

Our ref: KREIS/CGL/LIUDP/2022/003

Date: 27<sup>th</sup> June, 2022

The Municipal Manager,  
County Government of Lamu,  
Lamu Municipality,  
P.O. Box 74-80500,  
Lamu, Kenya.

Dear Sir,

**ADVISORY: RATIONALE FOR THE CHANGE IN THE TITLE OF THE LAMU ISLAND  
INTEGRATED STRATEGIC URBAN DEVELOPMENT PLAN TO LAMU ISLAND LOCAL  
PHYSICAL AND LAND USE DEVELOPMENT PLAN.**

Reference is made to the above matter.

Whileas the municipality contracted us on the 23<sup>rd</sup> of April, 2020 to assist it in the preparation of the Lamu Island Integrated Strategic Urban Development Plan, the final plan submitted on the 27<sup>th</sup> of June, 2022 and its final draft submitted on 16<sup>th</sup> of March, 2022 had a change in the title of the plan to Lamu Island Local Physical and Land Use Development Plan. This change was occasioned by the following factors:

- a) By the time of award of the assignment, the applicable laws guiding Planning were the Physical Planning Act, Cap 286, the Urban Areas and Cities Act as well as the County Governments Act. By the time of doing the final plan, the Physical Planning Act had been repealed and replaced by the Physical and Land Use Planning Act, No. 13 of 2019 (PLUPA). Section 54 of PLUPA requires “**all plans formulated under the Urban Areas and Cities Act, 2011 shall, with necessary modifications, be prepared and approved in accordance with this Act.**”
- b) Further, due to the conflict in titles of the plans in the Urban areas and cities act and PLUPA, the consultant relied on the following two legal maxims for guidance:
  - i. **Lex Specialis Derogat Legi Generali.** This legal maxim dictates that more specific rules should prevail over more general rules or laws. In our case, the PLUPA is the framework law guiding the preparation of development plans, as such the provisions in this Act regarding preparation of development plans supersede those in any other Act including the Urban Areas and Cities Act.
  - ii. **Lex Posterior Derogat Legi Priori.** This maxim dictates that a later law repeals an earlier law. This is set out in several cases including in the **Martin Wanderi**

**& 19 Others Vs Engineers Registration Board of Kenya & 5 Others** case where the court rendered itself thus, " the doctrine of implied repeal which is to the effect that where provisions of one Act of Parliament are inconsistent or repugnant to the provisions of an earlier Act, the later Act abrogates the inconsistency in the earlier one." Further, in **The Dean of Ely Vs Bliss (1842)** the court stated " if two inconsistent statutes be at different times the last is to be obeyed and if obedience cannot be observed without derogating from the first, it is the first which must give way. " In this case and by dint of **Section 54** of PLUPA, the preparation of plans under the Urban Areas and Cities Act was required to conform with the new law including aspects of the title of the plan, the procedure of preparation and the content there of.

It is thus in observance of the above that we recommended and adopted the change in the name of the plan to align with the new planning law given that the procedure, structure, and content of the Plan preparation is the same.

We hope that this helps to clarify on the matter. In case further clarifications are required, we remain ready to elucidate.

Sincerely,



**SAMUEL MBURU, MKIP**  
**PROJECT DIRECTOR & PRINCIPAL CONSULTANT**

[sa\\_mburu@kreis.co.ke](mailto:sa_mburu@kreis.co.ke)

cc.:

The Chief Officer, Lamu Municipality,  
County Government of Lamu,  
P.O. Box 74 - 80500,  
Lamu, Kenya.