

ANNUAL PERFORMANCE PLAN

Commission on
Restitution of Land Rights



01 April 2024 – 31 March 2025

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ACRONYMS AND ABBREVIATIONS

APP	Annual Performance Plan
BAS	Basic Accounting System
CD: LRS	Chief Director: Land Restitution Support
CD: RMS	Chief Director: Restitution Management Support
CD: SDC	Chief Director: Service Delivery Coordination
CLCC	Chief Land Claims Commissioner
CoE	Compensation of Employees
CRLR	Commission on Restitution of Land Rights
DALRRD	Department of Agriculture, Land Reform and Rural Development
DLCC	Deputy Land Claims Commissioner
DPSA	Department of Public Service and Administration
GCS	Government Communication and Information System
IMC	Inter-Ministerial Committee on Land Reform
LAMOS A	Land Access Movement of South Africa
LAMOS A 1	Constitutional Court Judgment dated 27 July 2016
LAMOS A 2	Constitutional Court Judgment dated 29 March 2019
LCC	Land Claims Court
MTEF	Medium-Term Expenditure Framework
MTSF	Medium-Term Strategic Framework
NDP	National Development Plan
OVG	Office of the Valuer-General
PERSAL	Government Salary System
PFMA	Public Finance Management Act
RLCC	Regional Land Claims Commissioner
SLA	Service-level Agreement
SOP	Standard Operating Procedures

MINISTER'S STATEMENT



HONOURABLE MINISTER
THOKO DIDIZA

It is often forgotten that the interim constitution of 1993 was the first to establish a legal framework for addressing the injustices of land dispossession that occurred both before and after the official establishment of apartheid. This underscores the significant emphasis placed by the new democratic government and parliament on the issue of land restitution. Accordingly, the Restitution of Land Rights Act was among the inaugural pieces of legislation enacted during the first year of the democratic state, vividly demonstrating its critical importance indeed, the restitution legislation served as a precursor not only to the 1996 permanent democratic constitution of the country but also to the Land Reform white paper of 1996, thus laying the groundwork for the formal land reform program of the country. As we prepare this 2024/25 Annual

Performance Plan, we are mindful of the fact that 2024 marks 30 years since the promulgation of the legislation that enables land restitution in the country.

We are equally conscious of the need to take stock of the strides and achievements that have been made since the inception of the restitution programme and we acknowledge the shortcomings whose root causes we have identified and are actively addressing through the interventions we have formulated and are currently implementing.

In its envisioning of the rural areas, the NDP identifies land reform as a key element in a rural development strategy which encompasses land tenure reform, broadened land ownership, support to farmers, expanded social services, higher agricultural production, mining social investment and tourism which should all contribute to inclusive economic participation.

With a full appreciation of restitution's significance as a vital component of land reform, facilitating the expansion of land ownership through redress for claimants opting for land, we recognise the necessity of integrating land use planning into the land claims process rather than addressing it post-settlement. Therefore, the Commission has proactively developed a business process that allows for timeous land use planning while engaging with the various economic sector role players where land claims occur, with an objective to secure tailor-made best practice models on settlement of claims and provision of continuous settlement and post-settlement support.

The CLCC's overview goes into detail on these and other interventions that seek to ensure that restitution is both a departmental and a broader government responsibility.

REVIEW OF PERFORMANCE IN THE PRECEDING PERIOD

Since the Commission's inception until 31 December 2023, over 83 056 claims have been settled, benefiting 460 952 households. Among these, 177 504 are female-headed households, and 1 266 individuals with disabilities have received restitution. The distribution of awards to claimants is evenly split (50:50), with financial compensation totalling R23 923 133 245.90 billion and land cost totalling R25 853 071 668.11 billion, demonstrating the Restitution program's successful fulfilment of its objectives. Additionally, 3 889 701

hectares of land have been settled. Building on this progress, the Commission has set a target of settling 319 claims and finalising 339 claims in 2024/25 Annual Performance Plan.

LEGISLATIVE AND POLICY DEVELOPMENTS SUPPORTING LAND RESTITUTION

It is common cause that a properly executed land restitution programme requires a supportive broader government policy landscape, and this further requires complementarity between the various land reform programmes. For this reason, the following policy developments are highlighted as they support restitution.

Land Court Act 6 of 2023

On September 27, 2023, the President assented the Land Court Act. This Act aims to address challenges previously encountered under the Restitution of Land Rights Act, 1994 (Act 22 of 1994), including backlogs in land claims and dispute resolution mechanisms when disputes arise. It will also contribute immensely to the implementation of the Land Reform Programme by facilitating expeditious disposal of cases and contribute towards the development of appropriate jurisprudence in relation to land matters. The Land Court will have exclusive jurisdiction and power in respect of several aspects which have a bearing on land, more specifically on restitution claims arising from the Restitution Act.

Update on the Expropriation Bill

On the 28th of September 2022, the National Assembly passed the Expropriation Bill following extensive consultation conducted by the Portfolio committee on Public Works and Infrastructure with a range of stakeholders. The bill seeks to replace the existing apartheid era Expropriation Act of 1975 by providing a common framework in line with the constitution to guide processes and procedures for the expropriation of properties by organs of state. The bill further provides for instances where there could be expropriation with nil compensation for both public purpose and public interest. As the Commission of Restitution of land Rights, we will be in communication with the Public Works Legislative team to ensure alignment between the Restitution Act S42(E) and the amended Expropriation Bill.

CONCLUDING REMARKS

The Presidential Advisory Panel on Land Reform, as well as the LAMOSA 1 and 2 Constitutional Court decisions, all call on the Commission and the State to take all necessary steps to expedite the processing and settlement of old order claims. To that end, the Department is supporting the Commission in its endeavours to evolve into a more efficient and agile organization. The CLCCs overview includes progress on these measures.

Finally, in presenting the Commission's 2024/25 Annual Performance Plan, my department would like to thank the Portfolio Committee for its ongoing guidance in the valuable oversight provided to date and in the future.

Mrs. A.T. Didiza, MP

Minister of Agriculture, Land Reform and Rural Development

OVERVIEW OF THE CHIEF LAND CLAIMS COMMISSIONER



CHIEF LAND CLAIMS COMMISSIONER
MS NOMFUNDO NTLOKO

As we embark on the Annual Performance Plan for 2024/25, it is imperative to reflect on the strides made and the challenges encountered in our ongoing efforts toward land restitution. In this overview, we delve into critical matters such as policy compliance, implementation of new initiatives, and the capacity to execute our mandates effectively. Through strategic partnerships and continuous evaluation, we aim to navigate the complexities of restitution and ensure equitable outcomes for all stakeholders involved.

The 2017/2018 Audit raised concerns about noncompliance with policy approval processes, as well as gaps in policies, standard operating procedures, and guidelines, as stated in the LAMOSA Eight Report. Project Kuyasa was instrumental in crafting these policies and Standard Operating Procedures (SOPs). The financial year 2023/24 marked the first year in which the Commission began fully implementing the new policies and SOPs. While the Commission is gradually rolling out these policies, the challenge of human capacity persists, because the policies and SOPs were developed with a specific structure and capacity in mind that was not met.

The development and implementation of improved business processes and systems, the development of a claims backlog reduction strategy, the development of financial and settlement model options, and the establishment of the Commission as an autonomous entity are all goals of Project Kuyasa. To date, all objectives have been met except the establishment of the Commission as an autonomous entity which will, to larger extent, address the human capacity issue mentioned above.

The need to settle and finalise all outstanding old order claims is undeniable, and what is crucial now is determining the strategies and means to achieve this goal. This overview, in addition to outlining targets, examines the progress of Project Kuyasa interventions. The following is an update on the status of some of Project Kuyasa deliverables which are ongoing or still outstanding:

DEVELOPMENT AND IMPLEMENTATION OF IMPROVED BUSINESS PROCESSES AND SYSTEMS

The Commission's enormous commitment has significantly increased the risks of noncompliance with policies and standardized Standard Operating Procedures (SOPs). To date, the SOPs have been developed and are linked to restitution legislation and policies. The Commission is currently implementing the newly approved policies and SOPs.

DEVELOPMENT OF FINANCIAL AND SETTLEMENT MODEL OPTIONS

The revised six (6) critical sectors settlement models (Agriculture, Forestry, Sugar Cane, Mining, Tourism/Conservation, and Urban/Mixed Development) and Financial Compensation Model are not yet approved. The Commission will embark on an internal

evaluation of the Pilot Settlement Model projects in the nine provinces. The outcome of the evaluation will feed into the internal review of the Sector-Specific Settlement Models before submission to the Executive Authority for approval. Refresher workshops are currently being held with the Forestry and Conservation sector as they have the most outstanding sector specific claims.

IMPROVED GOVERNANCE

The importance of effective collaboration between the Commission and other sister departments or stakeholders cannot be overstated in developing policies and procedures that meet the requirements and challenges. The revival of the National Policy Unit and Policy Forum has greatly assisted the Commission in establishing a central repository for policy-specific matters. This ensures prompt responses with policy interventions when needed, provides guidance to provinces on policy and SOP interpretation, and serves as a central forum for policy development, reviews, and advising the Commissioners as necessary to name a few.

BUDGETARY CONSTRAINTS WITH RESPECT TO SETTLEMENT OF CLAIMS

As January 2024, the CRLR has a total of 5 985 old order backlog claims still outstanding –, a significant portion of which needs to be processed and recommended for settlement within the implementation period of this plan. Current budgetary allocations, as has been indicated previously, remain regrettably insufficient to meet desired upscaling of claims settlement to eliminate the remaining old order backlog in the short term.

It is critical that there is additional funding for the land restitution programme. Part of this includes urgently exploring the possibility of ring-fencing the Commission’s budget, which is currently included in the budget of DALRRD.

PERFORMANCE REVIEW RELATING TO THE PRECEDING PERIOD

Following previous programme performance reviews and audits that highlighted concerning weaknesses in the implementation controls as well as a prolonged claim settlement turnaround time, the Commission has begun to turn this situation around through the implementation of the Kuyasa business process improvement.

This resulted in the development and revision of operational policies, SOPs, guidelines, and overall internal policy control system, significantly enhancing the Commission’s governance position while ensuring standardized processes across provinces. This, together with other benefits accruing from other Kuyasa projects, puts the Commission in good stead for much better performance in the coming period.

PERFORMANCE TARGETS FOR THE PERIOD AHEAD

The Commission has set a target of 319 land claims settled and 339 land claims finalised in the 2024/25 financial year. The targets represent an contingent upon the availability of the necessary funding.

My team and I express our gratitude for the Minister's continuous support in the implementation of the restitution program, particularly in the preparation of this Annual Performance Plan, all aimed at serving the greater good of the victims of past land dispossessions.

Nomfundo Ntloko

Chief Land Claims Commissioner

OFFICIAL SIGN-OFF

It is hereby certified that this annual performance plan:

- was developed by the management of the CRLR under the guidance of Honourable Minister AT Didiza;
- considers all the relevant policies, legislation and other mandates for which the CRLR is responsible; and
- accurately reflects the impact and outcomes that the CRLR will endeavour to achieve over the period of 2023–2024.

Ms. N Ntloko

Chief Land Claims Commissioner

Ms PT Sehoole

Acting Deputy Director-General: Corporate Support Services

Ms. M Mokono

Acting Chief Financial Officer

Mr. RM Ramasodi

Accounting Officer

Approved by

Mrs. A.T. Didiza, MP

Minister of Agriculture, Land Reform and Rural Development

PART A: OUR MANDATE

1 Constitutional mandate

Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)

The mandate for the South African land restitution programme is derived from section 25(7) of the permanent Constitution (Act No. 108 of 1996), which states that a “person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress”.

2 Legislative and policy mandates

The Commission’s mandate

The Commission on Restitution of Land Rights (CRLR) is established by section 4 of the Restitution of Land Rights Act (Act No. 22 of 1994) as a statutory body to execute the mandate and vision outlined in section 121 of the interim constitution of 1993, which was later inscribed in section 25(7) of the permanent constitution.

Section 22 of the Restitution Act establishes the Land Claims Court (LCC), which has the responsibility to adjudicate on land claims that involve disputes that can neither be mediated nor recommended for settlement by the CRLR through the administrative process.

The long title of the Restitution Act is: “To provide for the restitution of rights in land to persons or communities dispossessed of such rights after 19 June 1913 as a result of past racially discriminatory laws or practices; to establish a Commission on Restitution of Land Rights and a Land Claims Court; and to provide for matters connected therewith”.

The Restitution of Land Rights Act of 1994, and specifically section 6, sets out the functions of the Commission, which, in essence, frame the mandate of the Commission. These key functions are outlined below, as being to:

- Receive. Acknowledge receipt of all claims for the restitution of rights in land.
- Assist. Take reasonable steps to ensure that the claimants are assisted in the preparation and submission of claims.
- Advise. Provide claimants with information regarding the progress of their claims on a regular basis and upon request.
- Investigate. Undertake the necessary investigations to understand the merits of the claim.
- Mediate. Take the necessary actions to settle disputes that arise from claims.
- Report. Provide the necessary information to the Land Claims Court on the terms of settlement for successfully mediated claims.
- Refer. Outline any issues that may still be in dispute between claimants and other parties and then refer these cases to the Land Claims Court.
- Support. Provide reports as evidence in support of Land Claims Court hearings, as well as present any other relevant evidence.
- Communicate. Take appropriate steps to ensure that the public is aware as to who is entitled to claim restitution, the limitations and requirements of the Act, and the manner in which claims are to be lodged with the Commission.
- Prioritise claims that affect a substantial number of persons or persons who have suffered substantial losses as a result of dispossession or persons with particularly pressing claims.

In terms of the Restitution Act, restitution can take various forms, including the restoration of rights in land, the provision of alternative state-owned land, the payment of financial compensation or the combination of these forms.

3 Institutional policies and strategies governing the planning period

3.1 National Development Plan: Vision for 2030

The National Development Plan (NDP) is a long-term action plan that aims to eliminate poverty, reduce inequality and unemployment by 2030.

Land restitution, forms part of land reform, which the NDP requires to be underpinned by the following key principles:

- Enabling land transfer without distorting the market.
- Ensuring sustainable production on transferred land.
- Monitoring land markets, relating land transfer targets with fiscal and economic realities.
- Creating opportunities for mentorship, chain integration, procurement and skills transfer.

The vision of the NDP for rural areas is to ensure that rural areas are spatially, socially and economically well integrated – across municipal, district, provincial and regional boundaries – where residents have economic growth, food security and jobs as a result of agrarian transformation and infrastructure development programmes, and have improved access to basic services, health care and quality education. By 2030, agriculture is envisioned creating close to one million new jobs, contributing significantly to reducing overall unemployment.

The outcomes captured in the abovementioned vision cuts across mandates of various government sectors and spheres, hence the need for a coordinated and integrated approach to the planning and provision of services to rural communities.

The contribution of the CRLR to the NDP and the Medium-term Strategic Framework (MTSF) will relate particularly to “sustainable land reform and agrarian transformation”, which is set out in more detail in the strategic plan of the Department of Agriculture, Land Reform and Rural Development and (DALRRD).

The primary focus of the CRLR is land restitution, which will contribute to ensuring the sustainable and rapid transfer of land to beneficiaries, without distorting land markets or business confidence.

3.2 Medium-Term Strategic Framework

The CRLR’s 2021–2024 strategic plan is guided by and aligned with the 2019–2024 MTSF, which reflects government’s priorities during the medium term towards the realisation of the NDP’s goals; more especially, those priorities and outcomes relating to rural development and land reform, as contained in the DALRRD’s strategic plan.

It also takes into consideration policy priorities that are in line with the rural development and land reform trajectory, as articulated in the MTSF, specifically Priority 4 (Spatial Integration, Human Settlements and Local Government).

An outcome of Priority 4 is to “promote rapid land and agrarian reform, contributing to reduced asset inequality, equitable distribution of land and food security”. The associated sub-outcome aims to ensure that sustainable land reform contributes to agrarian transformation.

The CRLR also aligns with MRSF Priority 6, which envisions “a capable, ethical and developmental state”.

3.3 Medium-Term Budget Policy Statement

The Medium-term Budget Policy highlighted the prioritisation of “finalising outstanding restitution claims”. This sense of urgency resonates with a major theme of this plan, which is to develop a CRLR of excellence that can timeously expedite the pace of processing and settling all outstanding old order land claims.

Since settling land claims is not enough without requisite prior land use planning and continuous farmer development support, the CRLR will work with other entities within and outside the Department that have a responsibility to coordinate and provide pre- and post-settlement development support.

3.4 The DALRRD’s mandate

Although the CRLR is, by law, established as an entity, it currently operates as a component of Programme 3 of the Department of Agriculture, Land Reform and Rural Development. The Director-General of DALRRD is the Commission’s accounting officer with the Minister serving as the executive authority. As such, the CRLR aligns its strategic plan with that of the DALRRD, not only because of the current legislative and institutional arrangements, but, even more critically, due to the support functions that are indispensable to the restitution programme, which are located within DALRRD.

The DALRRD derives its mandate from among others, section 25, which incorporates provisions relating to the three elements of land reform: restitution, land redistribution and land tenure reform.

The mission of DALRRD, as outlined in the 2020–2025 strategic plan, is “to accelerate land reform, catalyse rural development and improve agricultural production to stimulate economic development and food security”.

The impact statement to which restitution contributes is: “An effective land and agrarian reform programme that ensures food security, economic growth and spatial transformation”.

DALRRD has adopted seven outcomes that are aligned to the following four MTSF priorities:

- Economic transformation and job creation (Priority 1).
- Education, skills and health (Priority 2).
- Spatial integration, human settlements and local government (Priority 4).
- A capable, ethical and developmental state (Priority 6).

One of the outcomes is “improved governance and service excellence”, which is adopted by the CRLR as one of its strategic output outcomes.

The CRLR sees itself contributing and also benefiting, in terms of settlement support, from both the DALRRD’s impact statement of “An effective land and agrarian reform programme that ensures food security, economic growth and spatial transformation” and the strategic outcome of “Redress and equitable access to land and producer support”.

The CRLR, through close alignment with DALRRD and other sector partners, sees itself contributing to the vision of a South Africa with an inclusive rural economy, where rural communities are vibrant, equitable and sustainable.

4 Relevant court rulings

In 2014, the President signed the Restitution Amendment Act of 2014, (Act No. 15 of 2014), into law, allowing for the lodgement of new claims for a period of five years. However, on 27 July 2016, the Constitutional Court declared the Restitution Amendment Act, 2014, unconstitutional on the grounds that Parliament failed to conduct proper consultations before the law was passed.

As a consequence, the court interdicted the CRLR from neither processing any new order land claims nor receiving further new claims until the old order claims had been finalised or a new amendment law had been passed by Parliament. Parliament was given 24 months from the date of the order to enact new legislation, while the newly lodged claims are held in abeyance.

A second judgment was handed down on 29 March 2019 (in what is also referred to as LAMOSAs 2), after the Speaker of the National Assembly and the Chairperson of the National Council of Provinces (Parliament) – the applicants – sought an extension to the 24 months given by the Constitutional Court in the 2016 court order. This LAMOSAs 2 judgment dismissed the application for an extension and further made provision for appropriate Land Claims Court judicial oversight of the CRLR.

The Constitutional Court further prohibited the CRLR from processing any new order claims lodged between 1 July 2014 and 28 July 2016 until it has settled or referred to the LCC all claims lodged on or before 31 December 1998 (old order claims).

Further, in line with the judicial oversight ordered, the Chief Land Claims Commissioner (CLCC) was instructed to file a report with the LCC at six-month intervals from the date of this order, setting out the following:

- The number of outstanding old order claims.
- How the CRLR intends processing them, with an anticipated date of completion.
- An indication of the nature of any constraints, whether budgetary or otherwise, the CRLR is facing in meeting its anticipated completion date.

The CRLR has, to date, submitted ninth reports to the LCC in compliance with the requirements of LAMOSAs 2.

The first report to the LCC was submitted on 19 September 2019. The second report to the LCC was submitted on 30 April 2020. The third report to the LCC was submitted to the LCC on 19 November 2020. The fourth report was submitted to the LCC on 30 June 2021. The fifth report was submitted to LCC on 14 December 2021. The sixth report to the LCC was submitted on 29 June 2022. The seventh report to the LCC was submitted on the 24 January 2023, the eighth report was submitted to the LCC on the 21 July 2023, the ninth report was submitted to LCC on the 23 January 2024.

The extensive steps being taken by the CRLR in repositioning itself for improved performance and meeting the LAMOSAs 2 court order, as contained in the successive reports submitted to the LCC Judge-President, are dealt with in this annual performance plan.

PART B: OUR STRATEGIC FOCUS

5 Situational analysis

5.1 External environment analysis

5.1.1 Overview

The racial segregation of South Africa led to massive socio-economic impacts that adversely affected most of the black population, leading to loss of security of tenure, assets, productivity and markets. The impacts of dispossession also included deprivation and alienation from cultural, sentimental, spiritual and symbolic connections to the land. The economic and psychological scars of racial segregation remain today, and the land restitution programme is a critical step towards redress.

From the claims lodged by 31 December 1998, 83056 have been settled as of 31 December 2023. In 2014, a second lodgement period was launched, which was meant to start from 1 July 2014 to 30 June 2019. However, this lodgement was stopped on 28 July 2016 after the Constitutional Court ruled the amendment legislation that declared lodgement unconstitutional and subsequently interdicted both the processing of the over 163 000 claims already lodged, as well as any further lodgement of claims.

At the heart of the issues involved in the Constitutional Court judgments of both LAMOSAs 1 and 2 is the concern that the opening of lodgement of new claims, while a substantial number of claims dating back to 1998 remain unsettled, appears to be prejudicial to those claimants whose claims have not yet been settled.

This happened at a time when there was a growing perception that the pace of settling land claims was extremely slow. Significantly, a series of performance reviews conducted on the CRLR have also been concerned with, among other things, understanding the underlying causes of this perceived poor performance.

The performance reviews include the findings of the Department of Planning, Monitoring and Evaluation (DPME) (2013) and the Agriculture and Land Reform Phakisa (2016), and more recently the High-level Panel chaired by former President, Mr. Kgalema Motlanthe, in 2017, as well as the Presidential Advisory Panel on Land Reform and Agriculture of 2019.

The key findings that cut across these evaluation reports include the following:

- Involvement of the CRLR in post-settlement matters distracts the organisation from focus on settling land claims and that land claims lodged on or before 31 December 1998 need to be resolved expeditiously, consistent with the order of the Constitutional Court in the LAMOSAs judgment.
- Poor capacity in technical areas of conducting research, thus the need to rationalise capacity.
- Poor records management and a lack of an effective information management system.
- CRLR's lack of independence from the DALRRD compromises operational efficiency, therefore the statutory independence of the Commission needs to be restored.
- Regional land claims commissioners appointed in terms of Section 4(3).
- The CRLR has improperly created artificial communities by consolidating community land claims.

The measures being taken by the Commission to address these shortcomings and implement corresponding recommendations are dealt with under section 9.5. below.

The CRLR has a total of 5985 old order as 30 January 2024 – backlog claims still outstanding, a significant proportion of which needs to be processed and recommended for settlement within the implementation period of this plan.

In the 22/23 financial year the Commission on Restitution of Land Rights settled 355 claims to the value of R3.9 billion. The household budgetary allocation for the said year equated to R3.2 billion. For the 2024/25 financial year, the Commission aims to settle 319 claims. The provisional household budget allocation for the 24/25 financial year is R 2.4 billion which does not adequately correlate with the outstanding claims to be settled as the monetary value for settling claims has increased. For example, the housing quantum that settles financial compensation claims for beneficial occupancy rights has increased from R202 888.00 to R 261 364.00, notwithstanding the CPI values for registered rights. Furthermore, land prices have also increased but the Commission's household budget has decreased. Taking cognisance of the depreciating value of the rand with the above factors, it would be prudent to align the settlement and finalisation targets with the allocated budget.

If one looks at the Backlog Reduction Strategy that is targeting the pre 1998 claims one would see that the outstanding 6139 claims as at 31 December 2023 would cost approximately R65 billion excluding the running costs of the Commission. It is critical that there is sufficient funding for the actual process of land restitution which includes ring-fencing the Commission's budget, which is currently included in the budget of DALRRD.

In addition to household funding in the settlement of claims, human resource capacity would also need to be increased together with the approval of the interim structure. The number of funded positions in line with the approved structure dated 11 December 2020 is 749 with the total number of filled positions being 693 with 57 vacant positions. This constitutes a vacancy rate of about 7% which is below the ideal vacancy rate of 10% as prescribed by National Treasury.

The Commission continues to process old order claims as per the directives of the Constitutional Court in Lamosa II Court order. The Chief Land Claims Commissioner aims to approach the Land Claims Court for a directive on the correct understanding of when the Commission can consider itself having effectively dealt with old order claims. This will allow the Commission to consider the new order claims at the discretion of Cabinet.

In view of 5985 old order as January 2024 claims remaining to be settled and finalised (excluding the new order claims), the MTEF allocations remain woefully inadequate. There is a need for increased budgetary allocations, especially considering that the remaining claims are mainly rural and more complex. The budget allocation for each financial year has an impact on the number of claims to be settled and finalised this led to fluctuation of targets from MTEF.

5.1.2 Policy environment

The functions of the Commission are to receive claims, investigate and recommend award, which includes an attempt to resolve land claims through negotiation and/or mediation, or otherwise refer the claims for adjudication to the Land Claims Court. Section 20 of the Restitution Act states that *"the Director-General of Land Affairs, which is the today known as Department of Agriculture, Land Reform and Rural Development (DALRRD) is the accounting officer of the Commission, and that the estimates of expenditure in respect of each financial year shall, after being prepared by the Chief Land Claims Commissioner or an official contemplated in section 8(1) and designated by the Chief Land Claims Commissioner, and submitted to the Director-General. The Commission reports directly to Parliament and indirectly to the Minister of Agriculture, Land Reform and Rural Development, although the Director-General (DG) remains the Accounting Officer in terms of the PFMA and the Restitution Act.*

The department seconded its officials to the commission to undertake duties related to programme 3, in accordance with Section 8 of the Restitution Act “the work incidental to the performance of the commission by the officers appointed and seconded to the Commission is provisioned for by the Public Service Act, 1994 (Proclamation 103 of 1994).” By this, it means that the officials serving on programme 3 are subjected to the PSA and provided by in terms salary scales, terms of office, conditions of employment, disciplinary matters and others – as outlined in section 15 (Transfer and secondment from and to public service) of the PSA.

In addition to the above, Section 21 of the Restitution Act stipulates that the CRLR must “annually, not later than the first day of June, submit to Parliament a report on all its activities during the previous year up to 31 March. This is also largely in line with the requirements of section 40(1) and (3) of the PFMA. Chapter 18 section 18.3.1(b) of Treasury Regulations and Chapter 6 of the framework issued by the National Treasury provides for reporting formats for, which the CRLR complies to when it comes to reporting against its predetermined objectives.

Section 1 of the PFMA defines a national public entity as a “national government business enterprise or board, commission, company, corporation, fund or other entity (other than a national government business enterprise) established in terms of national legislation fully or substantially funded either from the National Revenue Fund or by way of a tax, levy or other money imposed in terms of national legislation; and is accountable to Parliament”. By this definition, the Commission of Restitution on Land Rights is recognised as a Public Entity.

Subsequent to that, the PMFA provides for the process that should be followed for annual budgets by non-business Public Entities- this process applies to the Commission, i.e., the CLCC, the DLCC and the RLCCs. For the commission today, herewith is the process for budgeting, as outlined in section 53 of the PFMA. For Budgeting purposes, currently, the branch restitution is treated similarly to the rest of the programmes in the department, according to section 40 of the PFMA. In this case, the executive authority is the minister. A similar process will be followed after the establishment of the Commission as a Public Entity.

In addition to the budgeting issues, The Auditor-General of South Africa (AGSA), in its audit, found that the Commission is defined as an entity in terms of the Restitution Act and thus must report separately as an entity under Section 1 of the PFMA. This means that the CRLR must prepare separate financial statements in terms of Generally Recognised Accounting Practice (GRAP) for the period under review. Additional funding is required to accommodate functions such as supply chain management, human resource management, audit and risk management, and bookkeeping. Over the last two years, the commission has had to create separate reports for purposes of auditing for the Commission, which means the CLCC, DLCC and RLCCs.

The current legislative framework and structure within the organisation have created an environment that limits the authority of the CLCC for decision-making powers and ultimately execution in the Commission. This has been caused by other governmental functions being in control of their finances and human resources.

5.2 Consolidation of recommendations and findings

5.2.1 Inter-Ministerial Committee on Land Reform

In 2018, President Cyril Ramaphosa established the Inter-Ministerial Committee on Land Reform (IMC). This committee provides

political oversight on the implementation of Cabinet decisions on land reform and anti-poverty interventions. The decisions of the IMC impacted substantially on the operations of the CRLR, especially on a strategy to fast-track the settlement of outstanding claims lodged before December 1998, as well as the increased focus on the processing and transfer of state land to restitution beneficiaries.

5.2.2 Land Reform Panel Report

President Cyril Ramaphosa appointed the expert Presidential Advisory Panel on Land Reform and Agriculture in September 2018 to provide independent advice to the IMC.

The panel's mandate was to provide a unified policy perspective on land reform in respect of restitution, redistribution and tenure reform. The recommendations made by the panel are significant in that they reiterate and consolidate the recommendations made by successive other entities and panels before.

Further, these are critical in that they complement the court rulings in the LAMOSI 2 judgment pertaining to fast-tracking the settlement of old order claims and thus inform much of what the CRLR does to reposition itself for improved performance – they are thus worth restating here.

The CRLR should be responsible for all restitution processes up to and including the settlement of claims, either via section 42D agreements or by court order. The implementation of settlement agreements, including land acquisition and transfer, the establishment of legal entities, settlement planning and post-transfer land use support will all be the responsibility of the DALRRD.

Claim prioritisation

The CRLR must prioritise the settlement of old order claims that were submitted by the first deadline of 31 December 1998, as required by the Constitutional Court, and provide options for claimants to opt for land redistribution or tenure security options to avoid the onerous requirements of proving past dispossession.

Strengthening the Land Claims Commission's capacity

This will be done by means of the following:

- Appointing Regional Land Claims Commissioners
- Convening a suitably skilled panel of researchers to review the database, and to screen and investigate claims
- Stopping the amalgamation of claims, and improving research and oversight
- Allowing claimants to opt in or opt out of agreements and distinguish landholding entities like communal property associations (CPAs) from business entities operating on CPA land.

5.3 Internal environment analysis

The strengths, weaknesses, opportunities and threats analysis (SWOT analysis) provides the CRLR with the tools to identify and evaluate situational factors that will have a direct and indirect impact on the organisation. The CRLR's opportunities and threats are external to the organisation, and therefore need to be managed effectively to ensure continued sustainability.

The CRLR is committed to building on the identified strengths, taking advantage of the opportunities, and effectively managing the threats and turning weaknesses into strengths.

The strengths, weaknesses, opportunities and threats identified below are addressed in the document through the outcomes and outcome indicators.

STRENGTHS

1. Sufficient staff knowledge, capabilities and expertise.
2. Driven by clear legislation and mandates
3. Strong brand identity
4. National footprint with regional and branch offices throughout the country
5. New order claims captured electronically (currently not a priority)

WEAKNESSES

1. Limited budget and funding to drive the settlement of claims
2. Limited human resources and a centralised organisational structure
3. Manual processes used for the settlement of claims (limited automation/information technology)
4. Ineffective information management and statistical analysis
5. Lack of internal standard operating procedures (SOPs) and third-party service-level agreements (SLAs)
6. Lack of proactive communication with unclear communication protocols between CRLR and DALRRD
7. Limited post-settlement support from DALRRD
8. Interpretation of mandates between DALRRD/CRLR

OPPORTUNITIES

1. Effectively use and drive the institutional memory
2. Leverage employee experience to self-capacitate
3. Become an autonomous organisation
4. Clearer understanding of business requirements
5. Develop processes, SOPs and SLAs
6. Innovative policy research and revamp
7. Availability of information to improve information management and statistics
8. Prioritisation of information technology (IT) as a function and the automation of processes
9. Availability of software to automate processes
10. Development of legislation to deal with the new order claims

THREATS

1. Internal and external mandate uncertainty
2. Legal uncertainty
3. Unrealistic expectations set
4. Misinformation and understanding of the mandate of restitution
5. Inadequate budget and/or funding
6. Citizens' frustrations because of the slow pace of restitution
7. Lack of social cohesion and service delivery unrest

5.3.1 Strategic focus areas of the CRLR

CRLR has two overarching strategic outcomes:

- Outcome 1: Core – Restored land rights and alternative forms of equitable redress
- Outcome 2: Enabler – Improved governance and service excellence

5.3.2 Service delivery performance

As at 31 December 2023, **83056** land claims have been settled. The settlement of these claims has resulted in the award of **3889701** hectares of land cost to the beneficiaries at an amount of R25 billion. These settlements also approved financial compensation of R23 billion to claimants. The restitution programme has benefited **2345547** individual beneficiaries who are members of **460952** households. Of those, **177504** are female-headed households and 1 266 are headed by persons living with disabilities.

Table 1: Service delivery performance (Cumulative statistics: 1995 – 31 December 2023)

PROVINCE	CLAIMS	HHs	BEN	FHHs	PEOPLE LIVING WITH DISABILITIES	HECTARES SETTLED	LAND COST	FIN COMP	GRANTS				TOTAL AWARD
									DEVELOPMENT	RDG	SPG	RSG	
E CAPE	17219	95169	460975	36236	0	151533	215 686 154,29	7 817 017 548,34	376 911 801,49	77 554 056,00	37 095 850,00	50 972 735,00	8 575 238 145,12
F STATE	2674	8735	52790	3224	10	60561	93 522 832,05	469 109 644,12	40 164 289,71	9 174 000,00	4 400 640,00	1 721 295,00	618 092 700,88
GAUTENG	13260	21738	82787	9807	20	23970	101 419 933,57	1 106 844 064,07	72 142 501,38	6 957 000,00	2 399 040,00	4 161 445,00	1 293 923 984,02
KZN	16130	98565	556503	33627	601	884092	8 997 978 264,38	5 171 431 074,30	850 880 651,58	96 132 000,00	41 747 040,00	47 391 375,00	15 211 935 405,26
LIMPOPO	4818	68897	342990	28462	0	763622	4 570 721 812,04	3 757 253 155,31	859 538 161,04	97 955 640,00	45 028 440,00	26 142 580,00	9 356 639 788,39
MPLANGA	3436	62201	328093	21043	58	557675	6 507 077 908,41	1 843 279 642,77	573 129 596,77	92 763 000,00	44 347 350,00	20 708 300,00	9 081 356 297,95
N CAPE	4067	26090	140705	10541	159	857025	930 284 836,39	1 224 006 314,93	246 384 804,78	12 076 460,88	13 025 020,94	13 176 810,00	2 438 954 247,92
N WEST	3981	45475	226438	19630	40	579958	4 131 330 176,46	797 814 592,14	626 381 914,24	81 498 000,00	39 043 004,23	8 329 485,00	5 684 397 172,07
W CAPE	17471	34082	154266	14934	378	11266	305 049 750,52	1 736 377 209,92	856 202 603,02	15 282 540,00	4 195 452,00	758 880,00	2 917 907 435,46
TOTAL	83056	460952	2345547	177504	1266	3889701	25 853 071 668,11	23 923 133 245,90	4 501 736 324,01	489 392 696,88	231 281 837,17	173 362 905,00	55 178 400 177,07

5.3.3 Financial performance

The CRLR has spent in excess of R16 billion out of its household budget for land purchase and financial compensation over the past four financial years. The split between the amounts paid towards land purchases vis-à-vis the payment of financial compensation is illustrated in Table 3. The amount paid towards land purchases (32%) is less than the amount paid in financial compensation (5,58%). Development grants amounted to R1,5 billion, which is 9,25 of the expenditure.

Table 2: Expenditure on land purchase and financial compensation since 2017/18

FINANCIAL YEAR (R'000)	FINANCIAL COMPENSATION (R'000)	LAND PURCHASE (R'000)	GRANTS (R'000)	TOTAL (R'000)
2017/18	1,589,812	762,271	165,730	2,517,813
2018/19	1,901,678	373,776	388,755	2,664,208
2019/20	1,221,870	1,519,596	317,638	3,059,103
2020/21	1,241,382	815,616	201,515	2,258,513
2021/22	1,691,743	558,790	397,032	2,647,564
2022/23	1,960,745	1,243,710	47,523	3,251,978
Total	9,607,229	5,273,759	1,518,192	16,399,180

Table 3: Household Expenditure vs budget as at 31 January 2024

LRS OFFICE	ADJUSTED BUDGET (R'000)	EXPENDITURE (R'000)	AVAILABLE BUDGET/VARIENCE (R'000)	% SPENT
LRS: Eastern Cape	891,365	878,362	13,003	99%
LRS: Free Sate	17,707	16,037	1,670	90%
LRS: Gauteng	34,279	21,980	12,299	64%
LRS: KwaZulu Natal	733,889	535,953	197,936	73%
LRS: Limpopo	541,437	393,556	147,881	73%
LRS: Mpumalanga	318,149	160,132	158,017	50%
LRS: North West	291,051	120,199	170,852	41%
LRS: Northern Cape	48,971	10,211	38,760	21%
LRS: Western Cape	76,242	31,170	45,072	41%
TOTAL	2,953,090	2,167,600	785,490	73%

5.3.4 Service delivery challenges

In the years that have passed since the promulgation of the Restitution of Land Rights Act, progress has been achieved in realising the main goals of the programme. However, various challenges beset the CRLR. Some of these challenges include the following:

- The processing, settling and finalisation of claims has taken place at a slow pace.
- Most settlements have consisted of financial compensation rather than the restoration of land.
- There has been an inadequate provision of post-settlement support and a failure to link restitution with broader development initiatives.
- Challenges have been encountered with reconstituting communities and the problems experienced by community property institutions.
- There has been a lack of institutional capacity, proper planning, control and business information, operational systems, and the programme has been under-funded.

5.3.5 Organisational environment

This section provides progress that has been made by the Commission in meeting the recommendations made by the various entities, including the Presidential Advisory Panel on Land Reform and Agriculture, which reviewed the performance of the restitution programme. This information includes the progress made in relation to the land claims settlement milestones as per the LAMOS 2 requirements.

In 2019, the CRLR started a business improvement project, called Project Kuyasa. “Kuyasa” is the isiZulu phrase for “the sun is rising”. This project seeks to transform the CRLR into a highly effective organisation with faster turnaround times, optimised processes, effective systems, efficient offices and improved customer service.

The objectives of Project Kuyasa are as follows:

- Backlog claims reduction strategy
- Business processes and systems
- The development of improved financial and settlement models
- The determination of an appropriate organisational form with autonomy
- The development of an organisational structure design to support the redesigned process, based on the new operating model
- People and change management strategy

Based on the objectives defined above, the following projects were identified:

Project 1: Backlog claims reduction

The aim of this project is to develop a backlog reduction strategy and pilot the approach in preparation for implementation. This project is intended to address the two key issues of defining and categorising the current backlog and developing a strategy and plan to eliminate the backlog. All provincial offices have performed a complete and comprehensive assessment of each outstanding claim, the properties under these claims, the location of the claims and other attribute data.

Over and above the strategy, a detailed management reporting tool has been developed to improve reporting accuracy and track progress. The objective of this tool is to give real-time feedback to the Commission’s management and key stakeholders on the current claims’ status, as well as the challenges identified.

The tool is intended to monitor and track the settlement of claims by identifying challenges and blockages and dealing with these timeously. It will also assist managers to ensure and adhere to the targets set and to timeously come up with intervention strategies where necessary. This is augmented by a monitoring and evaluation framework with the following key objectives:

- Constant information and data flow
- Accurate, quality and on-time data submissions
- Clearly defined ownership and accountability governance channels

An external verification and audit process is underway, which is intended to ensure data integrity and reporting of the information in the project files.

Project 2: Business Process Improvement

This project has arm the CRLR with improved business processes to be more effective and efficient in-service delivery and the processing of land claims. A key outcome of this project is the business process redesign and aligned policies and standard operating procedures.

The current land restitution claim process and other key enabling processes was analysed to recommend and design the “to-be business processes”. This included the identification of key enablers (people, facilities and governance) and the development of an implementation plan.

In summary, the “to-be” process design is expected to deliver specific benefits that are legally compliant and standardised. A key benefit is reduced turnaround times, as follows: The redesigned business process has indicated a potential to drastically reduce the time it takes to process a claim towards settlement from 242 weeks to 63 weeks.

Improved guidelines, policies and standard operating procedures

Project Kuyasa has further identified the gaps that exist regarding policies in the CRLR and has produced policies and standard operating procedures that would support the proposed re-engineered business process to fast-track the settlement of claims.

Project 3: Financial Model

The intention of this project is to provide support in developing enhanced compensation models for the land restitution process and to develop an optimal strategic model for financial compensation awards, given the variable and predetermined parameters.

Project 4: Settlement Model

The intention of this project is to enhance the processing and settlement of land claims in a manner that is fair, qualitative, comprehensive and inclusive.

Various claims on mining, sugar cane and forestry or conservation land require the involvement of multiple sector stakeholders during negotiations on the framing of settlement models that would benefit the claimants and for sustainability.

The work being done by Project Kuyasa also focuses sector-specific engagements to develop settlement models that incorporate accurate planning, strategies and impact assessments. Various workshops and consultative meetings have been held with sector stakeholders for even more effective, sustainable and successful projects.

The above process will also ensure that post-settlement support is addressed during the processing of the claims and stakeholders are brought on board early in the process.

Project 5: Organisational Form

The overall objective of this project is to identify the optimal operating model to deliver services to the client, while identifying the resources required to most effectively deliver these services. This project will determine the appropriate business model for the CRLR by analysing various options, developing a business case for the selected option and supporting the CRLR through the process of approving the selected option.

Project 6: People Management

The intention of this project is to develop an organisational structure that is best suited for the new CRLR, which is aligned to the “to-be” vision, and which will optimise service delivery. The project is expected to deliver an effective and efficient best-fit organisational structure, which will facilitate the delivery of the CRLR’s mandate, with a priority focus on improving service delivery. The development of an organisational structure that is linked to the appropriate organisational form will be accompanied by a skills development report and a transition plan, which will result from the project’s analytical activities.

Project 7: Change Management

The intention of this project is to manage the effects of change faced by the CRLR in its turnaround transition. The key is to ensure that change is systematically and smoothly implemented to achieve the lasting benefits of change and give both internal and external stakeholders a level of comfort regarding the changes that are coming. It is imperative to create awareness of the need for change (for the organisation and for individuals) and to understand the impact, risk and readiness for change, while initiating a capacity-building journey in key leaders. A change and stakeholder management plan was prepared, and internal and external stakeholder questionnaires have been completed.

Other developments aimed at improving operational performance

Research and gazetting: In consideration of apparent weaknesses and uneven performance in the area of research, the CRLR has begun to mainstream regional specialisation in the research function. The provincial research units are initially being set up in the three provinces with the highest number of outstanding claims, where targeted area- or district-based research will be undertaken. The provincial research units are being piloted in KwaZulu-Natal, Mpumalanga and Limpopo, and priority will be given to the finalisation of research on claims on state land. A project manager has been appointed to manage the research strategy on the outstanding claims and is in the process of finalising the research strategy, working with the National Research Unit in the Office of the Chief Land Claims Commissioner.

Land valuations: The CRLR has signed a service -level agreement with the Office of the Valuer-General to enable the smooth operations between the two institutions. The Commission will continue to interact with both the Office of the Valuer-General and that of the Director-General for more efficiency.

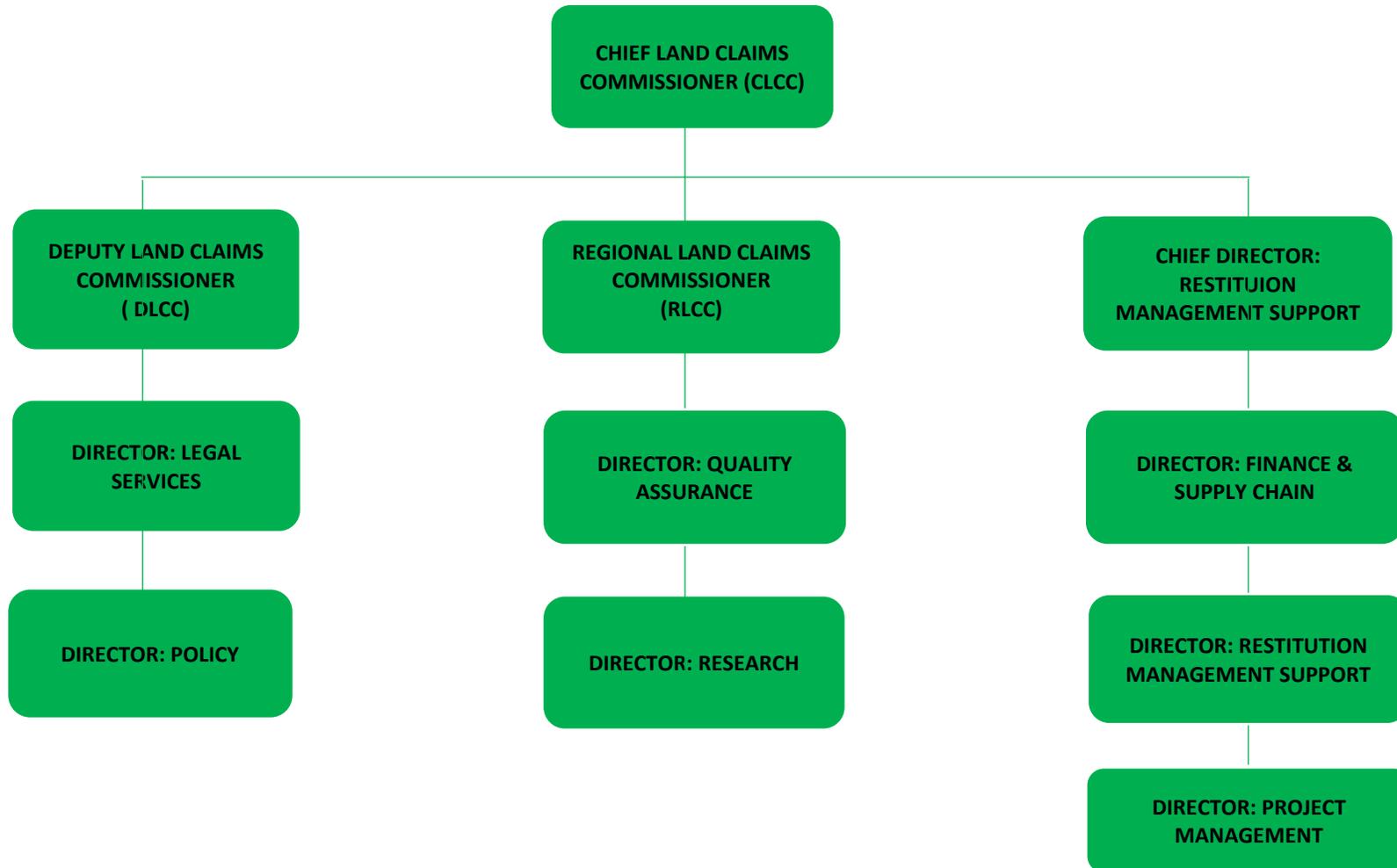
Settlement negotiations: The provinces continue to negotiate with all the stakeholders towards the settlement of claims. The focus of the settlements is based on the claims identified and registered in the project register as required by the Department and in line with the targets set in the annual performance plan. A further focus would be that of claims that needed to be finalised from the previous financial years. The performance is monitored by the national office through monthly branch management meetings and quarterly reports.

Research on complex claims: Special focus has been placed on complex claims with the setting up of joint coordination committees (JCCs) with all relevant stakeholders both in government and outside of government, as well as the claimants. The intention of the JCCs is to ensure coordinated decision making, while negotiating the settlement of the claim. Where the mediation towards settlement fails, the matter is referred to the LCC for adjudication in line with section 14 of the Restitution Act, as amended. Where necessary, the claimant community is assisted with funding for the litigation concerned under section 29(4) of the Restitution Act.

5.3.6 Institutional and organisational structure of the CRLR

The structure as illustrated in Figure 2 is the current de facto organogram and reporting structure. Within the National Office, the Regional Lands Claim Commissioner (RLCC), Deputy Land Claims Commissioner (DLCC), Director: Restitution Management Support (CD: RMS) and nine Provincial Chief Directors reporting to Chief Land Claims Commissioner (CLCC).

Figure 2:



5.3.7 Resource considerations

Expenditure trends and projections

Figure 3 indicates how the CRLR's budget has progressively decreased over the past seven years since 2013/14. The indicative budget for 2023/24 however, indicated a slow increase in the budget allocation. However, over the Medium-term Expenditure Framework (MTEF), the indicative budget increases to provide operational budget, dealing with service delivery and performance in support of the settlement and finalisation of claims.

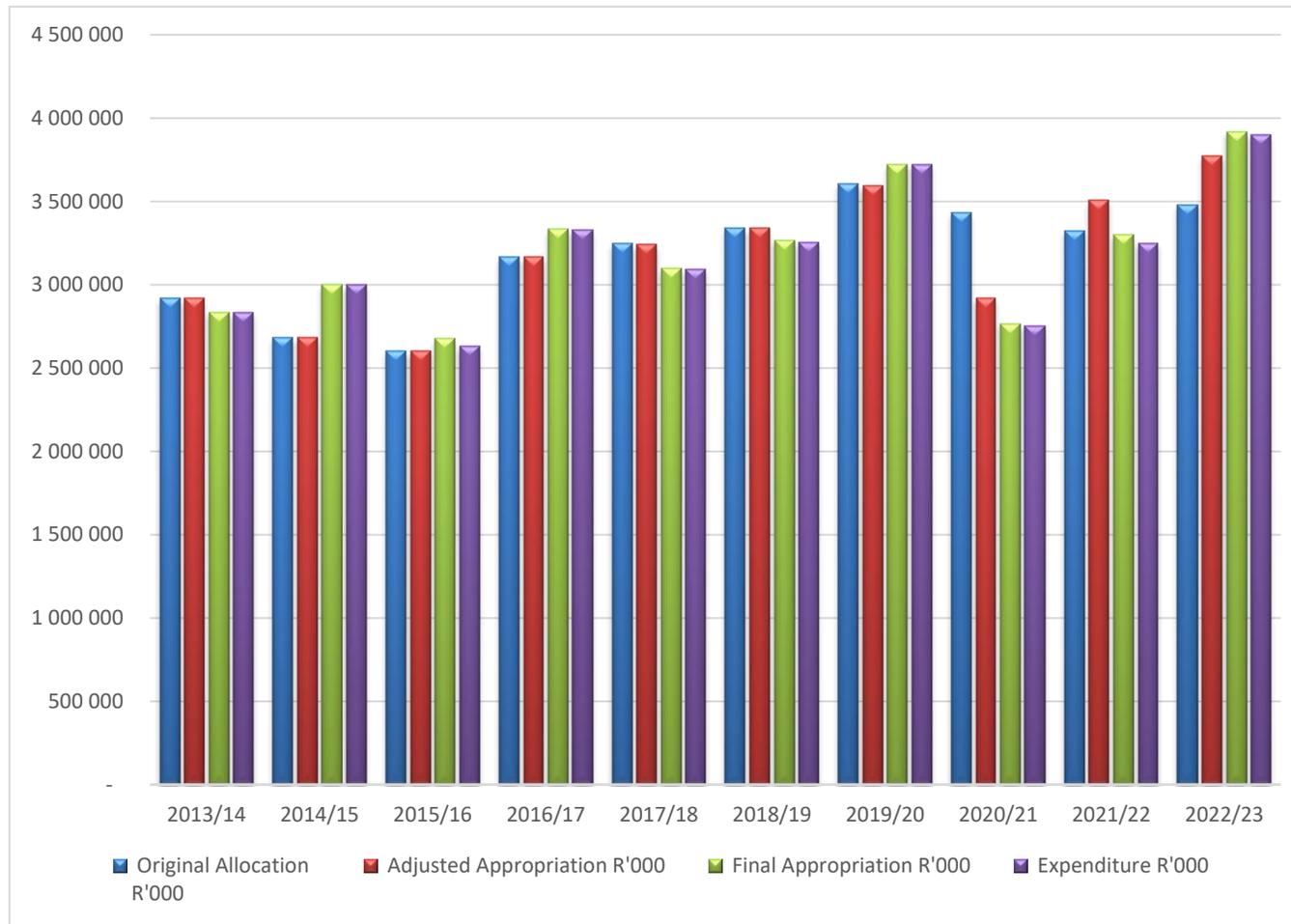


Figure 3: Budget trends

Human resources

Achievements:

There has been notable achievements in relation to provision of human capital, in that of the initial approval granted to fill 59 priority positions for levels 1 – 12, all the positions were successfully filled.

Further to this a total of 66 cumulative positions were filled. A total of 28 positions which were advertised and in process to be filled, were affected by a moratorium placed on the 21st of October 2023. Furthermore, 24 positions have since been frozen due to unavailability of funds in the Department, for further allocation of Compensation of Employees budget.

Recruitment and Selection for SMS is centralized to Restitution National Office. A total of 5 vacant positions initially prioritized were all filled. Cumulatively, 3 positions became vacant and 1 was filled.

Critical to the appointments, is the appointment of the Deputy Land Claims Commissioner which was finalised by Minister in April 2023, and the successful incumbent joined the Commission on the 01st of June 2023. The appointment plays a significant role in n imp fostering working relations with relevant stakeholders including but not limited to; Parliamentary Committees; Inter-Governmental Relations, Statutory Bodies, Public Entities, Academic Private Sector Institutions, and communicating with the Land Claims Court towards the fulfilment of the mandate of the Commission on Restitution of Land Rights. In addition, the appointment plays a significant role of overseeing and coordinating the policy unit, development of standard operating procedures and ensuring alignment with broader processes around Land Reform. One of the key responsibility areas attached to the appointment of the Deputy Land Claims Commissioner, relates to coordinating the policy unit, and this presented an opportune moment to (i) maintain momentum in respect of the review of the existing policies; (ii) address the audit findings which have marred the Commission's operating model / business process over time, regarding the dissimilar ways of procedures applied in provinces and (iv) to enforce compliance with the Standard Operating Procedures (SOPs) adopted and approved in line with Project Kuyasa.

The capacitation of the National Research Unit towards the end of the second quarter of the 2023/2024 financial year, through the appointment of three officials two at Middle Management and one at Junior Management, is envisaged to bring about the much needed progression in terms of ensuring monitoring and evaluation of land claims at research, achieving the set targets and rolling out training to provincial offices to ensure production of high level quality research reports.

Lastly, the appointment of the Director Operational Management: Eastern Cape province in the third quarter of the current financial year, was an additional highlight in terms of the appointments at Senior Management level.

Challenges and Remedial Action:

The Department of Agriculture Land Reform and Rural Development issued cost containment measures in line with a directive issued by the Department of Public Service Administration aimed at assisting Executive Authorities in managing fiscal sustainability during the process of creating and filling of vacant critical vacant positions. A moratorium was placed on filling of vacant positions and this necessitated the re-prioritisation of the vacant positions which will be presented for approval before an oversight committee set up to evaluate the available Compensation of Employees budget and the service delivery requirements, linked to the prioritised positions. Through this exercise specific focus has been placed by the Commission on positions which form part of the core business as well as the critical support functions such as legal services, policy, and finance.

Age distribution and people with disabilities

The average age of all staff members is just over 35 years. The average age of SMS members is slightly higher at 49 years. The age composition is therefore relatively young, considering the high number of skilled and highly skilled staff members.

Employment equity

The total staff complement is 695. The representation of females at Senior Management level is 26 against males at 13. At levels 12 and below, the representation of females is 389 against the males at 295.

There are 15 staff members with disabilities, which constitutes 2.1% of the total establishment.

STAFF COMPLIMENT AND VACANCY RATE IN THE BRANCH RESTITUTION

The number of funded positions in line with the approved structure dated 11 December 2020 is **749** with the total number of filled positions being **693** with **57** vacant positions. This constitutes a vacancy rate of about **7%** which is below the ideal vacancy rate of **10%** as prescribed by National Treasury.

OFFICE	NUMBER OF FUNDED POSTS	NUMBER OF POSTS FILLED	NUMBER OF POSTS VACANT	PERCENTAGE VACANCY RATE	HEAD COUNT
NATIONAL OFFICE	86	79	7	8%	79
EASTERN CAPE	66	62	4	6%	62
FREE STATE	35	31	4	11%	31
GAUTENG	65	62	3	5%	62
KWAZULU-NATAL	112	105	7	6%	105
LIMPOPO	98	85	7	7%	85
MPUMALANGA	113	106	7	6%	106
NORTHERN CAPE	36	35	4	11%	35
NORTH-WEST	72	67	5	7%	67
WESTERN CAPE	66	61	5	7%	61
TOTAL	749	693	57	7%	693

PART C: MEASURING OUR PERFORMANCE

6 Institutional performance information

6.1 Programme 1: Claim settlement

Purpose: This programme exists to solicit, investigate and attempt to resolve land claims through negotiation and/or mediation, or otherwise to refer the claims for adjudication to the LCC.

6.1.1 Outcomes, outputs, performance indicators and targets

Outcome 1: Restored land rights and alternative forms of equitable redress

Table 4: Outcomes, outputs, performance indicators and targets for Outcome 1

Outcome	Output	Output indicators	MTEF period		
			2024/25	2025/26	2026/27
Restored land rights and alternative forms of equitable redress.	1.1 Claims recommended for settlement	1.1 Number of land claims recommended for settlement	319	451	392
	1.2 Land claims Settled	1.2 Number of land claims settled	319	451	392
	1.3 Land claims finalised	1.3 Number of land claims finalised	339	399	446

NB. APP targets for outer years 2025/26 and 2026/27 are projection depending on budget availability and human resource.

Table 5: Annual and quarterly targets for Outcome 1

Output indicators		Annual target (2024/25)	Quarter 1	Quarter 2	Quarter 3	Quarter 4
1.1	Number of land claims recommended for settlement	319	59	93	93	74
1.2	Number of land claims settled	319	59	93	93	74
1.3	Number of land claims finalised	339	65	87	102	85

Sectoral Claims to be settled

Financial Compensation Claims = 217



Agriculture =54



Forestry = 21



Conservation/ Tourism =16



Urban Commercial/Development =11



6.2 Explanation of planned performance over the five-year planning period

6.2.1 Related priority area

The MTSF priority area to which this outcome relates is Spatial Integration, Human Settlements and Local Government. Effectively, this priority considers rapid land and agrarian reform that contributes to reduced asset inequality, the equitable distribution of land and food security.

Key initiatives include the following:

- Land acquired for redistribution, restitution and tenure reform.
- Land reform projects provided with post-settlement support.

Redress and equitable access to land is aimed at achieving equitable access to land. Land distributed to victims of racially motivated land dispossession allows them to effectively participate in land utilisation for agricultural, housing or commercial use.

7. Explanation of planned performance

Improved governance and service excellence is related to the priority of a capable, ethical and developmental state. It shows DALRRD's willingness to create a capable governance structure, built on principles of high ethical standards. A well-run government will influence all the areas of DALRRD's impact statement. When governance is improved, and corruption reduced, the organisation will be well positioned to achieve the impact it wants to see.

Innovation in service delivery, strong internal controls and full compliance with policies will enable the organisation to achieve its five-year targets. This should be supported by effective change management and capability development to create a high-performance culture. The development of skills in the organisation should be aligned to the development needs in the business to support the execution of the strategy. A set of 22 initiatives has been identified to ensure that the five-year targets and outcomes can be achieved. Each of these have been projectized and linked to the six outcomes as indicated above. The initiatives often impact on more than one outcome, which is indicated in the tables as primary or secondary links.

7.1 Cost drivers

From the discussion above, six key cost drivers can be identified. The statistics projected below are based on the backlog reduction strategy project (within Project Kuyasa), which established frameworks to improve the accuracy and quality of claim statistic reporting at the CRLR. These statistics are subject to change following the completion of the full verification audit commencing in 2022.

7.1.1 Settlement of claims lodged before 1998 cut-off date

A claim is settled once the Minister (or the duly delegated officials) have approved an award for the restoration of a right, alternative land or financial compensation. Once a settlement has been made, it is entered into the commitment register until such time as the award has been effected, i.e. the land has been transferred or financial compensation has been paid in full. The process towards settlement utilises the CRLR's operational budget (i.e. compensation of employees (CoE), and goods and services) to execute research and to fund the payment of service providers such as valuers.

There are 5985 old outstanding claims that were lodged before the 1998 cut-off date as of January 2024. The full business process has to be followed to settle the claims. In addition, some claims have only been partly settled, i.e. some phases of the total claim have been settled on some of a number of properties claimed, but not all the properties or portions have yet been settled or restored. The current annual target identifies 319 claims to be recommended for settlement by the CRLR: 319 claims to be settled and 339 projects to be finalised. As indicated above, the processes to research claims and recommend them for settlement utilise the CRLR's operational budget.

The total operational budget of the CRLR and the Restitution Branch (i.e. compensation of employees, goods and services, and machinery and equipment) is R1.1 billion for 2024/25.

In-year costs for the settlement of claims

The APP sets a target of 319 of the claims lodged before the 1998 cut-off date to be recommended for settlement by the CRLR in 2024/25. These claims are to be settled by the Restitution Branch. The household budget allocated for 2024/25 is R2,464,579. This includes the budget of the CRLR and the Restitution Branch. Therefore, a process should be initiated to split the respective budgets. Research of claims will be insourced and (in the case of complex claims) outsourced.

7.1.2 Finalisation of claims lodged before the 1998 cut-off date

A claim is finalised when the settlement, contained in section 42(D) or a court order, has been affected, i.e. the property has been transferred to the beneficiary or the financial compensation has been paid. The finalisation of claims is the responsibility of the Restitution Branch.

The CRLR is developing a defined process to determine a more accurate estimate for costs related to finalisation. The increase in annual targets to finalise claims can only be done if substantial additional operational funding is allocated to researching, recommending and settling these claims (as a precursor to finalisation) as many of the remaining claims are quite complex and demand considerable effort in terms of research and negotiations with communities and land owners.

In-year cost for the finalisation of claims

The APP target 319 settlement and 339 claims to be finalised with an available budget of R3,595 billion for 2024/25.

Clearing the commitment register

Clearing the commitment register

As indicated above, once a settlement (award) is approved by the Minister or the LCC, a commitment is raised. The commitment register increases or decreases as new claims are settled (when it would increase) or as settled claims are finalised (when it would decrease). By clearing the commitment register, targets are achieved insofar as the finalisation of claims is concerned.

Commitments presently amount to R5, 357 billion. Some 41% of the commitments, amounting to R2,190 billion, are in respect of development, and 12% are for the payment of land purchases and 47% for payment of financial compensation. Presently, all these commitments are funded from the project budget of Programme 3.

The commitment register is progressively being reduced through the finalisation of claims that were settled in the previous financial years. A balance needs to be struck between clearing the commitment register of claims originating from previous years (which are often more difficult to finalise due to ageing) and the current year settlements.

To date, 41% of the commitments, amounting to R2, 219 billion, are in respect of development grants, and 12% for the payment of land purchases and 47% for payment of financial compensation (i.e. are directly related to the legal mandate of the CRLR as

contained in the Act). Although the CRLR has a direct interest in assuring that all land transferred to restitution beneficiaries is utilised optimally in the interest of food security and job creation, this mandate lies outside the CRLR.

As such, it may be appropriate to move the commitment in respect of development grants to the relevant programme within DALRRD. At this stage, commitments made in terms of section 42(C) (i.e. development grants) are still being paid out of the restitution budget.

Reopening of claims

As indicated above, the Restitution of Land Rights Amendment Act, 2014 (Act No. 15 of 2014), came into operation on 1 July 2014 and provides for the re-opening of the lodgement of land claims for a period of five years up to 30 June 2019.

Due to the history of inaccurate information and data within the CRLR, the CRLR decided that all claims must be lodged electronically. An electronic lodgement system has been developed. This system is being further developed to interface with an electronic project management system that will enable the electronic processing of claims. The electronic lodgement system will also be the land restitution register that the Restitution Act requires to be established and maintained.

The Restitution Act requires the CRLR to prioritise the settlement of claims lodged before the 1998 cut-off date and which had not yet been finalised when the lodgement of claims was re-opened. While the CRLR is committed to prioritising the settlement of claims lodged before 1998, preparing for the reopening of claims lodged after 1998 will be crucial to the CRLR's performance.

8 Programme resource considerations

8.1 Resource considerations

The future structure and concomitant human resources will only be developed after the business process mapping has been finalised and the structure determined following an investigation into the most appropriate organisational structure and form. It is envisaged that the CRLR's staff will only carry out functions related to the CRLR's mandate.

8.2 Institutional and organisational structure of the CRLR

The structure, as illustrated in Figure 2, is the current de facto organogram and reporting structure. Within the National Office, the RLCC, DLCC, and CD: RMS report to the CLCC and have various directors reporting to them. Within the nine provincial offices, each province is overseen by a CD: LRS, who reports to the CLCC. The CRLR is currently in the process of formalising this organisational structure as part of the CRLR's autonomy programme.

8.3 Critical funding

Human resources

The number of funded positions in line with the approved structure dated 11 December 2020 is **749** with the total number of filled positions being **693** with **57** vacant positions. This constitutes a vacancy rate of about **7%** which is below the ideal vacancy rate of **10%** as prescribed by National Treasury, as part of the autonomy programme, is currently taking place with requirements in terms of additional human resources for the future structures being defined.

Goods and services

In order to expedite the settlement of claims, the offices need to appoint specialists to provide services such as claimant verification, valuations and the tracing of beneficiaries. This relates to both the clearing of the commitment register, as well as settling the outstanding claims. These expenses cannot be covered by the transfer to households/capital budget as they are unrequited and, in some cases, the research leads to the dismissal of claims with no ultimate benefit to households. In order to fast-track the settling of claims, the focus is on finalising the research on outstanding claims. This will lead to the appointment of service providers and academic institutions to facilitate the process. As the Restitution Branch does not have district offices, officials need to travel to communities to hold meetings, attend to negotiations and collect complete supporting documentation. The travel cost is a cost driver for the restitution offices. The Restitution Branch supports communities with legal fees in terms of section 29(4) of the Act. The legal fees, as well as state attorney fees, are a big cost driver for the programme. A reprioritisation of funds is currently taking place in this regard.

Machinery and equipment

Capital assets have a set depreciation period and some of the departmental resources, like computers, have already reached the end of their life cycle; hence the request for additional funding to replace such assets. The financing cost for the lease of labour-saving devices is allocated as capital asset funding. Officials work in the field and must be able to work remotely. A need has been identified for equipment to work remotely. A reprioritisation of funds is currently taking place in this regard.

Transfers and subsidies

The Restitution Branch has been unable to fast-track the settlement and finalisation of outstanding land claims due to a lack of funding and human resource capacity. A backlog of commitments is also due to claimants. Furthermore, there is a need to factor in grants to communities who have since received land and are not able to utilise the land sustainably due to the lack of grant funding. This has resulted in bad publicity for the DALRRD as farms are not sufficiently supported by means of recapitalisation and development funding.

8.4 Summary of critical budget requirements

For the 2024–2027 MTEF, the baseline allocation amounts to R7.8 billion for the restitution budget in order to purchase land, pay out development grants and pay financial compensation. The committed funds of projects already approved by the Minister amount to R5,357 billion, which has an impact on the required budget.

Table 9: MTEF budget allocation per item

TOTAL: RESTITUTION	2024/25 R'000	2025/26 R'000	2026/27 R'000
<u>Economic classification</u>			
Compensation of employees	456,048	476,081	495,151
Goods and services	319,192	339,216	356,590
Provinces and municipalities	7,725	8,062	8,422
Households	2,464,579	2,576,811	2,771,883
Payments for capital assets	348,296	322,249	345,556
TOTAL ECONOMIC CLASSIFICATION	3,595,840	3,722,419	3,977,602

Table 10: Indicative MTEF Budget allocation per sub-programme

PROGRAM	2023-2024 ADJUSTED BUDGET	2024-2025 BASELINE	2025-2026 BASELINE
National Office	209,007	222,778	222,778
LRS Offices	922,660	923,254	983,384
Households	2,464,173	2,576,387	2,771,440
Total	3,595,840	3,722,419	3,977,602

Table 12: Key risks and mitigation

No.	Outcome indicator	Key risks		Risk mitigation
		Weaknesses	Threats	
Outcome 1: Restored land rights and alternative forms of equitable redress				
1.	Ensure CRLR is equipped to investigate and settle all land claims (for claims lodged before 1998 deadline)	<ul style="list-style-type: none"> • Policy • Budget • Human resources and structure • Information management and statistics • Centralisation • Lack of post-settlement support • Stakeholder management 	<ul style="list-style-type: none"> • Mandate uncertainty • Unrealistic expectations • Supportive and enabling environment • Propaganda • Reopening claims 	<ul style="list-style-type: none"> • Clear mandate development • Implementation of an effective organisational form and associated structure with required human resources • Verification of claim statistics • Develop and implement internal SOPs • Develop and implement departmental process related to and external SLAs • Prepare for the reopening of new order claims
2.	Define a clear organisational mandate with processes and an appropriate structure	<ul style="list-style-type: none"> • Centralisation • Human resources and structure • Lack of project support 	<ul style="list-style-type: none"> • Finances and funding • DPSA • National Treasury • Union involvement 	<ul style="list-style-type: none"> • Secure funding through effective business case development and stakeholder engagement • Development and implementation of an effective and appropriate organisational structure, business processes and human resources

No.	Outcome indicator	Key risks		Risk mitigation
		Weaknesses	Threats	
Outcome 2: Improved governance and service excellence				
2.	Establish the CRLR as an autonomous organisation, improving the governance structures and overall service delivery	<ul style="list-style-type: none"> • Policy • Budget • Human resources and structure 	<ul style="list-style-type: none"> • Finances and funding • DPSA • National Treasury • Department • Conditions of service • Union involvement 	<ul style="list-style-type: none"> • Effective business case development and DPSA/ National Treasury engagement for approval • Business case to highlight required structure, functions and human resource requirements • Manage stakeholder expectations throughout the autonomy programme

Summary of the strategic risks that may affect the achievement of the identified outcomes and the respective risk mitigations have been outlined in Table 13.

Table 13: Risk types and mitigation

Risk type	Risk	Risk mitigation
Finance		
Budgetary risks	Limited budget	<ul style="list-style-type: none"> • Offers to be negotiated and linked to the recommendations of the Valuer-General • Annual submissions to National Treasury to indicate funds required in the adjustment and MTEF cycle
Expenditure risks	Under-spending	<ul style="list-style-type: none"> • Monthly expenditure monitoring and cash flow revision(s) to be done
Support		
IT systems	Lack of effective information and records management system	<ul style="list-style-type: none"> • Development of standardised business process to be fed into the project and management information system • Apply change management principles during implementation
Human resource risks	Ineffectual human resources	<ul style="list-style-type: none"> • Development of revised institutional form and continual training
Process risks	Delays in implementation of settlements,	<ul style="list-style-type: none"> • Developed detailed business process that is elaborated into SOPs and timeframes. • Implementation of reviewed settlement models

Risk type	Risk	Risk mitigation
Regulatory		
Reputational risks	Reputational risk linked to delays in the settlement of claims	<ul style="list-style-type: none"> • Statutory Commission meetings to be held with formal and widespread communication aims, including media, as well as quarterly statistics releases • Communication process under way in collaboration with the GCIS
Legal and regulatory risks	No clear definite mandate of the CRLR (e.g. scope creep into post-settlement issues) Litigation risks	<ul style="list-style-type: none"> • Clarify mandate in the context of future autonomy and develop plans to ensure integration with DALRRD's processes • Improvement of tracking and management of matters in court compliance checklist and quality control by quality assurance • Increased quality assurance capacity

9 Public entities

N/A

10 Infrastructure projects

N/A

11 Public-private partnerships

N/A

PART D: TECHNICAL INDICATOR DESCRIPTIONS

Outcome 1: Core – Restored land rights and alternative forms of equitable redress

Output indicator 1.1

Indicator title	Number of land claims recommended for settlement
Definition	<ul style="list-style-type: none"> The indicator refers to the total number of claims lodged that have been recommended for approval through the Quality Control Committee (QCC) process for settlement either by the Minister or as per delegations at the time. The indicator also includes claims recommended for full and final settlements for missing or untraceable or uncooperative beneficiaries where the settlements were not previously counted. A claim is settled once the Minister (or the duly delegated official(s)) has approved an award for the restoration of a right, alternative land or financial compensation.
Source of data	<ul style="list-style-type: none"> Signed section 42D and/ or 42E making an award of financial compensation, land or alternative redress
Method of calculation / assessment	<ul style="list-style-type: none"> Simple count: Claims are counted as recommended for settlement when the chairperson of QCC has signed off on the submission
Means of verification	<ul style="list-style-type: none"> QCC Minutes
Assumptions	<ul style="list-style-type: none"> Effective processing of claims
Disaggregation of beneficiaries	<ul style="list-style-type: none"> N/A
Spatial transformation	<ul style="list-style-type: none"> Equitable redress to victims of racially motivated land dispossession Integration of segregated communities
Calculation type	<ul style="list-style-type: none"> Cumulative year end
Reporting cycle	<ul style="list-style-type: none"> Quarterly
Desired performance	<ul style="list-style-type: none"> 319 claims settled
Indicator responsibility	<ul style="list-style-type: none"> Chief Land Claims Commissioner as delegated by the Minister

Output indicator 1.2

Indicator title	Number of land claims settled
Definition	<ul style="list-style-type: none"> • The indicator refers to the total number of claims lodged that have been settled either by the Minister or as per delegations at the time or through court directives. • The indicator also includes full and final settlements for missing or untraceable or uncooperative beneficiaries where the settlements were not previously counted. • A claim is settled once the Minister (or the duly delegated official(s)) has approved an award for the restoration of a right, alternative land or financial compensation.
Source of data	<ul style="list-style-type: none"> • Signed section 42D and/ or 42E and /or Court Order making an award of financial compensation, land or alternative redress
Method of calculation / assessment	<ul style="list-style-type: none"> • Simple count: Claims are counted as settled when signed by the DALRRD Minister / as per delegation or court directive is received
Means of verification	<ul style="list-style-type: none"> • Signed section 42D and/ or 42E and /or Court Order
Assumptions	<ul style="list-style-type: none"> • Effective processing of claims
Disaggregation of beneficiaries	<ul style="list-style-type: none"> • N/A
Spatial transformation	<ul style="list-style-type: none"> • Equitable redress to victims of racially motivated land dispossession • Integration of segregated communities
Calculation type	<ul style="list-style-type: none"> • Cumulative year end
Reporting cycle	<ul style="list-style-type: none"> • Quarterly
Desired performance	<ul style="list-style-type: none"> • 319 claims settled
Indicator responsibility	<ul style="list-style-type: none"> • Chief Land Claims Commissioner as delegated by the Minister

Output indicator 1.3

Indicator title	Number of land claims finalized
Definition	<ul style="list-style-type: none"> • The indicator refers to land claims that have already been settled, which have now been finalised. Finalised means full financial compensation being disbursed, or the land purchase price has been disbursed; and/or land has been transferred, or a combination thereof. The indicator includes the number of claims that have been dismissed or deemed non-compliant. The indicator also includes declarations for the commitment register to clear the commitment register and deferred claims and/or untraceable claims • A claim is finalised when the settlement, as contained in section 42(D), or a court order has been effected, i.e. the property has been transferred to the beneficiary or the financial compensation paid.
Source of data	<p>Includes one or a combination of:</p> <ul style="list-style-type: none"> • Signed-off provincial reports • Basic Accounting System (BAS) reports • Project summaries • Non-compliant or dismissal letter to claimant signed by the RLCC • Approved declaration or reconciliations to clear funds from the commitment register • DeedsWeb report to confirm transfer to claimants • Deferral Memo signed by the RLCC that claim and/ or untraceable claims to be referred
Method of calculation / assessment	<ul style="list-style-type: none"> • Simple count of the number of claims that were finalized within the period under review
Means of verification	<ul style="list-style-type: none"> • Detailed dated and signed register of land claims finalised and proof of payment/ financials provided on the departmental letter head dated within the period under review. • Dated and signed non-compliant/ dismissal letter on approved letter head, signed by the RLCC where the minimum period of 30 days has lapsed at the time of the RLCCs signature • Deeds Web printout confirming transfer details • Dated and signed declaration or reconciliation submission to clear funds from the commitment register. • Dated and signed deferral memo on approved letter head, signed by the RLCC
Assumptions	<ul style="list-style-type: none"> • Claims settled
Disaggregation of beneficiaries	<ul style="list-style-type: none"> • N/A
Spatial transformation	<ul style="list-style-type: none"> • Equitable redress to victims of racially motivated land dispossession • Integration of segregated communities
Calculation type	<ul style="list-style-type: none"> • Cumulative year end
Reporting cycle	<ul style="list-style-type: none"> • Quarterly
Desired performance	<ul style="list-style-type: none"> • 339 claims finalised
Indicator responsibility	<ul style="list-style-type: none"> • Head Branch Restitution and Chief Land Claims Commissioner as delegated by the Minister