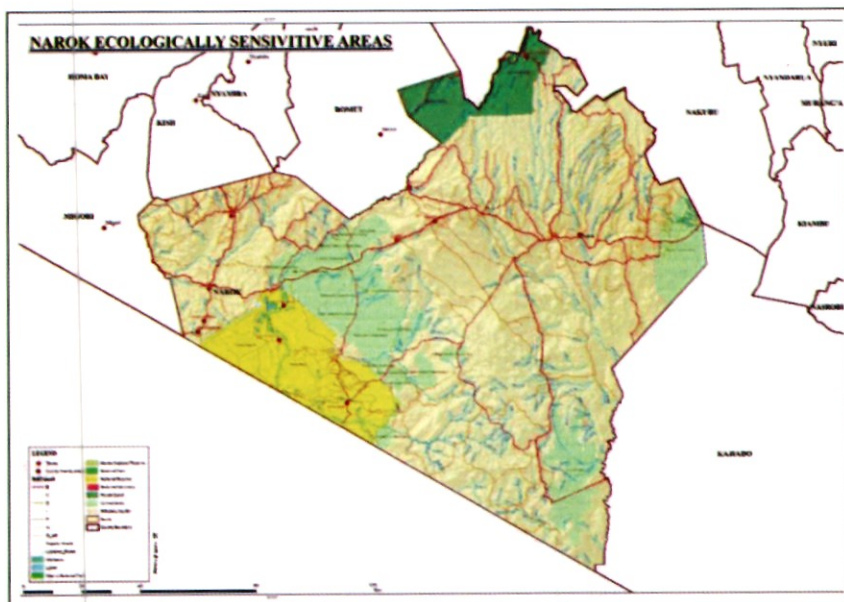
Source, National Land Commission

ii. Monitoring of Ecological Sensitive Areas (ESAs)

In execution of this mandate, the Commission monitors all ecological sensitive areas (ESAs) which constitute portions of critical, yet fragile environmental assets in accordance with section 12 (2) (b) of the Land Act No 6 of 2012. In this regard, the Commission monitored ESAs in four (4) counties i.e., Marsabit, Isiolo, Kajiado and Narok. The Commission identified, mapped and compiled reports on resources². This culminated in the development of key advisories that were shared with various stakeholders. Some of the maps are presented in this report.

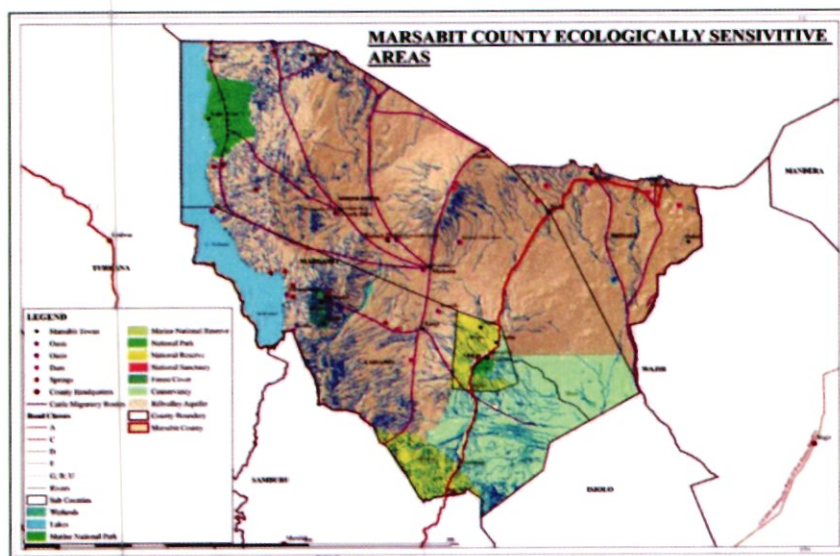
² The report is ready to be shared with the National and County Governments

Figure 2.2 Map of Narok County Ecologically Sensitive Areas



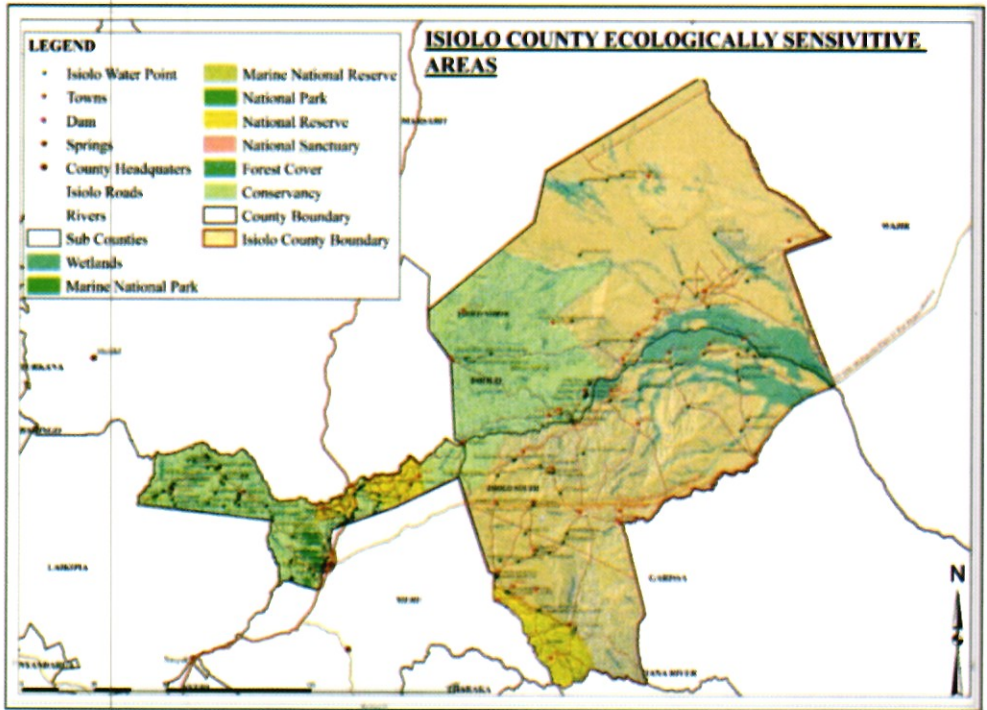
Source: National Land Commission

Figure 2.3 Map of Marsabit County Ecologically Sensitive Areas



Source: National Land Commission

Figure 2.4 Map of Isiolo County Ecologically Sensitive Areas



Source: National Land Commission

2.1.7 Development of Guidelines, Regulations and Frameworks for Sustainable Management of Natural Resources

i. Guidelines for Climate Smart Agriculture

Kenya Climate Smart Agriculture Project (KCSAP) is a project under the Ministry of Agriculture, Livestock, Fisheries and Cooperatives. The Commission developed Land Access Guidelines jointly with the Ministry through an interagency technical team drawn from various institutions and with support from the World Bank. The Commission was the lead agency, steering this exercise and provided the much-needed technical guidance on this key policy document for streamlining land natural resources management and governance. The overall objective of the guidelines is to provide a clear pathway on access to public land-based resources within the three

land categories in Kenya in order to enhance seamless execution of KCSAP investments and other Government Projects for Achievement of sustainability³.

2.1.8 Execution of Actions to Prevent and Mitigate Environmental Degradation and Climate Change

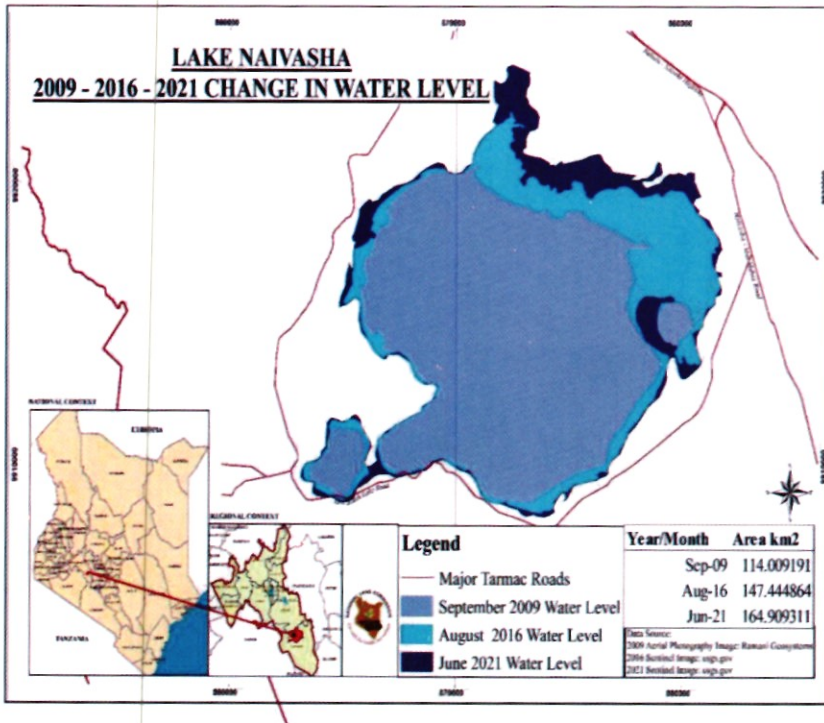
i. Rising Water Levels in Rift Valley and Lake Victoria

The Commission jointly with technical experts from other institutions assessed the causes, impacts and remedies to the rising water levels and mapped these wetlands (Lakes Baringo, Victoria, Ol Bolossat, Turkwel Gorge Dam, Turkana, Bogoria among others in the Rift valley and Nyanza/Western) to inform the Government and the public about the rising lake water levels in the country in terms of the underlying causes, impacts including costs and damages as well as redress/remedy to ameliorate the vagaries of a changing climate⁴. This report, which constitutes an integral advisory, asserted that the causes and factors contributing to the rising water levels are three-pronged and include climatic changes, changes in land use practices at the catchment scale as well as tectonic related events and changes. In this regard, the advisory urges the Government to take lead in provision of immediate humanitarian assistance to the affected persons, finalize and implement the National Lake Basin Management Strategy (anchored under the Ministry of Water, Sanitation and Irrigation) as well as development of County Spatial Plans to address the identified issues in the report. Further, the advisory appreciates that there is urgent need to map out and delineate all the highest and lowest water marks that constitute fragile ecosystems to guide and bolster investments and promote sustainable development.

³ The guidelines were jointly done by Ministry of Agriculture, Livestock, Fisheries, Cooperatives among others under KCSAP

⁴ This study was conducted jointly with Water Resource Authority (WARA), Directorate of Resource Surveys and Remote Sensing (DRSRS), Kenya Electricity Generating PLC (KenGEN PLC), Kenya Wildlife Service (KWS), the Climate Change Directorate (CCD), Kenya Forest Service (KFS), University of Nairobi (UoN), and Kenyatta University (KU)

Figure 2.5 Changes in Lake Naivasha Levels Rises



2.1.9 Secure Fragile Lands and Enhance Access to Natural Resources

i. The Task-Force on Wildlife Corridor Connectivity Between Nairobi National Park and Athi-Kapiti Plains

Wildlife migratory corridor is critical for the viability of wildlife. Wild animals require ample free space for movement, breeding, feeding as well as growth and developmental phases, aspects that do not respect land tenure and administrative borders.

The Nairobi National Park (NNP) wildlife migratory corridor which links the Amboseli/ Tsavo Ecosystem through Athi-Kapiti Plains has been blocked by human settlements and other infrastructural development. Hence there was need to create connectivity between this park and Amboseli/ Tsavo Ecosystem. Providing

seamless connectivity for Kenya's rich wildlife heritage is not only a constitutional and legal requirement, but equally, aims to promote sustainable development and achievement of Kenya's Vision 2030. The Commission was part of the Task-Force which delivered advisory (report) on the Nairobi National Park and Athi Kapiti Plains; that provided clear and strategic guidance on land management, administration and legal underpinnings for acquisition and access to these important ecosystems for biodiversity conservation.

Figure 2.6 Consultative Meeting to Establish Wildlife Connectivity for NNP



Figure 2.7 Consultative Meeting to Establish Wildlife Connectivity for Athi-Kapiti Plains



ii. Riparian Lands

The Constitution categorically distinguishes riparian lands as components of public land that are unallocatable due to their fragility and the key ecosystem goods and services that they provide. The Land Act No 6 of 2012 defines Riparian Reserves to mean the land adjacent to the ocean, lake, sea, rivers, dams and water courses as provided under the Survey Act, Cap. 299 or any other written law. In this regard, the Commission has issued an advisory to put on hold any transactions arising from Lake Naivasha Riparian lands. A draft policy on the same is in place awaiting the Commission approval⁵. The policy is meant to secure these fragile public lands that are currently facing immense threats from encroachment.

Figure 2.9 Karagita Beach and Fish Landing Site, Naivasha-Nakuru County



⁵ KWS, farmers/horticulture growers, hotelier. This advisory awaits the Commission adoption.

Figure 2.10 Multi-agency Ground Inspection and Verification on Lake Naivasha Riparian Land Encroachments



iii. Review of Environmental Impact Assessment (EIA)

The Commission has continued to receive and consider Environmental Impact Assessment (EIA) reports (relating to boundary variation, degazettement of forest and national reserves, and land acquisition among others) from the National Environment Management Authority (NEMA), as a key stakeholder and together with other lead agencies in matters environment and natural resources. The Commission has issued different advisories to the authority and pronounced itself on some of the key areas of public interests such as management and protection of public forests, in accordance with the Constitution and other relevant laws (Table 2.3).

Table 2.3 Summary on Proposed Degazette ment of Protected Areas

Ref. No	Project Type	Acreege (Ha)	County	Category	Justification
EIA1691	Bound ary Variati on	121.4057	Nyandarua	Aberdare Forest Reserve	Expansion of Ndaragwa Township
EIA567	Bounda ry Variatio n	4064	Bungoma	Mt Elgon Forest Reserve	To create space for resettlement of Mt. Elgon squatters.
EIA1589	Dega zette ment	3.6576	Kajiado	Ngong' Hills Forest	For human settlement - squatters claim it is their ancestral land.
EIA1593	Degazette ment		Makueni	Ngai Ndeithya N. Reserve	Human Settlement
EIA1817	Degazette ment	700	Kakamega	Turbo forest reserve	Human Settlement
EIA1878	Degazett ement	10,056.36	Baringo	Ol Arabel Forest Reserve	Human Settlement
EIA 1364	Excision	50	Trans Nzoia	Suam Forest	Town Development at Suam Boarder.

The Commission has advised that the degazette ment of protected areas (including parks, forest reserves, wildlife sanctuaries) sends a negative message and sets a wrong precedence which is likely to cause social chaos and conflicts, as well as jeopardize environmental sustainability and achievement of Kenya Vision 2030 targets relating to forest and tree cover. These will have both short and long term negative effects on land and people including accelerating climate induced disasters and risks. The Constitution

has set a minimum threshold of at least 10% tree cover (Under Article 69(1(b)) of Kenya's land mass

2.1.10 Provision of Science-led and Cutting-edge Advisories for Policy and Action on Sustainable Management and Development of the Country's Natural Wealth

i. Unbundling Land Rights in Kenya's Lake Victoria.

To achieve national food and nutrition security through the Ministry of Fisheries, private investors and local communities have established cage cultures in Lake Victoria. The Commission has provided an advisory on the need to integrate social- ecological and geospatial data in decision-making aimed at supporting blue economy investments regarding cage culture⁶. Additionally, the Commission established that there are glaring governance gaps in the cage culture investments in the lake, despite being a potential blue economy candidate.

⁶ The report is awaiting to be published and chaired by Ministry of Fisheries, Universities and Local Communities among others stakeholders.

Figure 2.11 Cage Culture by Victory Farms, Homa Bay County



ii. **The Shifting Paradigms in Kenya’s Socio-economic Development and Competing Water Needs: Unmasking the Dryland Wetland Resources**

The Commission gave an advisory on socio-economic development and competing water needs by focusing on unmasking the neglected Dryland Wetland Resources. This advisory majorly emphasized on the importance of Oases in the ASALs with a view to *tilting the policy and regulatory landscape* to take cognizance of the unique but vital dryland wetland resources in the country.⁷

iii. **Petroleum Development and Wetlands: The Push, Pull and Push-Pull Tactics**

As mandated by the Constitution of Kenya, the Commission developed advisory on Petroleum Development and Wetlands in order to strike the delicate balance between the Push, Pull and Push-Pull Tactics regarding

⁷ The report is awaiting publication by Water Authority, Universities, Ministry of Environment, Pastoral Communities, and County Government (ASAL).

petroleum operations and fragile wetlands ecosystems. This is in support of Manufacturing and food security agenda of the BIG 4.

iv. **Tackling Wetlands Encroachment with Technology: A Participatory Approach, Kenya**

This advisory jointly done between the Commission and Kisii University Department of Computing Science, aims to resolve the challenge of encroachment into wetlands through intensive monitoring and surveillance using participatory approaches and human computing technologies. It is premised on the fact that incidences of encroachment can easily be detected at early stages before full-blown occupation and illegal settlement into these areas to avoid challenges and expenses in terms of evictions, resettlement and/or compensation.

v. **Patterns of Wetlands Distribution, Potential Encroachments and Applications of e-Riparian for their Conservation in their Designated Special Economic Zones of Lamu, Kisumu and Mombasa, Kenya.**

Mapping riparian lands in Special Ecological Zones (SEZs) for conservation and development is a project between NEMA and NLC and funded by National Research Fund (NRF). SEZs host major wetlands and proposed developments that encroach into riparian lands. Thus, E-riparian - an interactive geo-portal application, will help in early detection and screening of various projects in order to establish whether they are likely to fall within riparian areas in the three SEZs. It therefore serves to bolster investor confidence and tackle wastage/economic loss and emotional challenges associated with demolition of properties in the riparian areas and hence serves as a self-regulating tool to ease riparian encroachment. NEMA is expected to use this application/system to guide their EIA decision making processes.

2.1.11 Strengthening Capacity and Structured Engagements with Natural Resources Actors.

(i) Trainings and Capacity Development for Various Actors

The Commission participated in and guided discussions aimed at strengthening capacity for good natural resources governance in over 10 stakeholder forums⁸ on sustainable land management imperatives and anchor the Commission's mandate regarding Natural Resources Management (NRM)

2.1.12 Geo - Information Management, Survey and Land Rights

The Commission is responsible for developing and maintaining geographic, spatial, legal and environmental databases that are relevant to public land throughout the country. It develops and maintains effective land information system for the management of public land. In view of this, the Commission provides public access module in the land information system that allows general enquiries by the public. It also advises the National Government on a comprehensive program for the registration of title in land throughout Kenya. It undertakes monitoring of registration of rights and interests in land in the Country. It undertakes Surveys to support the compulsory land acquisition process and other Commission functions requiring surveys, this section presents the status of activities that has been undertaken by the Commission in financial year 2020/21.

⁸ The forums include World Bank HoVGD engagements, KES-KNCHR Environment and social safeguards guidelines, Geothermal investment forum, Agroforestry Strategy development, Validation of Kenya's NDC, climate change framework, Interagency technical team on rising lake water levels in Kenya including development of a cabinet memo, NguNdethya IFA interagency technical team, Nairobi National Park connectivity taskforce, Kenya National Implementation Committee for the IGAD's climate change project (RIC/AMA), Review of draft guidebook on land use by State Dept for Devolution, Project Steering Committee on the IRI Tana River project, UN-Habitat's joint partnership sessions, WWF's rivers economic contribution in Kenya

Table 2.4 Geo-Information Management Services

Activities	Status	Remarks
Strengthen GIS/data conversion laboratory at HQ	The process of signing contracts, service level agreements and delivery of equipment is ongoing.	Impacted by pandemic and delays
Extension of features and functionality of the PLI portals	Procurement process has been initiated	Modules extensions needed towards supporting public land management
Geo-referencing and digitization of maps & plans having public land parcels	Over 3,000 parcels on public land scanned, georeferenced and digitized. Ground truthing exercise is yet to be initiated.	Fieldwork could not be undertaken due to pandemic and lack of funds
Safeguard hard-copy and soft-copy of public land records	On going	Liaison ongoing between SoK and Commission
Enhancement of content available on the PLI and its uptake nationally	30% of the PLI system components integrated with NLIMS(Ardhi sasa)	
Develop public land information management guidelines	Draft standards and guidelines are in place.	Awaiting internal and external engagement with stakeholders.

2.1.13 Survey Services

The Commission under *section 12 and 34* of the Land Act 2012 has the mandate to undertake final survey and vesting. Under this, the Commission managed to undertake the following activities in financial year 2020/21.

Table 2.5 Survey Services

Activity	Status	Remarks
Inventorize all compulsorily acquired land	(10%) of the work done.	Ongoing
Enhance public awareness about final survey	Public participation done in Lamu, Garissa, Samburu, Isiolo and Meru counties in regards to LAPSET Corridor project.	The initiative was impacted by pandemic
Develop final survey framework	Draft framework has been developed. 10% of internal and external stakeholders engagement done	Awaiting further stakeholder engagements
Establish a Commission Maps & Plans Registry	Maps relating to the listed projects acquired. Plans underway for establishment of plans registry.	Awaiting for funding
Kiritiri Market Embu ground status survey	0.04 Ha Complete	Report finalized and submitted
Nanyuki ground status survey	1 Ha Survey finalized	Report finalized and submitted
Isahakia community land claim	Survey done on LR. 114 in which Naivasha Township was demarcated.	Report submitted
Nightshade public inquiry and ground status survey	Survey finalized	Report finalized and submitted
Ground status investigation of cine claim-encroachment by port area land on their land.	Survey finalized	Report submitted
Hakati Barracks, Busia ground status survey	67 Ha survey	Report finalized and submitted
Thwake Dam ground status verification	9 gazzetted parcels within Mavindini Registration	Report done and submitted

Activity	Status	Remarks
	sections (Makueni) verified	
Oyani Farm boundary confirmation survey (Uriri/Migori)	9.9818 Acres surveyed Complete	Status report submitted to Ministry of Agriculture, Livestock and fisheries
Samia ground boundary confirmation	Complete	Done in conjunction with the MoLPP
Verification of PDPs	481 Plans within Nairobi County verified	
Ground inspections	25 Inspection done for 25 parcels in Nairobi	

2.1.14 Land Rights and Monitoring Services

According to the NLC Act, 2012 (5) (2), the Commission is mandated to monitor the registration of all rights and interests in land. In fulfilment of this, the Commission undertook activities as below:

Table 2.6 Registration of Land Rights

Activities	Targets (Indicators)	Status	Remarks
Monitor registration of rights and interests to land	1 tool, 5 monitoring reports	Draft framework ready	1 tool, 5 monitoring reports ready pending external stakeholder engagement

2.1.15 Compulsory Land Acquisition for Public Projects

Compulsory land acquisition is based on article 40 (3) of the Constitution of Kenya, which permits the state to acquire property for public use or in the public interest in exchange for fast and full payment of just compensation. Under section 107 (1) of the Land Act 2012, the Commission is mandated to acquire such land on behalf of the National or County Government and to implement the acquisition in line with the Constitution and applicable Acts of Parliament.

The applicable procedure for land acquisition is derived from the Land Act No. 6 of 2012, the Land Value Amendment Act 2019, the Land (assessment of just compensation) rules 2017 among other legal provisions. Further, the Community Land Act provides for compulsory acquisition of land from community land subject to Article 40 (3) of the Constitution and the Land Act 2012.

Figure 2.12 Elaborate Process of Land Acquisition by Government

Step 1: Formal request to the Commission by competent office indicating the purpose for which land is to be acquired. The request should prove that the land is needed for public purpose

Step 2: Consideration by the Commission and approval if it meets the Constitutional and Statutory threshold (public purpose).

Step 3: Publication of Notice of Intention to acquire land is published in the Kenya Gazette. The Commission will undertake public sensitization and participation by holding meetings, workshops and any other appropriate fora to inform the public about the proposed project and matters pertaining to procedure, expectations and responsibilities of stakeholders in the land acquisition process.

Step 4: Ground inspections and valuation to record any improvements affected by the proposed project.

Step 5: Publication of Notice of Inquiry in Kenya Gazette, service of notice and holding of inquiry: This allows persons interested in the subject land to submit their claims.

Step 6: Issuance of an award of compensation to every person determined to have an interest in the land; Land Lord, Leaseholder (building) or Sublease Holder (Loss of profit).

Step 7: Payment upon receipt of funds.

Step 8: Issuance of Notice of Taking Possession

Step 9: Final Survey and vesting of the acquired land

2.1.16 Facilitation for Access of Land for Public Projects

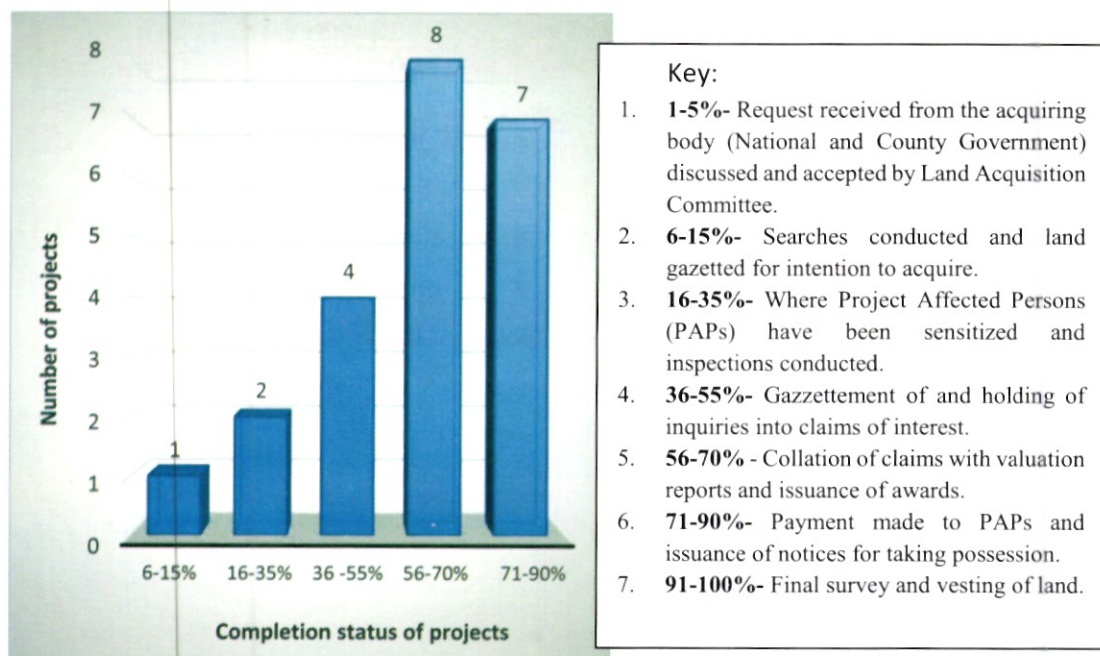
Compulsory land acquisition is based on article 40 (3) of the bill of rights, which permits the state to take someone's property for a public use or in the public interest in exchange

S/N o.	Acquiring body	Name of Project	Project objective	Area of Scope	Project scope Area (Ha) approx.	Project status
9.	Kenya Water Harvesting and Storage Authority (KWH&S A)	Soin – Koru Multipurpose dam.	To enhance access to water	Kisumu County	864	Awards issued
10.	KeNHA	Kenol-Sagana-Marua road project	To upgrade the road from single to dual carriage for ease of transport within central eastern and northern regions of Kenya.	Murang'a County	89	Acquisition process ongoing with sections of the project paid
11.	KeNHA	Rironi-Mau Summit Road	To upgrade the road from single to dual carriage for ease of transport within central, Rift and Western regions of Kenya	Kiambu & Nakuru Counties	5	Acquisition process ongoing with sections of the project paid
12.	KeNHA	Nairobi Expressway road project	To upgrade road and ease traffic congestion within Nairobi City	Nairobi County	24	Payment ongoing
13.	KeNHA	Nairobi Western bypass	Dualing of the road	Nairobi County	7.27	Payment ongoing

S/N o.	Acquiring body	Name of Project	Project objective	Area of Scope	Project scope Area (Ha) approx.	Project status
14.	KeNHA	Garsen- Witu Road Project	Expansion of road & upgrading from all-weather road to bitumen standard	Tana River & Lamu Counties	1	Awards issued
15.	KeNHA	Eldoret Bypass Road Project	Expansion of Bypass to ease traffic congestion within Eldoret Town	Uasin Gishu County	244	Payments ongoing
16.	KeNHA	Construction of Magongo and Oil refinery road (A109A)	Expansion & upgrading of the road	Mombasa County	6.2	Payments ongoing
17.	KeNHA	Kibwezi - Mutomo - Kitui - Kabati - Migwani Road	Expansion & upgrading of the road	Makueni & Kitui Counties	734	Awards issued
18.	KeNHA	Horn of Africa Gateway Development Project	To relocate project affected persons for implementation of the project	Isiolo, Wajir, Mandera & Garissa Counties	No land acquisition	Inspections done
19.	Kenya Ports Authority	Dongo Kundu special economic zone	To relocate project affected persons for implementation of special economic zone - Mombasa	Mombasa County	No land acquisition since it is a resettlement action plan (RAP) for PAPs within the project area.	Valuation completed
20.	Ministry of Petroleum and Mining	Land for Project Oil Kenya Upstream Project	Oil Depot	Turkana & West Pokot counties	No land acquisition since it is a RAP for	Awaiting inspections

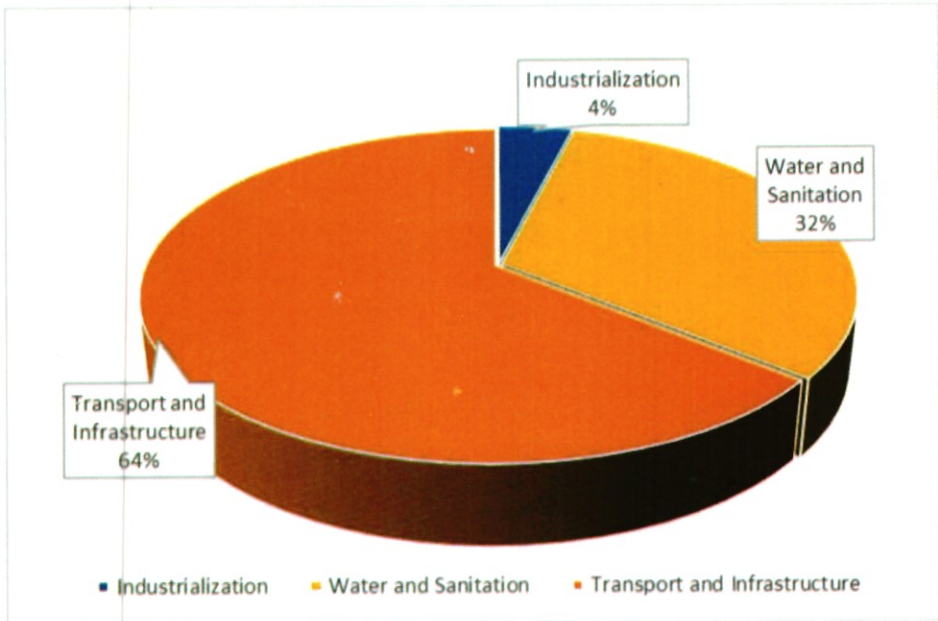
S/N	Acquiring body	Name of Project	Project objective	Area of Scope	Project scope Area (Ha) approx.	Project status
		- Turkana & West Pokot Counties			PAPs within the project area.	
21.	LAPSSET Corridor Development Authority	LAPSSET Corridor & Ancillary facilities project	Enhance movement from Lamu to South Sudan and Ethiopia	Lamu, Tana River, Garissa, Isiolo, Tharaka Nithi, Isiolo, Laikipia,	197,285	Inspections done
22.	KeRRA	Sigalagala - Musoli Road	Expansion & upgrading of the road	Kakamega County	6	Inquiries done

Figure 2.14 Graphical Representation of Projects Completion Status



It is noted that majority of the projects currently being handled by the Commission are at 56-70% level of completion implying that collation of claims with valuation reports and issuance of awards has been finalised. This category of projects is just awaiting payment to be made to PAPs and issuance of notices for taking possession.

Figure 2.15 Chart Presentation of Project Distribution Per Sector



During the period, majority of the projects handled by the Commission were on Transport infrastructure (64%) followed by Water and Sanitation (32%).

2.1.17 Management and Administration of the Land Compensation Fund

Under the Land Act 111 (1) (a) the acquiring authorities shall deposit with the Commission the compensation funds in addition to survey fee, registration fee and any other cost before the acquisition is undertaken. Prudent administration of the compensation fund is critical to fulfilling the Constitutional duty of prompt compensation and ensuring that there is value for money to the taxpayers. During the period under review, the Commission received **Kshs. 23,172,391,244.00** from acquiring bodies while the total disbursed within the same period **Kshs. 20,760,665,076.00**

2.1.18 Final Survey Component in Support of Compulsory Acquisition Process

The compulsory acquisition process ends with the final survey and vesting. The Commission is required to collect fees for conducting final surveys from acquiring companies, among other things. The Commission in various initiatives geared towards vesting of compulsorily acquired land.

Table 2.8 Preliminary Vesting Works

Project	Status		Remark
Kayafungu group ranch Survey	Reconnaissance done		Pending comprehensive survey
Mumbaka Forest boundary survey	Initial Survey done in conjunction with KFS County Government of Busia and community		Awaiting final survey
Kimugu Dam 10 Acre Land Survey	10 Acres acquired for water treatment works.		Awaiting finalization of the survey
Northern Corridor-Isiolo-Modogashe-Wajir-Mandera road Survey	Complete		Done in conjunction with KeNHA
SGR Phase II compensation, Suswa Kitet ground inspection survey	50% Complete		Reconnaissance done awaiting final survey
LAPSSET corridor survey and demarcation	Lamu	873 Parcels Affected by corridor mapped	718km Lamu-Samburu surveyed distance surveyed and demarcated.
	Garissa	1864 affected structures mapped	
	Isiolo	730 affected structures mapped	Approx. 359,000km ² area covered and ready for inquiry process.
	Samburu	289 affected structures mapped	

Figure 2.16 Pegging of LAPSSET Corridor in Samburu and Garissa Counties



2.2 Key Result Area 2: Use of Land and Security of Land Rights

2.2.1 Land Rights Monitoring

The Commission began the operationalization of the framework to actualize monitoring the progress in registration of rights to land across the country among other land related monitoring functions. The framework for monitoring registration of land rights and interests contains a monitoring tool with indicators and the responsible institutions for the various registration activities on land. Each indicator has the following parameters: purpose, baseline, target, data collection, specific research tool used, and frequency of monitoring, responsible officer, and officer making the reports. The table below provides a detailed view of these parameters.

Table 2.9 Monitoring Activities Undertaken During the Reporting Period:

S/No.	Activities	Status	Remarks
1.	Monitor registration of rights and interests to land	Draft framework ready	1 tool, 5 monitoring reports ready pending external stakeholder engagements.

2.2.2 Mainstreaming of Land Use Planning

Pursuant to **Article 67(2) (h)** of the **Constitution of Kenya**, NLC is mandated to *monitor and have oversight responsibilities over land use planning throughout the country*. The basis of this Constitutional mandate is in Section 104 of the **Sessional Paper No. 3 of 2009 on National Land Policy** that highlighted seven (7) land use planning key issues that the Country needed to address. In fulfilling this Constitutional mandate, the Commission liaises with the National Government in the preparation of National Land Use Policy (NLUP), National Land Use Spatial Planning Policy (NLUSPP) and general principles and guidelines on land use planning.

Additionally, the Commission liaises with the National, County and local planning agencies in the preparation of land use plans as a framework for managing public land both at the national and County levels. The other key responsibilities of the Commission include implementing, monitoring, and reviewing the prepared land use plans, sensitizing the relevant agencies and the public on land use planning, and generating status of land use planning reports. These activities suggest that land use planning is an important function aimed at ensuring economic efficiency in the use of space and to ensure that the health, safety and general security of the citizens of a country is promoted and secured. During the period under review, the Commission made the following achievements in relation to mainstreaming land use planning:

a) Preparation of Framework for Monitoring the Implementation of National Land Use Policy (NLUP) and Framework for Monitoring Implementation of National Spatial Plan (NSP).

The Commission prepared final drafts of the two frameworks and circulated them for stakeholder input. The feedback was received from stakeholders and the Commission reviewed the feedback for incorporation into the final document.

b) Review of County Spatial Plans

During the period, the Commission reviewed and made recommendations for improvement on three (3) County Spatial plans namely:

1. Draft Trans-Nzoia County Spatial Plan

- ii. Draft Nakuru County Spatial Plan
- iii. Draft Samburu County Spatial Plan

c) Review of Urban Land Use Plans

The Commission reviewed and made recommendations for improvement on 11 urban land use plans, namely:

- i. Draft Kiminini Integrated Urban Development Plan-Trans Nzoia County
- ii. Draft Kimilili Local Physical Development Plan- Bungoma County
- iii. Draft Konza- Kenol - Kangundo - Tala- Komorock - Ruai Eastern by pass transport corridor plan
- iv. Approved plan for proposed Naivasha Industrial Park
- v. Proposed social housing on Department of Meteorology land in industrial area
- vi. Draft Mwatate Municipal development plan
- vii. Draft Eldama Ravine integrated urban plan
- viii. Longonot market center
- ix. Mai Mahiu market center
- x. Mau Narok market center
- xi. Salгаа market center

d) The Commission reviewed and gave advice on 40 Part Development Plans forwarded to the Commission as basis for land allocation.

e) Land Use Planning Monitoring to Counties

In fulfilment of its mandate as per Article 67 section 2(h) of the constitution the Commission undertook monitoring and oversight visits in seven (7) counties namely:

- i. Turkana County
- ii. Nakuru County
- iii. Samburu County
- iv. Siaya County

- v Busia County
- vi Trans Nzoia County
- vii Laikipia County

f) Guidelines for Monitoring Development Control

- i The Commission developed a concept paper on development of guidelines for monitoring development control
- ii Further, the Commission developed a concept paper and guidelines for NLC staff nomination to
 - a) National Physical and Land Use Planning Consultative Forum
 - b) National Physical and Land Use Planning Liaison Committee.
 - c) County Physical and Land Use Planning Consultative Forum
 - d) County Physical and Land Use Planning Liaison Committee

Based on these guidelines the Commission appointed representatives to various land use planning consultative forums and committees

g) Status of Land Use Planning Report

The Commission prepared status of urban land use planning report in the country and developed a scorecard for County Spatial Planning in fulfilment of its mandate as per the NLC Act 2012

h) Sensitization on Land Use Planning

The Commission undertook sensitization for the following County Governments on land use planning:

- i. Laikipia County Spatial Planning team on 16th - 18th September, 2020 at Rumuruti town The team was taken through:
 - a) Steps in County Spatial Plan (CSP) preparation,
 - b) Public participation and its importance in CSP process,

- c) Application of GIS in planning and costing
- d) Role of the CSP team in planning process
- ii. Sensitized members of Tana River CSP planning team in collaboration with FAO on 2nd to 4th November, 2020. The sensitization workshop took place in Kilifi County.
- iii. Sensitized members of Rumuruti Municipal Board on the preparation of an Integrated Urban Development Plan for the Municipality on 7th to 10th December, 2020 in Naivasha

The sensitization centered on:

- a) Constitution and legal frameworks for land use planning
- b) Steps in preparation of the plans,
- c) Public participation
- d) Institutions involved in implementing the County spatial plan and the intergraded urban development plan
- e) Application of GIS in planning, and plan costing
- f) Role of the CSP team and the Municipal board in the planning process.
- iv. Sensitized Turkana County land sector officials on process of County land use Planning and land regularization on 15th-18th June, 2021

The County staff were sensitized on the following critical areas:

- a) Constitutional, Policy and Legal Basis for County Planning
- b) The Importance of County Planning in facilitating Land Management
- c) Types of Land Use Plans and their importance in Land Management
- d) Process of County Planning
- e) Public Participation in County Planning and Land Management
- f) Institutional framework for County planning
- g) Land Administration Processes

- h) Unique Land Issues in Turkana County
- i) Action Plan for land regularization in Turkana County
- v) In addition, the Commission provided resource persons in a series of induction sessions for land use planners under the auspices of the Kenya Institute of Planners (KIP)

2.2.3 Promotion of Research on Land

Pursuant to Article 67 (2)(d) of the Constitution of Kenya and National Land Commission (NLC) Act Section 5(1) (d) the National Land Commission has a mandate to undertake research related to land and use of natural resources, and make recommendations to the appropriate authorities

The Commission is committed to guide the Country on policy matters aided by the research and innovation by building a dynamic research culture that enriches professional experience for staff, creates knowledge across land and use of natural resources while improving land administration and management in Kenya. The Commission impacts land reform by generating evidence-based research and sharing research findings with policy makers, collaborating with researchers in and out of the country and partnering with community and Government.

The Commission has developed its research agenda in the following thematic areas:

- a) Land Governance and Land Management,
- b) Land use planning and land use conflict resolution,
- c) Land Rights and Security of Tenure,
- d) Emerging Global and Strategic Land Issues,
- e) Historical Land Injustices and Legal Research,
- f) Sustainable Conservation of Land Based Natural Resources and
- g) Valuation and Taxation Thematic Area

During the period under review the Commission undertook the following activities:

- 1 A National Land Commission Research Framework was developed and adopted as a Commission document This Research Policy framework is prepared as a tool to increase production of research outputs and enable researchers to contribute to knowledge production and generation in land matters and guide policy direction in land matters The overall objective of the NLC research Framework is to provide the guiding principles regarding the development, management and support in research activities by the Commission and other partners.
- 2 Policy paper on the “Effects of Mining and Quarrying on Human Settlement and the Environment” a case study of Kwale County This research provides an analysis of the current mining and quarrying activities in Kwale County and gives policy recommendations on the best practices to promote responsible quarrying, mining and land reclamation after mine exhaustion
Some of the recommendations included

- **Ministry of Petroleum and Mining**

The ministry should update the national mining cadaster to show location of mines and be easily accessible to all insututions mandated with management of mining activities Some of the activities in the mining cadaster that happen in the headquarters should be decentralized at the regional offices for ease of providing service

The ministry should also collaborate with NEMA in capacity building of artisanal miners, and develop regulations on mine safety and health as well as regulations on mine close and rehabilitations programme. The Ministry should also ensure mine rehabilitation and closure programs are implemented, under Mining Act 2016 Sections 179 and 180

Figure 2.17 Mining Operations within Base Titanium Limited.



- **National Environment Management Authority**

National Environment Management Authority should gazette Environmental Inspectors and also second Environmental Officers to large scale mining operations to monitor environmental compliance. NEMA should enforce environment protection bond to be deposited by mining companies and additionally provide for modalities of its implementation through necessary guidelines. NEMA should ensure mine rehabilitation and closure programs are implemented, under Mining Act 2016 Sections 179 and 180. The mining license should contain conditions to the effect that upon completion of mining operation, the mining rights holder should obtain a compliance certificate from NEMA and County Governments.

3. Research on effects of Land fragmentation in Land use and Food security in 13 counties: Case study of Nyamira, Laikipia, Nandi, Trans Nzoia, Taita Taveta, Kiambu, Nakuru, Tana River, Makueni, Isiolo, Kisumu, Vihiga and Kajiado.

The study on effects of land fragmentation on land use and food security in Kenya, is a multi-agency programme being spearheaded by the National Land Commission (NLC) with funding from the Food and Agriculture Organization (FAO). This Programme is being implemented through the land Governance programme aimed at supporting the attainment of vision 2030 through devolved land reform in Kenya's community land and further, to guide in sustainable land use, policy review and formulation.

The study aims at looking into dynamics of land fragmentation on land use and food security in the above thirteen Counties in Kenya. In order to undertake this, and as part of fulfilment of the exercise on land use and land cover mapping, the study used time series Landsat satellite data for the period between 1990 and 2019 with a view of analyzing the rate of fragmentation on agriculture and other land use practices

The main objectives of the program are as follows

- To investigate the status of land fragmentation in the study areas
- Identify the drivers of Land fragmentation
- Analyze the effects of land fragmentation
- Recommend sustainable and best ways of managing land fragmentation in Kenya

To implement this, the NLC and FAO identified key strategic institutions including Department of Resource Surveys and Remote Sensing (DSRS), Kenya Agricultural and Livestock Research Organization (KALRO) and Kenya National Bureau of Statistics (KNBS) to collaborate in coordination of the following thematic areas of the research:

- Land use land cover module
- Agriculture and Livestock
- Socio-economic module

Figure 2.18 Multi-stakeholder Review of Land



During inception of the programme, the Directorate of Resource Surveys and Remote Sensing (DRSRS), was identified and tasked to coordinate the Land Use module. This module mainly encompasses use of modern remote sensing and GIS techniques in mapping the current and historical status of land fragmentation in the selected Counties of Kenya. With this technique, the image processing team envisioned using the analyzed low and medium resolution satellite images in addressing the above-mentioned objectives.

Figure 2.19 LULC Change Map in Kajiado County between 1990 and 2019

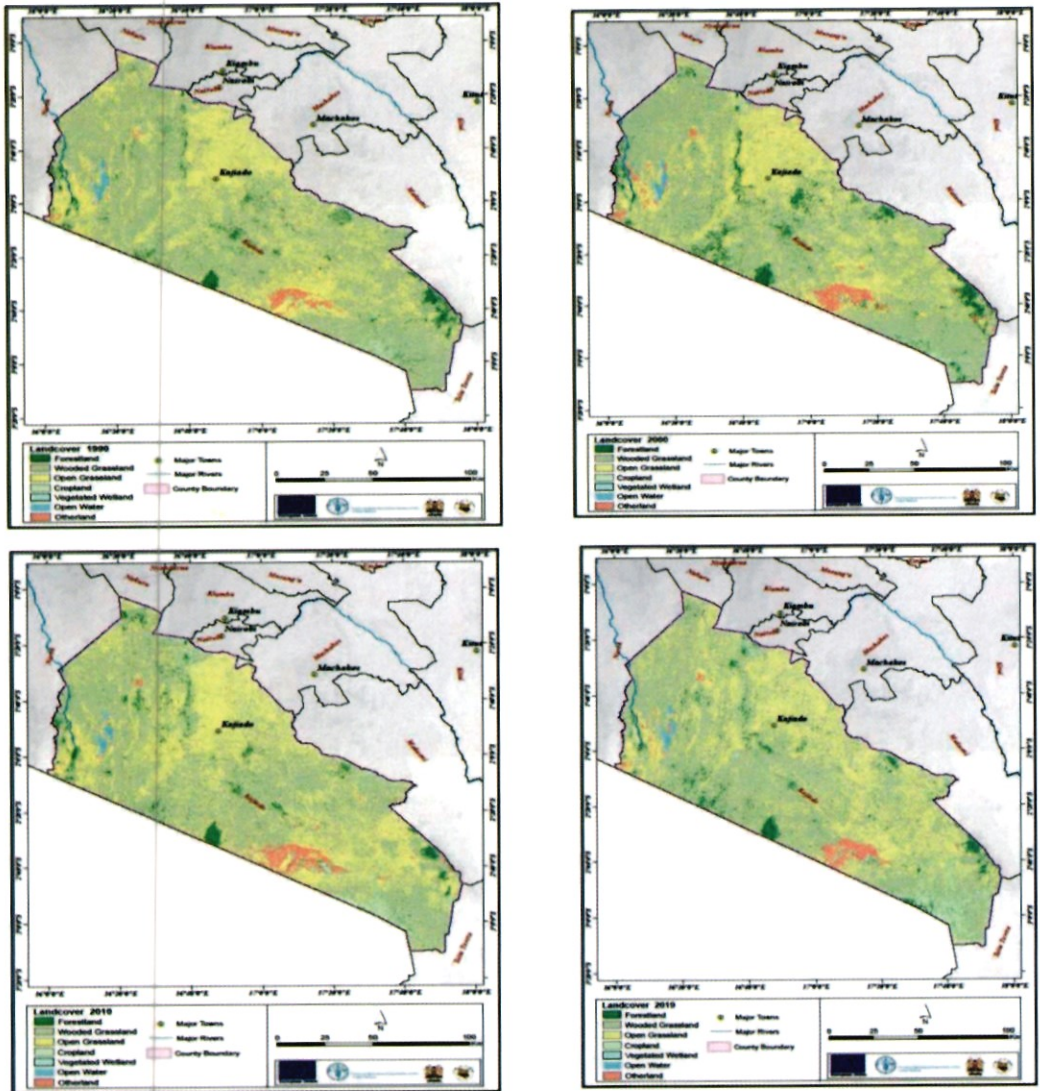


Table 2.10 Land Use Land Cover Statistics for Kajiado County

Kajiado County	1990	2000	2010	2019
Land Cover	Area (Ha)	Area (Ha)	Area (Ha)	Area (Ha)
Cropland	13,557.24	14,537.34	30,353.85	53,145.42
Forestland	53,439.66	83,300.04	53,518.77	48,764.96
Open Grassland	664,523.82	658,272.15	738,630.99	650,858.87
Open Water	9,627.66	10,246.86	9,228.33	9,705.14
Other land	33,568.47	68,821.74	59,101.74	54,845.24
Vegetated Wetland	3,591.81	1,636.83	3,631.23	1,537.06
Wooded Grassland	1,350,991.34	1,292,485.04	1,234,835.09	1,310,443.31
Grand Total	2,129,300	2,129,300	2,129,300	2,129,300

4. Publication of the key Issues paper on Public Land Management in Kenya, done consultatively with MoLPP, CoG, National Treasury with support from World Bank.
5. The Commission commenced monthly research seminars with the objective of promoting dialogue on land and use of natural resources with various land stakeholders.
6. The Commission published “*A guide on Public Land Acquisition within Community Land*” with support from Kenya Land Alliance.
7. Signed Memorandum of understanding for research and development collaborations with KIPPRA and University of Eldoret.

Figure 2.20 Representatives from NLC and KIPPR/A



Figure 2.21 Signing of Memorandum of Understanding with University of Eldoret



2.3 Key Result Area 3: Revenue Generation from Land and Land-Based Resources

Article 67(2)(vii) of the Constitution of Kenya mandates NLC to *assess tax on land and premium on immovable property in any area designated by law*. This article is operationalized by the Land Act 2012, which provides mechanisms to be applied by the Commission towards recommending appropriate revenue generation channels by both the national and the County Governments from land and land-based resources. For example, the Commission contributes to the generation of revenue by prescribing the fee payable under license on use of public land as provided by the Section 20(2) of the Land Act 2012.

Premised on these Constitutional and legislative provisions, it is clear that the Commission plays a significant role in enhancing the revenue generation capacity of the National and County Governments. Precisely, the Commission generates revenue from the land and land-based resources where it regularly reviews and prescribes rents, royalties, and other payments that should be paid by lessees and licensees of the public land. Moreover, the Commission contributes to the revenue generation by determining premiums that should be paid on immovable property.

During the reporting period, FY2020/21, the major challenge that the Commission faced was the decentralization of payment offices. This challenge stemmed from the fact that the National Treasury has not issued the Commission with the full approval to receive payments under land leases and licenses as stipulated by **Section 28(1) of the Land Act 2012**. This section of the law requires that the rent, royalties, and other payment under any lease or license be paid at the Commission's office or any other place/office that the Commission may prescribe. Despite this challenge, the Commission issued 293 allotment letters during the period under review resulting in the generation of Kshs 15 million.

2.4 Key Result Area 4: Land Dispute Resolution and Conflict Management

Land is an important resource in which our wealth, heritage and inheritance is built. The mandate of the Commission is to manage public land as encased in Articles 60, 62, 67, 252 and other enabling articles of the Constitution of Kenya, which provide an environment for Political, economic, social, technological, environmental and legal interactions with land. In the process of developing and using this resource, rights and liabilities are created, disputes follow and to resolve disputes arising from the exercise and enforcement of those rights and liabilities over land parties seek redress including from the Environment and Land court, devolved Units, MoLPP, NEMA, and NLC among many others.

Land conflict management was identified as a key result area under the reporting period where the Commission reorganized the legal directorate to cover four thematic areas which are Litigation, Reviews and regularization, Historical Land Injustices and Legal advisory. The legal directorate was able to handle various land disputes under the thematic areas reported below:

2.4.1 Civil Litigation

Article 253 of Constitution of Kenya, 2010 gives the Commission powers to be enjoined in court cases touching on land and its mandate. In the process of carrying out its mandate, the Commission participates in court cases at all levels including the Supreme Court, Court of Appeal, High Court (Environmental and Land Court) and the Magistrates Court.

Currently the Commission has an inventory of 2,741 cases out of which 200 cases were successfully concluded, the summary of activities in civil litigation is shown in the table below.

Table 2.11 Summary of Activities in Civil Litigation

S/No.	Activity	No.	Remarks
1.	Court attendance	700	Attended Courts in all Counties
2.	Pleadings prepared	568	Pleadings are prepared in consultation with the technical departments
3.	Consultative forums attended	10	Consultative meetings with judiciary, County Governments, ministries and non- state actors
4.	Legal opinions/advice offered	19	Rendered Legal opinions on various subjects of public land. i.e Compulsory acquisition, land management, dispute resolution, Corporate support and Commission's mandate.

Table 2.12 Distribution of Cases per County

S/No.	County	No. of cases	S/No.	County	No. of cases
1.	Baringo	5	20.	Laikipia	2
2.	Bomet	2	21.	Lamu	1
3.	Bungoma	8	22.	Machakos	152
4.	Busia	8	23.	Makueni	35
5.	Embu	22	24.	Meru	45
6.	Garissa	12	25.	Migori	30
7.	Homabay	3	26.	Mombasa	278
8.	Isiolo	2	27.	Murang'a	18
9.	Kajiado	71	28.	Nairobi	1,038
10.	Kakamega	27	29.	Nakuru	131
11.	Kericho	31	30.	Narok	28
12.	Kiambu	118	31.	Nyamira	8
13.	Kilifi	189	32.	Nyandarua	16
14.	Kirinyaga	21	33.	Nyeri	54
15.	Kisumu	117	34.	Siaya	1
16.	Kisii	55	35.	Taita Taveta	9
17.	Kitui	6	36.	Tana River	1
18.	Trans Nzoia	42	37.	Uasin Gishu	142
19.	Kwale	9	38.	Vihiga	4
Total					2,741

2.4.2 Alternative Dispute Resolution (ADR) and Traditional Dispute Resolution (TDR) Mechanisms

Article 252 (1) (b) gives the Commission the mandate to conduct conciliations, mediations and negotiations. This article also mandates the Commission to undertake ADR while article 67 (2) (f) obligates the Commission to promote TDR. In implementation of the twin mandates, the Commission is guided by the principles of land governance in article 60 (1) (g). This is further elaborated in section 5 (1) (f) and section 6 of the NLC Act, 2012.

Table 2.13 Summary of Resolved and Ongoing Cases

S/No.	Activity	No. of Cases	Remarks
1.	Received and opened review and regularization files	101	Review files moved to ADR and Commission is getting parties to participate in the process as ADR is entirely voluntary
2.	Created workflow table	1	
3.	Investigative hearings conducted	0	Developing capacity and guidelines for the ADR mechanism as well as sensitizing the public. Particularly parties set to participate
4.	Consultative Pre-Inquiry Committee meetings	15	Pre-inquiry meetings held for properties in Kwale, Kilifi and Mombasa Counties. The Commission is scheduled to conduct full hearings from December 2021.
5.	Legal opinions and advisories on sections 5 and 6 of the NLC Act and Articles 60, 67 and 252 of the CoK 2010	38	Opinions on: <ul style="list-style-type: none"> • Creation of standard operating procedures • Land administration and management reports • Land management case briefs • Legal Directorate workload distribution and management
6.	Workshop training	4	
7.	Legal opinions	27	

S/No.	Activity	No. of Cases	Remarks
8.	Briefs	5	Prepared briefs including Kitale Primary (55 Ha), Molo Ikumbi, Coast Water (258 land parcels.) Nyali Primary (11 land parcels- 14.37 acres), Chembe Kibabamshe (96 land parcels), Mombasa Fish landing sites 12 parcels, Kenya Agricultural and Livestock Research Organisation (KALRO), Kwale land, Kenya School of Government (KSG) Mombasa and Matuga Campuses, Kwale International Sugar Company Limited (KISCOL) land part of 15,000 acres, Ukunda Airstrip for Kenya Airports Authority (KAA) 120 acres, St. Johns Secondary school in Kilifi, Tononoka Children's Court - Judiciary Land, Export Processing Zones Authority (EPZA) Land 200 acres.
9.	Land clinic	1	
10.	Land administration		Evidence collection from land administration
11.	Status update reports	1	Containing 4,004 case files

2.4.3 Historical Land Injustices

Article 67(2) (e) of the Constitution requires the Commission to investigate current or Historical Land Injustices (HLI) on its own initiative or in response to a complaint, and to make recommendations for appropriate reparation. The National Land Commission Act, Section 15, establishes a detailed procedure for investigating HLI claims.

During the period under review, the Commission handled six (6) HLI cases in which none was finalized.

Table 2.14 highlights progress made towards resolving HLI cases:

Table 2.14 Progress Made on Resolving the HLI Cases:

S/No.	Activity	No. of Cases	Remarks
1.	Analysis of claims	30	We have received claims and ongoing investigations
2.	Consultative forums conducted	10	Held consultative forums with various stakeholders among them, Kenya Wildlife Services, Ministry of Lands and Physical Planning, Ministry of Education and County Governments (were the specific parcels of land in dispute are located).
3.	Investigative hearings conducted	6	The investigative hearings are spread out as follows: 2 - Baringo County, 1 - Kiambu County, 1 - Makueni County, 1 -Mombasa and 1 - Tharaka-Nithi County
4.	Determinations issued	0	Hearings and investigations are ongoing.
5.	Hearing notices, search request, report and correspondences for HLI	30	
7.	Legal opinions/Advisories offered	30	Rendered opinions to the public, public institutions and various stakeholders on request.

2.5 Key Result Area 5: Institutional Strengthening

2.5.1 Human Resources and Administration

The Commission has nine (9) Commissioners led by the Chairman and the secretariat led by the Secretary/ CEO. It has six (6) Directorates and four (4) Departments. In addition, the Commission has devolved its services to all the forty-seven (47) counties. Currently, the Commission has five hundred and sixty-eight (568) staff members against an approved establishment of one thousand and forty (1,040).

The following are the key achievements during the period under review.

2.5.1.1 Finalization and Adoption of the NLC Strategic Plan 2021-2026.

During the FY 2020/21, the Commission was able to prepare and adopt the Strategic Plan 2021-2026. The Plan is anchored on the mandate and functions of the Commission as spelt out in the Constitution of Kenya, 2010 and the relevant statutes.

The Plan has taken cognizance of the Country's development agenda in the Kenya Vision 2030, the MTP III and the Big Four agenda. Further, the Strategic Plan is aligned to the Africa Agenda 2063 and the SDGs.

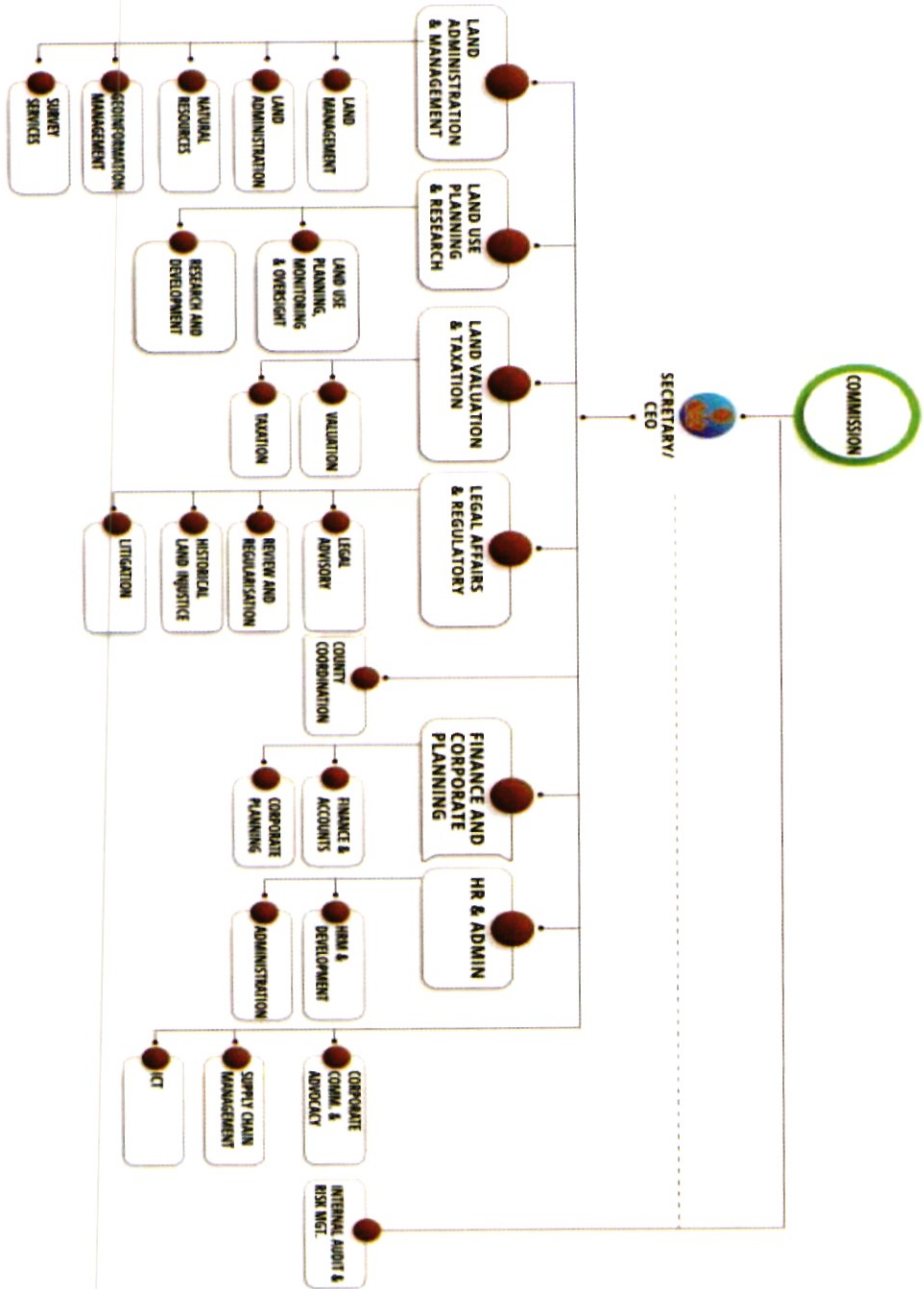
Figure 2.22 Cabinet Secretary Dr. Fred Matiang'i, NLC Chairman, Ag. Secretary/CEO and Stakeholders during the Launch of the NLC 2021-2026 Strategic Plan



2.5.1.2 Review of the Organizational Structure:

The year under consideration saw the Commission review its organizational structure and undertake job analysis to reflect the Commission's distinct role. This exercise aimed at reorganizing the structure of the secretariat in order to improve the performance of the various directorates and departments. As per the current Strategic Plan (2021-2026), the Secretariat is structured as shown below:

Figure 2.23 The NLC Organogram



2.5.1.3 Recruitment of Technical Staff

Inadequate technical staff was a big challenge to the Commission's performance in the previous years. However, additional staff were recruited and reported from May 2021 and are expected to increase Commission's productivity hence achievement of the set objectives.

2.5.1.4 Office Accommodation

To alleviate the perennial problem of limited office space, the Commission was able to lease office space (12,000 sq ft). However, during the next financial year, the Commission plans to work towards the leasing of new office space measuring 57,701 sq ft that will be enough to host all the employees at the headquarters. This will provide enough working space that will host all employees at the headquarters.

2.5.1.5 Staff Training

During the reporting period, the Commission trained its staff on various thematic areas that included NIS (document security), ICPAK, ISK, HRM and KISIM among others. Members of staff were also facilitated to attend their respective Continuous Professional Development (CPDs) training provided by their respective professional bodies during the year.

However, maximization of the training opportunities was not realized due to budgetary constraints and challenges brought about by the COVID-19 pandemic.

2.5.1.6 Youth Empowerment

In support of the Government policy on youth empowerment, the Commission engaged 110 interns and 33 students attachees both at the headquarters and counties through internship and attachment programs respectively.

2.5.1.7 Performance Management

The Commission has continued to implement staff performance management system. During the period under review, all staff complied with the Commission Performance Management System.

2.5.1.8 Staff Satisfaction and Work Environment Survey

Staff satisfaction and work environment surveys offer a deep understanding on how an organization can maintain, attract, and develop skilled employees. The survey affords employees the opportunity for both, personal and professional development that contributes to the overall performance.

Being alive to this fact, the Commission conducted Staff satisfaction and work environment survey in order to gain deep understanding of the level of employees' happiness with their tour of duty in the Commission. The results of the survey helped in identification of areas of strength and weaknesses in order to take remedial measures accordingly.

2.5.1.9 Staff Welfare Matters

The Commission strived to provide services, facilities and benefits that were tailored for the advantage or comfort of staff. The welfare initiatives were undertaken in order to motivate employees and raise their productivity levels. These initiatives ranged from provision of staff insurance covers which included Medical cover, Group Personal Accident Cover (GPA) and Work Injury Benefits under WIBA, Group Life Cover. Staff were also supported both morally and financially during bereavements and celebrations through the benevolent scheme.

2.5.1.10 Support towards Staff Pension Management

The Commission as the sponsor of the Staff Retirement Benefits Pension Scheme continued to support the scheme in all spheres including remittance of the 20% share of its contributions which translated to Kshs 383,290,962 as at June 2021.

2.5.1.11 Staff House & Car Loans

The Salaries and Remuneration Commission (SRC) approved car loans and mortgage scheme benefits for Public Service to facilitate the officers to purchase cars and access mortgage facilities. During the financial year 2020/21, the Commission received a total of Kshs 15,019,221 from the National Treasury for both car and house loans schemes and the funds were disbursed to interested staff who qualified for the loans. As of June 2021, seven (7) officers had benefited from the scheme.

2.5.1.12 Management of COVID-19 Pandemic

Following the outbreak of the COVID-19 pandemic, a committee at the secretariat level was formed to guide the Commission on how to handle the novel Corona Virus pandemic borrowing from the best global and regional practices that resulted in seamless service delivery. The Commission adopted the following measures

- i. Facilitation of staff to work from home
- ii Installation and distribution of sanitizers
- iii Distribution of face masks to employees
- iv Regular office fumigation

2.5.2 Information Communication Technology

During the period under review, the Commission endeavored to enhance the use of technology to support all its operations and achieved great milestones in the management, strategy and execution of ICT infrastructure. This included the implementation of technical projects in alignment with the Commission's goals and effective delivery of networks, development, disaster recovery systems and processes as well as management of Information and Communication infrastructure.

Specifically, the Commission was able to

- 1 To migrate its local services to the cloud and this will ensure that Commission's operations will continue even if the services in the local environment comes to a halt
2. Upgrade its LAN/WAN network services
- 3 Automate the Integrated Complaints & Litigation Management Systems, Historical Land management system, review of grants workflow and Digitization of records

2.5.3 Strengthen Communication with Stakeholders

2.5.3.1 Partnerships

The NLC recognizes and appreciates that collaborations, networks and partnerships are crucial for the success of the Commission with regard to opportunities for resource mobilization, benchmarking, sharing experiences and exchange of ideas in areas of common interest. These engagements bring together relevant actors within the land

sector that contribute to improving land reforms and land rights delivery mechanisms on an equal basis.

During the period under review, the Commission collaborated with several Government agencies, development partners, professional bodies, civil society organizations and the private sector in various engagements and forums as analysed below:

Table 2.15 List of Partners and Areas of Collaborations

Ministry/Agency/Organization	Area of Collaboration/achievement
Ministry of Lands and Physical Planning	<ul style="list-style-type: none"> ● Sensitization of communities on community land, conservation of public land, Online access of both public and private land mapping, Public land information systems
County Governments/COG	<ul style="list-style-type: none"> ● Establishment of Rapid Responses Units Offices ● Monitoring of Government projects in respective counties
Parliamentary Committees <ul style="list-style-type: none"> ● Senate-Departmental Committee on Land ● National Assembly-Budget and Appropriation Committee 	<ul style="list-style-type: none"> ● Engagements on Sustainable Land Management (SLM) and land reform agenda ● Parliamentary questions and resolution of land disputes ● Collaboration in formulation of legislations, regulations and amendments ● Budget estimates, reviews and approvals.
Office of the Attorney General and Department of Justice	<ul style="list-style-type: none"> ● Implementation of Alternative Justice Systems
EACC, DCI, Police, Judiciary	<ul style="list-style-type: none"> ● Implementation of Alternative Justice Systems, Recovery of Public Land and Restoration of fragile ecosystems
Kenya Law Reform Commission	<ul style="list-style-type: none"> ● Technical assistance and information with regard to land laws amendments ● Public education

Ministry/Agency/Organization	Area of Collaboration/achievement
-Kenya National Commission on Human Rights	<ul style="list-style-type: none"> ● Investigations relating to alleged illegal / irregular allocation of land
National Gender Commission	<ul style="list-style-type: none"> ● Promotion of Women ownership, use and access rights to land.
Kenya National Audit Office (KENAO)	<ul style="list-style-type: none"> ● Audit and report in respect to each financial year on NLC accounts- certification of accounts to assure fiscal responsibility, continuous audit presence and performance audit to assure service delivery to Kenyans.
Kenya Ports Authority (KPA)	<ul style="list-style-type: none"> ● Compulsory acquisition for the LAPSET Project
Kenya Wildlife Service (KWS)	<ul style="list-style-type: none"> ● Protection of riparian areas and wildlife migratory routes.
Kenya Railways	<ul style="list-style-type: none"> ● Compulsory acquisition for the SGR
Kenya National Highways Authority (KeNHA)	<ul style="list-style-type: none"> ● Compulsory acquisition for Development of road infrastructure
Kenya Power and Kenya Electricity Transmission Company (KETRACO)	<ul style="list-style-type: none"> ● Compulsory acquisition of way leaves for power transmission
Konza Technopolis Development Authority (KoTDA)	<ul style="list-style-type: none"> ● Backing up of Commission data
Professional bodies in Kenya	<ul style="list-style-type: none"> ● Drafting of Land bills and guidelines ● Vetting of former Ministry of Land Officers.
Universities and research institutes (Local and International)	<ul style="list-style-type: none"> ● Collaborations on conducting research on Land and Natural resources, Data Management, Provided library resources.
Development Partners (FAO,UNDP, WWF, World Bank)	<ul style="list-style-type: none"> ● Production and launching of the strategic plan 2021-2026, Capacity building in the Counties through GIS technical trainings, equipping GIS laboratories, production and dissemination of IEC materials, supporting land reforms through the land programme and development of guidelines.

Ministry/Agency/Organization	Area of Collaboration/achievement
CSO's- KLA, Impact, NAMATI, KELIN, Samburu Women Trust Fund, ActionAid, KLA, Reconcile, Groots Kenya, Kenya Human Rights Commission, ACT, Transparency International, FES, Haki Jamii, Pamoja Trust, RRI, Kituo Cha sharia, MPIDO, Haki Yetu, Oxfam Kenya, Reconcile, MUHURI among others	<ul style="list-style-type: none"> Support in monitoring land rights in the Counties, validation of FPIC tool for compulsory land acquisition, Facilitation of media meetings, Production and dissemination of IEC materials, facilitation of public education and awareness meetings, Consultative meetings, gender land rights awareness, registration of public institutions, and evidence based advocacy.

During the FY 2020-21 NLC continued to engage various stakeholders on various matters that are critical to successful delivery of services for the people of Kenya, including civil society organizations (CSOs), the community and other Government institutions.

2.5.3.2 Resource Mobilization

Section 26(1) (a) of the National Land Commission Act, 2012 provides that funds of the Commission shall consist monies allocated by Parliament for purposes of the Commission while Section 26(1)(c) includes all monies from any other sources or donated or lent to the Commission. This provision provides the Commission with an opportunity to engage with other partners in resource mobilizations to overcome weakness in policy and governance framework and have a strong strategy to support delivery of programmes.

During the period under review, the Commission signed MoUs with CSOs to implement land related programmes.

Figure 2.24 Signing of the MoU between NLC and NAMATI



Table 2.16 Analysis of Support from Various Organizations Estimated in Kshs.

S/No.	Organization	Resources Received (Human, Financial or Material Resources)
1	IMPACT	20 Million
2	NAMATI	2 Million
3	Kenya Land Alliance	2 Million
4	Pamoja Trust	3 Million

Note: All the Support tabulated above are in kind and not financial receipts

During the next financial year, the Commission will further strengthen engagements with Land non-state actors including organizations working at the grassroots level. The Commission has already initiated partnership talks with KELIN Kenya, Samburu Women Trust and Community Land Action Now (CLAN)

2.5.4 Public Awareness Initiatives

The Commission sensitized the public through virtual meetings and conferences, land clinics, land forums, trainings and dissemination of thematic IEC materials. Some of the key advocacy forums are summarized below:

- (i) Virtual sensitization of the public on the process of acquiring land titles in Kenya, conducted by ISK in partnership with NLC.

- (ii) Interactions with and sensitization communities in Isiolo County Community land ACT in conjunction with the working group on community land Act (WGICLA).
- (iii) Public participation exercise on compulsory acquisition of land for the LAPSSET corridor project.
- (iv) Promotion of land rights through women empowerment, development of policies, guidelines, information booklets and curriculum.
- (v) Webinars on *Advancing Communal Land Tenure in the Context of the COVID-19 Pandemic: A case of Land Marginalized Communities in Kenya and across Africa* and *ICT for Land Governance on the Case of Digitization of Lands Registry in Kenya*.

Figure 2.25 Sensitization Exercise on Community Land Act taking place in Isiolo County



Figure 2.26 NLC Commissioners and the Working Group Committee on Community Land Act 2016 during a Sensitization Exercise in Machakos County



2.5.5 Advisories, Guidelines, Frameworks and Policies

The Commission on a daily basis interacts with land matters throughout Kenya and this means working with agencies to shape and influence Policy direction, develop guidelines and advisory opinions to the Public, Parliament, County Governments, Foreign Governments and investors. The success of these initiatives is pegged on a continued enhancement of better land governance.

3.0 CHAPTER THREE: CHALLENGES AND RECOMMENDATIONS

The Commission faced various challenges in the FY 2020/21 that impeded the effective execution of its mandates and functions that are outlined in Article 67(2) of the Constitution of Kenya, the National Land Policy of 2009, the NLC Act 2012, the Land Registration Act 2012, the Land Act 2012, the Community Land Act 2016, and the Land Laws (Amendment) Act 2016. It is in the fulfilment of the NLC Act 2012 Sec 33 (1) (e) that the Commission reports on the impediments that it experienced in its work during the FY 2020/2021, and make the most practical recommendations

The COVID-19 Pandemic The Commission has been adversely impacted by the outbreak of the COVID-19 pandemic. In addition to the fact that the Commission has lost some of its key staffs to this novel virus, staff motivation and wellbeing have been detrimentally impacted because of the negative emotional, psychological, health, and financial consequences that are associated with the disease. Moreover, staffs have been forced to work in shifts and from home, which has significantly derailed service delivery within the Commission. Notably, the Commission cannot afford to adequately facilitate its employees that work from home with things such as computers, airtime, and internet allowances because of financial constraints.

Recommendation The Commission will continue encouraging all staffs to get vaccinated and ensure that the outlined MoH COVID-19 Protocols are strictly followed.

Budgetary Cuts and Delayed Exchequer Releases The Commission continues to experience the issue of inadequate finances. In the FY2020/2021, the Commission received Kshs 1.12 billion from the exchequer against its budgetary estimates of Kshs 4.595 billion, which suggests that NLC received only 24.4% of its budgetary estimates during the period under review. As a result, the Commission could not efficiently carry out all its key activities. Precisely, this issue of inadequate finances implies that the Commission could not adequately fund its decentralized units, conduct a baseline survey

on land use status planning, enhance the school titling programme, monitor the registration of land rights and interests, and enhance employees' capacity through various appropriate training programmes during the period under review

Recommendation: The Commission will continue engaging relevant stakeholders, especially, the Parliament and Treasury. Moreover, the Commission will enhance its resource mobilization efforts to complement the Government funding

Administrative Challenges: The Commission also faced the challenge of inadequate office space at County level

Recommendation: The Commission intends to construct County offices across the country.

Insufficient civic engagement and education: A significant size of the country's population does not fully understand the mandates and functions of the Commission. Consequently, there has been a low level of public confidence and investment on land and land-based resources

Recommendation: The Commission will continue to engage the relevant stakeholders in holding advocacy forums to enhance the public's literacy and awareness levels

Not reviewed and uncoordinated Land Laws and Policies: The National Land Policy 2009 is an example of a policy that has not been reviewed for a very long time. Also, the Rating Act Cap 267, the Valuation for Rating Act Cap 266, and Stamp Duty Act Cap 480, have not been reviewed for too long, which implies that they are not even aligned with the 2010 Constitution. The challenge of unreviewed and uncoordinated land laws and policies has complicated the Commission's work of managing and administering public land on behalf of the National and County Governments

Recommendation: The Commission will continue working closely with the Parliament and other policy makers to ensure that land laws and policies are reviewed in a manner that supports the Commission's work.

A High Number of Litigation Cases: There has been an increase in land conflict and a corresponding increase in the number of land cases in the Land and Environment Courts across the country. The high number of court cases implies that the public lose a colossal amount of money in court awards. Furthermore, the Commission incurs high costs in these court cases.

Recommendation: The Commission will fast-track the implementation of ADR and TDR mechanisms to settle land-related cases out of courts. Most importantly, the Commission will work closely with the Judiciary to expedite the development of ADR and TDR framework to significantly reduce the number of court cases.

Conflicting and Misinterpretation of Legal Provisions on Land Matters: As a result of the lack of clarity concerning some mandates and functions, conflicts arose, which made it difficult for the commission to access land records and other vital information from MoLPP during the period under review.

Recommendation: The Commission will use regular and constructive consultations to strengthen its work relationship, cooperation, and coordination with MoLPP for the sake of accessing the needed land records and information to support timely decision-making.

Lack of Political Goodwill: The Commission faced the challenge of the lack of political goodwill at the County level and, especially, on matters related to the registration of title in land and HLL. Moreover, during the period under review, approximately 87% of counties had not developed their spatial plans as required by the **County Government Act 2012**. This lack of spatial plans makes it difficult for the Commission to conduct its mandate of monitoring and overseeing land use planning throughout the country as stipulated by **Article 67(2)(h)** of the **Constitution of Kenya**.

Recommendation: Engage CoG and County Governments in public land management matters. The Commission will, also, encourage County Governments to formulate land policies, laws, and regulations that support land reforms. Lastly, the Commission will continue offering counties the necessary support in terms of capacity building to ensure

that they all counties have their spatial plans ready before the lapse of the 10-year period since the inception of counties as required by the **County Government Act 2012**.

Centralization of ICT budget to the Ministry of ICT The Commission's ICT department could not repair faulty machines in the period under review because the Ministry of ICT could not allocate funds for such functions

Recommendation: The Commission will take advantage of the decentralization of ICT services by the Ministry of ICT to allocate funds for ICT infrastructural needs

Inadequate Technical Staff: The Commission remained understaffed in the technical staff area in the financial period under review despite securing an approval to recruit additional staff from the National Treasury at the tail end of the FY2020/21.

Recommendation: The Commission has NLC intends to continue pursuing the National Treasury to approve the recruitment of more staff

Pending Bills: The total pending bills for the Commission in the period under review were Kshs 582.9 million. The accumulating pending bills erode investors' confidence

Recommendation: The Commission will treat its pending bills as first charge in the FY 2021/22 as directed by the Treasury Circular No. 10/2020

Change of Working Modalities New Commissioners came with new working modalities.

Recommendations: The Commission will adapt with the new working modalities

Ongoing and Stalled Projects. The Commission had many ongoing and stalled projects due to inadequate funding during the period under review

Recommendation: The Commission will seek funds to complete the ongoing and stalled project where priority will be given to projects that align with the realization of the Post-COVID-19 Economic Recovery Strategy, MTP III, and "Big Four" Agenda.

Climate Change The severe impacts of climate change such as extreme flooding and droughts, rise in sea levels, and rise in water levels in major water bodies such as Lake Naivasha and Lake Baringo adversely impacted the Commission's work of managing and administering public land during the period under review.

Recommendation: As a Commission, we intend to play our part by enhancing our efforts in combating the impacts of climate change. For example, we will continue encouraging our employees to use reusable water bottles instead of the single-use plastics and discourage the use of printing papers to reduce waste to landfill and the emission of GHGs; participate in tree-planting programs to offset our carbon footprint, use energy-saving bulbs and continue persuading our employees to shut down computers and other machines whenever they are not in use in order to conserve energy and, consequently, contribute to the efforts of reducing global warming.

4.0 CHAPTER FOUR: FINANCIAL STATEMENTS

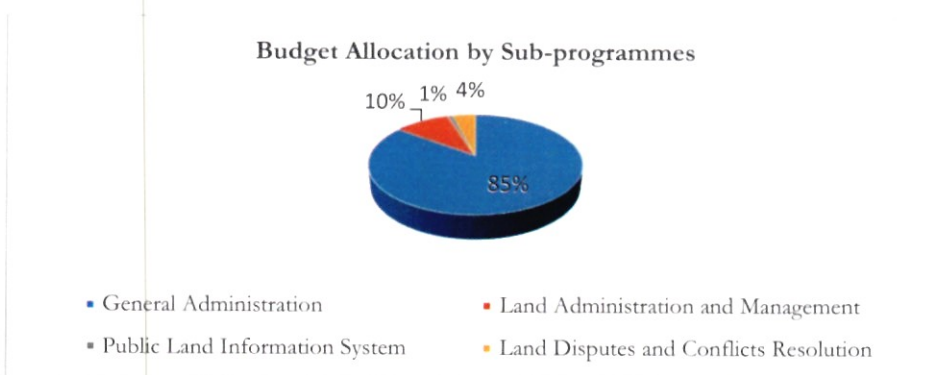
4.1 Analysis of Budget Allocation and Utilization

In the financial year, 2020/21 The National Land Commission had a gross budget of **Kshs.1, 112,325,815.00** which is 100% recurrent (GoK funding). The budget was spent under the following budgeted sub-programmers as shown in table below.

Table 4.1 Analysis of Expenditures by Sub-Programs

Sub- programmes	Approved Budget Allocation	Actual Payments	Variance
	Kshs	Kshs	Kshs
General Administration	1,053,684,248	1,056,150,628	(2,466,380)
Land Administration and Management	37,433,628	34,868,485	2,565,143
Public Land Information System	4,096,910	3,874,278	222,632
Land Disputes and Conflicts Resolution	17,111,029	16,463,143	647,886
Total	1,112,325,815	1,111,356,534	969,282

Figure 4.1 Proportional Sub-programme Budget Allocation



4.1.1 Compensation Fund

During the FY 2020/21, the Compensation Fund account received **Kshs. 23,172,391,244**. In addition, brought forward funds from FY 2019/2020 of **Kshs. 12,522,264,334** making a total of **Kshs. 35,713,375,253** available for payments to Project affected persons (PAPs)

In the same financial year, FY 2020/21 **Kshs. 20,760,665,076** was paid out to the project affected persons (PAPs) in relation to various Government projects being implemented in different parts of the Country.

These payments relate to flagship projects geared towards achievement of Government goals under Vision 2030 blue print, Jubilee Government priority projects etc. These projects among others are in the areas of national roads network, seaports, water dams and reservoirs, national electricity transmission lines and the standard gauge railway

Key area of focus has been community sensitization on various land laws and land transaction processes and resolution of various conflicts. Lot of focus has also been capacity building to the devolved units of the Commission to enhance service delivery at the County level

Below is an overview of the financial performance for the year ended 30th June 2021 as reported in the detailed financial statements together with the commentary and comparative analysis against budget and prior year for the key items in the financial statements

4.1.2 Financial Performance Summary

Table 4.2 Actual Performance against Budget for Year 1st July 2020 to 30th June 2021
(Kshs)

Financial Performance	Printed Estimates	Actual	Variance	%
Total Receipts	1,112,325,815	1,111,509,326	816,489	100%
Total Payments	1,112,325,815	1,111,356,534	969,281	100%
Surplus for the Year		152,792		

Actual receipts by the NLC stood at 100% that is 100% utilisation while actual payments were 100% that is also 100% utilisation.

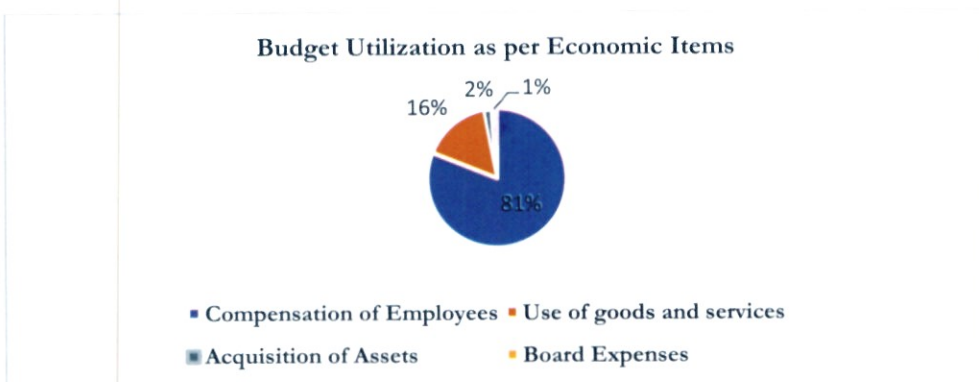
4.1.3 Budget Utilization

The National Land Commission spent **Kshs. 1,111,356,534** against an approved budget of **Kshs. 1,112,325,815** representing absorption of **100%**. Utilisation of the budget was carried out through various activities (economic classifications) as shown in the chart below:

Table 4.3 Budget Utilization by Economic Classification. (Kshs)

Economic Classification	Approved Budget Allocation	Actual Payments	Variance
Compensation of Employees	907,000,000	895,675,066	11,324,934
Use of goods and services	186,620,406	181,495,370	5,125,036
Acquisition of Assets	18,705,409	19,975,970	(1,270,561)
Board Expenses	-	14,210,129	(14,210,129)
Total Payments	1,112,325,815	1,111,356,534	969,281

Figure 4.2 Budget Utilization as per Economic Items



It is noted that 81% of the National Land Commission’s budget was used on compensation of employees, 16% on use of goods and services, 2% utilized in Acquisition of assets less than 1% on board expenses.

Table 4.4 Total Payment Breakdown (Kshs)

Payments	2020-2021	2019-2020	Change	% Change
Compensation of Employees	895,675,066	799,344,816	96,330,250	12%
Use of goods and services	181,495,370	254,610,562	(73,115,192)	-29%
Social Security Benefits	-	524,284,279	(524,284,279)	-100%
Acquisition of Assets	19,975,970	34,776,339	(14,800,370)	-43%
Board Expenses	14,210,129	14,196,329	13,800	0%
Total Payments	1,111,356,534	1,627,212,325	(515,855,791)-	-32%

As shown in the above table:

- Use of goods decreased by 29% due to the austerity measures taken by the National Treasury during the COVID19 pandemic.
- Acquisition of assets decreased by 43% is due to austerity measures taken by the National Treasury during the COVID19 pandemic.

ANNEX 1: COMMISSIONERS' BIOGRAPHIES

GERSHOM OTACHI-CHAIRMAN



NLC Chairman, Gershom Otachi is a seasoned Lawyer with experience spanning over twenty years. He has been in Legal practice as an Advocate appearing before all levels of Courts and Specialized Tribunals in Civil, Criminal, Land and property, Succession and Election disputes besides practice in other aspects of Commercial law and Conveyancing. He has also simultaneously practiced law in international courts for a period of over twenty years. He has served as the Chairman in two State Corporations; Policy Holders' Compensation Fund (PHCF) and Geothermal Development Company (GDC) for a total of six years. Gershom Otachi holds a LLB Degree from the University of Nairobi.

GERTRUDE NDUKU NGUKU-VICE CHAIRPERSON



Gertrude Nguku holds a LLB degree from the University of Nairobi and a Master of Advanced Studies in Peace and Conflict studies from the European University Center for Peace Studies in Austria. She is a legal and judicial expert with over 30 years of national and international experience. She has represented public and private clients in civil, criminal, land and property cases in Kenya. She has researched to advice on land law and policy and other issues of administration of justice. She has served with United Nations missions in Europe and Asia to develop and manage complex Government programs for ministries, municipalities, police and international judges. These have included land management, adjudication, settlement, litigation, registration investigations, ADR and historical injustices programs.



PROF. JAMES K. TUITOEK

A research specialist with a bias towards animal science, Prof. Tuitoek holds a PhD from the University of Guelph, Canada, MSc in Animal Science, University of Manitoba Canada and a BSc in Agriculture from the University of Nairobi.

He has over 35 years' wealth of experience from Management and Administration having served in various senior management roles at the Egerton University for a combined period of 19 years, half of which he was at the helm of the University as the Vice Chancellor. Prof. Tuitoek is in charge of the audit and risk management Committee in the Commission and a member of other Commission Committees.



HON. SAMWEL KAZUNGU KAMBI

He holds a Master in Business Administration (MBA) from University of East Africa, Baraton and a Bachelor of Arts Degree in Development Studies from the same University. He is currently pursuing his PhD at Maseno University.

A former legislator, Hon. Kazungu has served the Kenyan Government and the public in the capacity of a member of parliament, Assistant Minister and Cabinet secretary. He chaired the Coast Development Authority and was a Director at the Betting Control and Licensing Board. He is in charge of the Finance Planning and Supply Chain Management Committee in the Commission and a member of other Commission Committees.

HUBBIE HUSSEIN AL-HAJI



Hubbie Hussein Al-Haji is an accomplished Gender and Governance specialist with proven experience in social and institutional development. She holds a Bachelor of Arts Degree in Developmental Studies from Kimmage Development Studies Centre - Kimmage Manor – Ireland, Diploma in Community Development - from Kenya Institute of Social and Community Development and Animal Health diploma from Egerton University-Kenya.

In 2010 she received the prestigious award of the Order of the Moran of the Burning Spear (MBS) conferred by His Excellency the President of the Republic of Kenya. The UN Human Rights Office recognized her outstanding performance in Human Rights Advocacy. In 2006, she was awarded the Ralph Stone Memorial Award on women leadership in Washington DC. She is the chair of the Commission's Human Resource, Administration and County Coordinators Committee.

ALISTER MURIMI



A Real Estate and Construction expert, Commissioner Alister Murimi holds a Master of Science Degree in Business Administration, Construction and Real Estate at Henley School of Business from University of Reading, in the United Kingdom. He also holds a Postgraduate Diploma in Project Management from Royal Institute of Chartered Surveyors (RICS). He also acquired several Diplomas and Certificates related to planning and management.

He is a Registered Estate Agent (2004), Registered Valuer (2003) and a Full Member of the Institution of Surveyors of Kenya. Having worked in diverse fields in real estate, Commissioner Murimi has a wealth of knowledge to the Commission in matters related to land economics, valuation and sustainable development in the land sector.

He is the chair of the Commission's Land Valuation and Taxation Committee.

REGINALD OKUMU



Commissioner Reginald Okumu holds a Master's Degree in Business Administration from Strathmore Business School, a Bachelor's Degree in Land Economics from the University of Nairobi, a Postgraduate Diploma in Valuation and Estate Management Surveying from the Institution of Surveyors of Kenya and Certificate in Land Administration in Africa Searching for Land Tenure Security from the World Bank Institute.

Commissioner Okumu is well conversant with the land estate sector, having specific expertise on land use and hands on experience in acquisition, development, valuation, management and disposal. He has chaired the Institution of Surveyors Kenya and a Board Member, National Housing Corporation. He is the chair of the Commission's Land Administration & Management, Natural Resources, Survey and GIM Committee.

HON. TIYAH GALGALO



A former legislator, a seasoned public administrator and an educationist, Commissioner Hon. Tiya Galgalo holds a Masters in Educational Administration and Planning from the University of Nairobi and a Bachelors in Education from Kenyatta University. She has vast experience in Consultancy work in Research, Governance, and Education among others. In addition to that, a champion for Disaster Risk Reduction (DRR), Governance & Gender, Monitoring & Evaluation and Resource Mobilization. Commissioner Hon. Tiya is in charge of the Corporate Communication, Advocacy, Partnerships and Resource Mobilization Committee.

HON. ESTHER M. MATHENGE, EGH

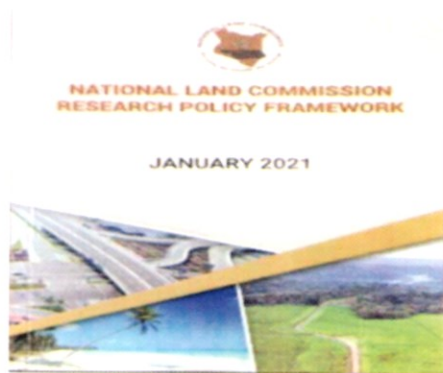


Hon. Esther Murugi Mathenge holds a Master's degree from the Univesita Cattolica Del Sacro Cuore in Global Business and Sustainability in Social Entrepreneurship. She also holds a BA in Land Economics from the University of Nairobi, and is a registered member of the Institute of Surveyors in the Valuation and Estate Agents' Chapter and Land Management Chapter. Before joining the Commission, Hon. Esther has served the Government and the citizens of Kenya as a Land Administrator in the Ministry of Lands, a Member of Parliament and a Cabinet Minister (currently referred to as Cabinet Secretary) for Gender and Children Affairs as well as for Special Programs. She is in charge of the Land Use Planning, Research and Counties Coordination Committee.

ANNEX 2: PUBLICATIONS, DOCUMENTS AND GUIDELINES



Kenya Natural Resource Atlas



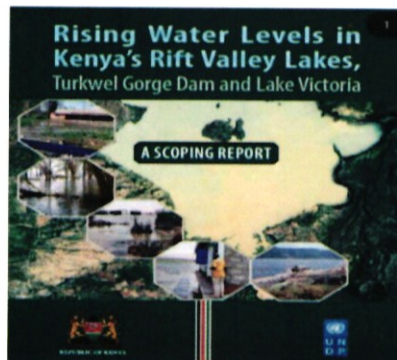
National Land Commission Research Policy Framework



Guide on Public Land Acquisition Within Community Land



Kenya Climate Smart Agriculture Project (KCSAP) :Land Access Guidelines



Rising water levels in Kenya's Rift Valley Lakes, Turkwel Gorge Dam and Lake Victoria Scoping Report