

ANNUAL PERFORMANCE PLAN

Commission on
Restitution of Land Rights



COMMISSION ON RESTITUTION OF
LAND RIGHTS

1 April 2022–31 March 2023

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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
GCIS	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

There is an increasing realization that land reform is costly and that targets for settling claims and expediting land reform broadly need to be balanced with the realistic national macroeconomic constraints. Equally, there is consensus that the country has made marked progress in the following areas;

- The development of land reform legislation;
- Programmes for land restitution, redistribution and tenure reform were delivered with some success and lessons learnt from these experiences;
- The recognition of the importance of land administration whilst noting the enormity of the task for its establishment, and
- The development and institutionalisation of the Spatial Planning and Land Use Management Act (16), of 2013 has also shown marked progress with the introduction of planning principles, the review of Spatial Development Plans and the embedding of Spatial Development Frameworks at national, provincial and municipal spheres to guide long term spatial planning and also introducing regional spatial development frameworks to deal with areas in the country that have particular characteristics that either need protection or development.

Associated developments such as the National Development Plan (2010); and the District Development Model, amongst others constitute an impressive land reform planning architecture.

While noting this, the 2019 Report of the Presidential Advisory Panel on Land Reform and Agriculture (Presidential Advisory Panel) indicated that combined, both land restitution and redistribution, had over the past 25 years secured and transferred to black beneficiaries less than 10% of commercial agricultural land. The report, while highlighting the need to upscale land reform and specifically land acquisition, it also noted the need for a properly coordinated farmer or producer support programme.

With respect to restitution, the Presidential Advisory Panel underscored the need for the Commission on Restitution of Land Rights (henceforth the Commission) to be capacitated to expedite the settlement and finalisation of old order land claims. In this regard I am happy to note, as outlined below and elaborated further in the CLCC's overview, that the Commission is making impressive strides towards settling the outstanding claims.

REVIEW OF PERFORMANCE IN THE PRECEDING PERIOD

Like all other state entities, the Commission has been operating under the conditions of Covid-19 and the Disaster Management Act Regulations that tend to have adverse effects on organisational performance.

The Commission in its 5th LAMOSA report submitted to the Land Claims Court (LCC) on 14 December 2021 indicated that a total of 7 148 claims constitutes the remaining old order outstanding claims. An accumulative total of 82 295 claims have been settled to date. A total of 3,8 million hectares of land has been secured at a cost of over R24 billion. Financial compensation awards totalling R18 billion have been paid out to date.

These land and financial compensation awards have benefitted a total number of 444 057 households who constitute a total of 2 228 123 beneficiaries. Of this 170 616 are female headed households while a 1 202 are people living with disabilities.

The Commission has set itself a target of settling a total of 336 claims and finalising a total of 372 claims for the 2022/23 Annual Performance Plan. This represents a marked increase from the targets set for 2021/22 and is premised on the anticipated significant improvements with regards to the Covid-19 situation in the country.

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.

Review of the Property Valuation Act

In response to the 2019 Presidential Advisory Panel recommendation to review the operations of the Office of the Valuer General (OVG) by aligning it with the requirements of section 25(3) of the Constitution and responding to other queries from the clients of the OVG, the DALRRD under my direction appointed a panel charged with the responsibility to review the OVG legislative and policy mandates. The panel has conducted stakeholder hearings and will shortly be proposing desirable amendments and other related changes.

Land Donations Policy

As part of endeavours to strengthen land redistribution by diversifying approaches to land access, the Department has developed the Land Donations Policy which has since been approved by Cabinet. This policy seeks, amongst other things, to lessen the burden of state costs associated with land acquisition for land reform.

National Policy for Beneficiary Selection and Land Allocation

Similarly, in response to the Presidential Advisory Panel which highlighted inefficiencies and incidents of malfeasance in the current land redistribution beneficiary selection, the Department has developed the National Policy for Beneficiary Selection and Land Allocation which seeks to create a more streamlined, coordinated, participatory and transparent beneficiary selection and land allocation process. This policy has also been approved by Cabinet.

Land redistribution policy framework

Furthermore, the Presidential Advisory Panel identified the need for aligning the land redistribution legislation and policy with the Constitutional requirements contained in section 25(5) as urgent. In this regard, the Department is in the early stages of consultations on how this could be accomplished. A draft Land Redistribution policy framework discussion paper has been developed and internal discussions are taking place.

As alluded to earlier, there is a growing body of knowledge that shows that weaknesses in the land redistribution programme put pressure on the land restitution programme as disillusioned, "would be land redistribution applicants," resort to the restitution programme often with baseless land claims. A well-structured and functioning land redistribution programme is also key to the country's quest for a fairer

distribution of land as it contributes directly to land acquisition without the option of financial compensation applicable to restitution.

CONCLUDING REMARKS

Both the Presidential Advisory Panel on Land Reform and the LAMOSAs Constitutional Court judgements of 2016 and 2019 impress upon the Commission and the state to take all necessary measures to ensure that the processing and settlement of old order claims is expedited. This, the Department, owes to those land claimants who have been waiting for far too long since they lodged land claims before 31st December 1998. To achieve this outcome the Department is supporting the measures that the Commission is undertaking to make it an entity that works smarter and faster. Such measures are contained in the CLCCs overview.

Finally, in presenting this 2022/23 APP of the Commission, my staff and I wish to thank the Portfolio Committee for its continuous guidance in the valuable oversight provided to date and in the future.

Overview of the Chief Land Claims Commissioner



Chief Land Claims Commissioner
Nomfundo Ntloko-Gobodo

The year 2019 came with two significant and related developments that combined, brought remarkable impetus on the country's land restitution trajectory. On the 19th of March 2019, upon the realisation that Parliament had not succeeded in enacting a new law that would have allowed for processing of newly lodged land claims, the Constitutional Court upheld the interdict preventing the processing of newly lodged claims, and more significantly, in what is akin to putting the Commission under administration, ordered the Commission to report to the Land Claims Court (LCC) on the progress with settlement of old order claims on six monthly intervals until all outstanding claims are settled or referred to LCC.

In its final report during the same year, The Presidential Advisory Panel on Land Reform called, amongst other things, for the Commission to focus on processing and settlement of old order claims.

In many respects, as we have reported before, the Presidential panel echoed prior performance reviews that inform the work being done in the turnaround project which is called Project Kuyasa. The need to settle and finalise all outstanding old order claims is indisputable and what matters now becomes the strategies and means by which this is enabled. This overview apart from outlining targets also reviews progress being made in the interventions associated with Project Kuyasa.

Progress on Project Kuyasa deliverables

As mentioned, project Kuyasa represents a corrective action undertaken by the Commission based on the various reviews mentioned earlier. As a recap before we delve into the progress being made we tabulate the various subprojects and what they seek to achieve.

Organisational form subproject

To deal with the organisational structure that does not accord with section 4 and 21 of the Legislation that envisions an autonomous entity, Project Kuyasa instituted an organisational form subproject whose outcome seeks to transform the Commission into a schedule 3 public entity.

To date a business case which details the proposed design and cost implications of setting up the Commission as an autonomous entity have been developed and submitted to both DPSSA and the National Treasury for further processing. In the interim, the Minister has approved an interim Commission structure which begins to introduce some level of operational autonomy as well as the introduction of several RLCCs based on a cluster of provinces. This will also go a long way in alleviating the current problem of centralisation of powers of the Regional Land Claims Commissioner.

Backlog reduction strategy

As mentioned, this aims at mainstreaming project management and monitoring tools in the processing of claims. This includes identification of realistic target time to settle all outstanding claims.

In the **Backlog Reduction Strategy**:

- A plan which, resources being available, projects to settle all outstanding claims in the next five years was developed.
- A project reporting and monitoring tool which allows management to monitor processing of claims at any given time was developed.
- Related, and as a reinforcement to this project, is mandatory use of the backlog strategy figures in all reports on outstanding claims.
- An approved research strategy which projects the completion of all research on outstanding claims by 2023 was developed. This strategy also introduces mandatory specialised research units within all Commission offices that have significant numbers of outstanding claims.

Business process improvement

In this subproject, the following progress has been made:

- Final business process has been developed and approved.
- SOPs have been developed across the entire business process.
- SOPs have been workshopped with implementers and are now ready for piloting in identified pilot sites.

In the subproject dealing with **People Management**, there is progress in the form of;

- A “to be” organisational design has been finalised and signed off.
- Job descriptions for new and amended roles have been done, informed by the organisational form.

Settlement models subproject

While the Commission is not responsible for post settlement, it has created a business process which allows for land development planning prior to settlement of a claim. As deliverables in the Settlement model sub-project, the Commission has organised stakeholder engagements to develop claim settlement models suited to various land uses. To date:

- Stakeholder engagements were held as follows: Sugarcane claims in KZN, Mining claims in Northern Cape, Forestry claims in Mpumalanga, Conservation-Tourism claims in North West, High value agriculture in Eastern Cape, Urban settlement development claims in Western Cape.
- Piloting of settlement models on identified claims across land uses is being rolled out in the same identified provinces with an intention to move towards consensus on the most suitable model.

Financial models

Lastly, in the financial models sub-project- the

- Development of draft financial award strategies has been completed.
- Update of financial compensation model is also done.

While reflecting on the progress being made through Project Kuyasa we cannot over-emphasise the importance of a properly capacitated and well-functioning Office of the Valuer General (OVG). In this regard we take note of the steps that the Ministry is taking to properly position the OVG to conduct land valuations expeditiously and within the Constitutional framework.

Budgetary constraints with respect to settlement of claims

We note with appreciation, the marginal increase in the 2022/23 annual budget which is currently an amount of R3,7 billion, however at the current MTEF rate Commission funding remain woefully inadequate to allow for settlement of outstanding claims within the shortest time.

The independent financial forecasting conducted under Project Kuyasa indicate that an estimated amount of approximately R65 billion will be required to settle all outstanding old order claims.

PERFORMANCE REVIEW RELATING TO THE PRECEDING PERIOD

The Covid-19 pandemic continued to wreak havoc throughout the period of 2021/22 and saw the most vicious Delta variant sweeping through and thus brought a third wave along. Building on past experience and lessons learnt in controlling numbers when performing such operations such as claimant verification, the Commission has been able to operate fairly well.

PERFORMANCE TARGETS FOR THE PERIOD AHEAD

Noting that the country is still subject to the unpredictable Covid-19 pandemic, the Commission has set itself a target of recommending 372 claims in the 2022/23 financial year for finalising.

The targets represent an exponential increase from the targets of the preceding period and are thus premised on the improvement in the Covid-19 situation in the country as well as the requisite funding being available.

My staff and I are appreciative of the continued support and guidance provided by the Minister in the formulation of this Annual Performance Plan.



Nomfundo Ntloko-Gobodo
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 2022–2023.



Ms. NS Ntloko-Gobodo
Chief Land Claims Commissioner




Ms. R Sadiki
Chief Financial Officer



Mr. RM Ramasodi
Accounting Officer

Approved by



Honourable Mrs. AT Didiza (MP)
Minister of Agriculture, Land Reform and Rural Development

23-07-2022

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

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.

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”.

Medium-Term Budget Policy Statement

The Medium-term Budget Policy Statement 2021 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.

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 five reports to the LCC in compliance with the requirements of LAMOSAS 2 with the latest report submitted on 14 December 2021.

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 under section 9.5 of 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, 82 295 have been settled as of 30 September 2021. 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 161 000 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 currently has a total of 6907 old order – backlog claims still outstanding, a significant proportion of which needs to be processed and recommended for settlement within the implementation period of this plan.

It is critical that there is enough funding for the actual process of land restitution. Part of this includes ring-fencing the Commission's budget, which is currently included in the budget of DALRRD.

Budgetary requirements will also need to be reviewed going forward as it is estimated that around R65 billion is needed to settle all outstanding pre-1998 claims. This amount excludes the Commission's running costs.

According to National Treasury, government has allocated between R2.5 billion and R3 billion per annum on the restitution programme over a 10-year period from 2009 to 2021 to settle more than 80 000 claims. In 2020, the CRLR's Medium-Term Expenditure Framework (MTEF) allocation for 2020–2023 was R8.057 billion, of which R3.7 billion was allocated from 2022/23.

In view of over 7 000 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 leads to fluctuation of targets from MTEF.

5.1.2 Policy environment

There are several drivers of legislative and policy amendments pertaining to land restitution. In 2016, The judgment of the Constitutional Court in the LAMOSI case required the amendment of the Land Restitution Act of 1994.

In addition, the High-Level Panel made a few recommendations on legislative amendments. Sectoral and stakeholder dialogues hosted by the Commission have identified the need for amendments in some of the settlement models that are currently being used in the Commission.

The draft Expropriation Bill was published in 2018. It focused on speeding up the land reform process by enabling the state to pay for land according to a price determined by a government adjudicator, thereby allowing for expropriation for the public good. However, the Bill is still in draft form and will require clarity in terms of its implementation, for instance, around the application processes.

Finally, implementation of land restitution over the past 20 years has resulted in the identification of legislative conflicts and challenges both within the Land Restitution Act and in other relevant legislation.

The CRLR initiated an overarching performance improvement project, dealt with in detail under section 9.5, which has multiple subprojects, aimed at improving institutional and operational systems, including the development and review of policies, legislative amendments and settlement models.

The development and implementation of measures aimed at repositioning the CRLR to meet these recommendations are outlined in the section dealing with the internal environment.

5.1.3 Recent developments

Various public consultations were held in 2018 on how to accelerate land reform, including assessing the viable use of land expropriation without compensation. As a result, Parliament set up a Constitutional Review Committee to provide input into the proposed amendment to section 25 of the Constitution to clarify when expropriation without compensation would be applied.

Further, a new draft Expropriation Bill was introduced and put forth for public comment. The most significant addition of the Expropriation Bill of 2019 is that it specifies the five types of land that may be expropriated for nil compensation: these being land occupied by a labour tenant, land held for speculative purposes, land owned by state-owned entities, abandoned land, and land with a lesser value than the state subsidies it received.

Two important elements to note regarding the Bill are that "nil" does not necessarily mean no compensation, but rather a "just and equitable" price; and secondly, that homes and productive agricultural land are not included in the list.

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) and appointed Deputy President David Mabuza as its Chairperson. 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.

Transfer settled restitution claims to the DALRRD

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 September 2021, 82 295 land claims have been settled. The settlement of these claims has resulted in the award of 3.8 million hectares of land to the beneficiaries at an amount of R24.4 billion. These settlements also approved financial compensation of R18.4 billion to claimants. The restitution programme has benefited 2.2 million individual beneficiaries who are members of 444 057 households. Of those, 170 616 are female-headed households and 1 202 are headed by persons living with disabilities.

Section 42C of the Restitution Act provides for the Minister to allocate development grants to the beneficiaries who have received land. To date R5,273,913,892.95 have been allocated towards these grants over time.

Table 1: Service delivery performance (Cumulative statistics: 1995 – 30 September 2021)

Province	Total claims lodged	CLAIMS SETTLED	HHs	BEN	FHHS	PEOPLE LIVING WITH DISABILITIES	HECTARES	LAND COST
Eastern Cape	16 716	17046	87963	404377	33771	0	142528	131 659 35
Free State	2 682	2671	8721	52659	3221	10	60387	93 522 83
Northern Cape	3 852	13404	20930	82628	9285	16	23970	101 419 93
Gauteng	13 162	15891	96040	547255	32221	548	868835	8 221 801 08
North West	3 902	4632	65387	314772	26522	0	772105	4 535 595 36
KwaZulu-Natal	16 394	3301	60262	310864	20801	58	532638	6 433 282 32
Limpopo	3 489	4044	25911	139546	10452	155	846750	890 606 80
Mpumalanga	3 400	3967	45327	225514	19614	37	576991	3 690 855 30
Western Cape	16 099	17339	33516	150508	14729	378	11058	305 044 35
Total	79 696	82295	444057	2228123	170616	1202	3835262	24 403 787 34

Table 1: Service delivery performance (continued)

Province	Total claims lodged	DEVELOPMENT	RDG	SPG	RSG	TOTAL
Eastern Cape	16 716	377 479 960,36	81 426 000,00	39 003 850,00	50 972 735,00	5 907 534 117,03
Free State	2 682	40 280 669,71	9 174 000,00	4 400 640,00	1 721 295,00	598 690 375,27
Northern Cape	3 852	72 142 501,38	6 957 000,00	2 399 040,00	4 161 445,00	1 243 289 048,18
Gauteng	13 162	790 845 644,28	96 132 000,00	41 747 520,00	47 391 375,00	13 470 287 389,54
North West	3 902	874 121 844,86	99 422 640,00	45 732 600,00	26 142 580,00	8 155 990 919,21
KwaZulu-Natal	16 394	573 129 596,77	92 763 000,00	44 347 350,00	20 708 300,00	8 533 864 361,94
Limpopo	3 489	243 712 500,99	11 668 460,88	12 829 180,94	13 176 810,00	2 363 768 074,74
Mpumalanga	3 400	622 031 114,53	81 906 000,00	39 238 844,23	8 329 485,00	5 163 503 888,50
Western Cape	16 099	778 181 037,02	15 282 540,00	4 195 452,00	758 880,00	2 710 111 478,87
Total	79 696	4 371 924 869,90	494 731 640,88	233 894 477,17	173 362 905,00	48 147 039 653,28

5.3.3 Financial performance

The CRLR has spent in excess of R13 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 (33.9%) is less than the amount paid in financial compensation (55.5%). Development grants amounted to R1.39 billion, which is 10.6% of the expenditure.

Table 2: Expenditure on land purchase and financial compensation since 2016/18

Financial year	Financial compensation	Land purchase	Grants	Total
2016/17	1 420 167 854	1 034 873 777	323 884 704	2 778 926 335
2017/18	1 589 812 161	762 271 283	165 729 692	2 517 813 136
2018/19	1 901 677 563	383 775 852	388 754 510	2 674 207 925
2019/20	1 221 869 544	1 519 595 916	317 637 520	3 059 102 980
2020/21	1 241 382 000	815 616 000	201 515 000	2 258 513 000
Total	7 374 909 122	4 516 132 828	1 397 521 426	13 288 563 376

Table 3: Expenditure vs budget as at 31 December 2021

Province	Budget	Expenditure	Variance	Percentage
Eastern Cape	482 997	199 485	283 512	41
Free State	22 042	7 221	14 821	33
Northern Cape	23 938	3 231	20 707	13
Gauteng	25 613	14 105	11 508	55
North West	321 191	63 901	257 290	20
KwaZulu-Natal	482 703	270 172	212 531	56
Limpopo	412 030	238 737	173 293	58
Mpumalanga	216 261	91 927	123 869	43
Western Cape	322 260	316 181	6 079	98
National Office	2 309 035	1 204 961	1 103 609	52
Total	482 997	199 485	283 512	41

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 LAMOSA 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 will 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 recommended further policies and standard operating procedures that would support the proposed re-engineered business process to fast-track the settlement of claims.

A Policy Development Committee has been established to ensure that the process of policy and standard operating procedures review and development is properly steered and monitored.

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. The project will be undertaken in three phases over a period of six months, ensuring that the expected benefits are met through the project.

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), Chief Director: Restitution Management Support (CD: RMS) and report to the CLCC and have various directors reporting to them. Within the nine provincial offices, each province is overseen by a Chief Director: Land Restitution Support (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.

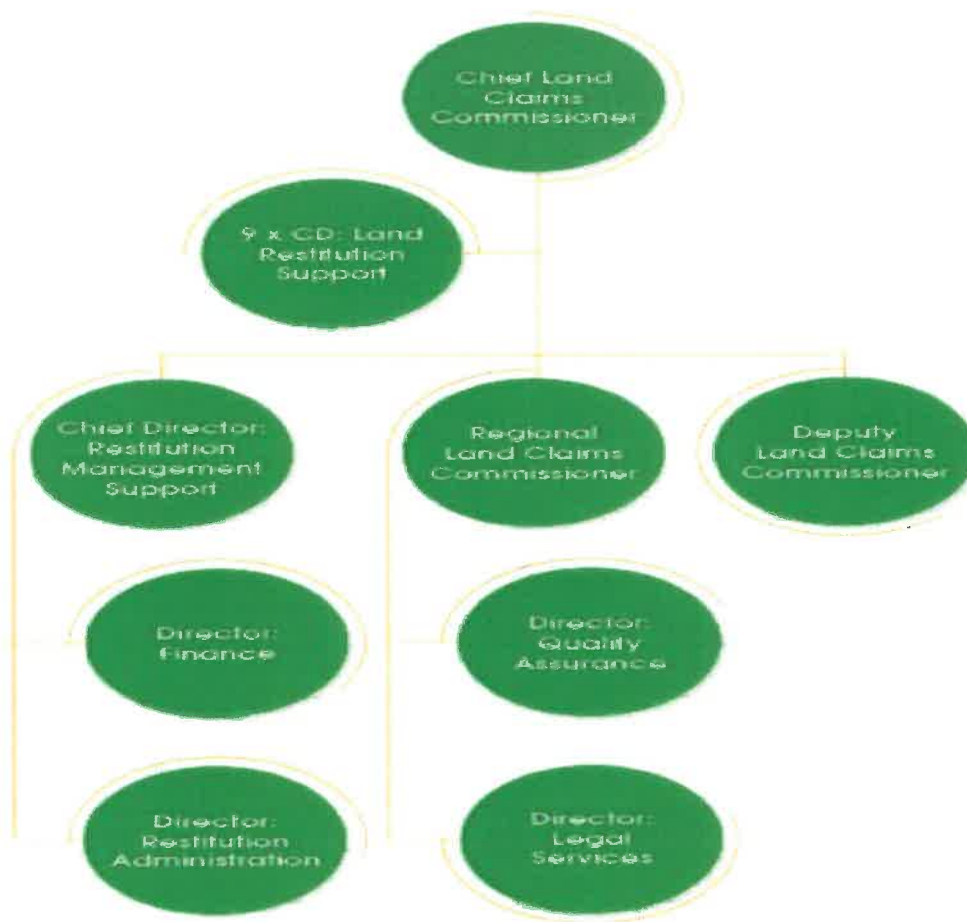


Figure 2: Organisational structure

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 2012/13. The indicative budget for 2021/22 also shows a decline. 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. The projected baseline allocations are the allocations over the MTEF period less the 2019/20 final allocation.

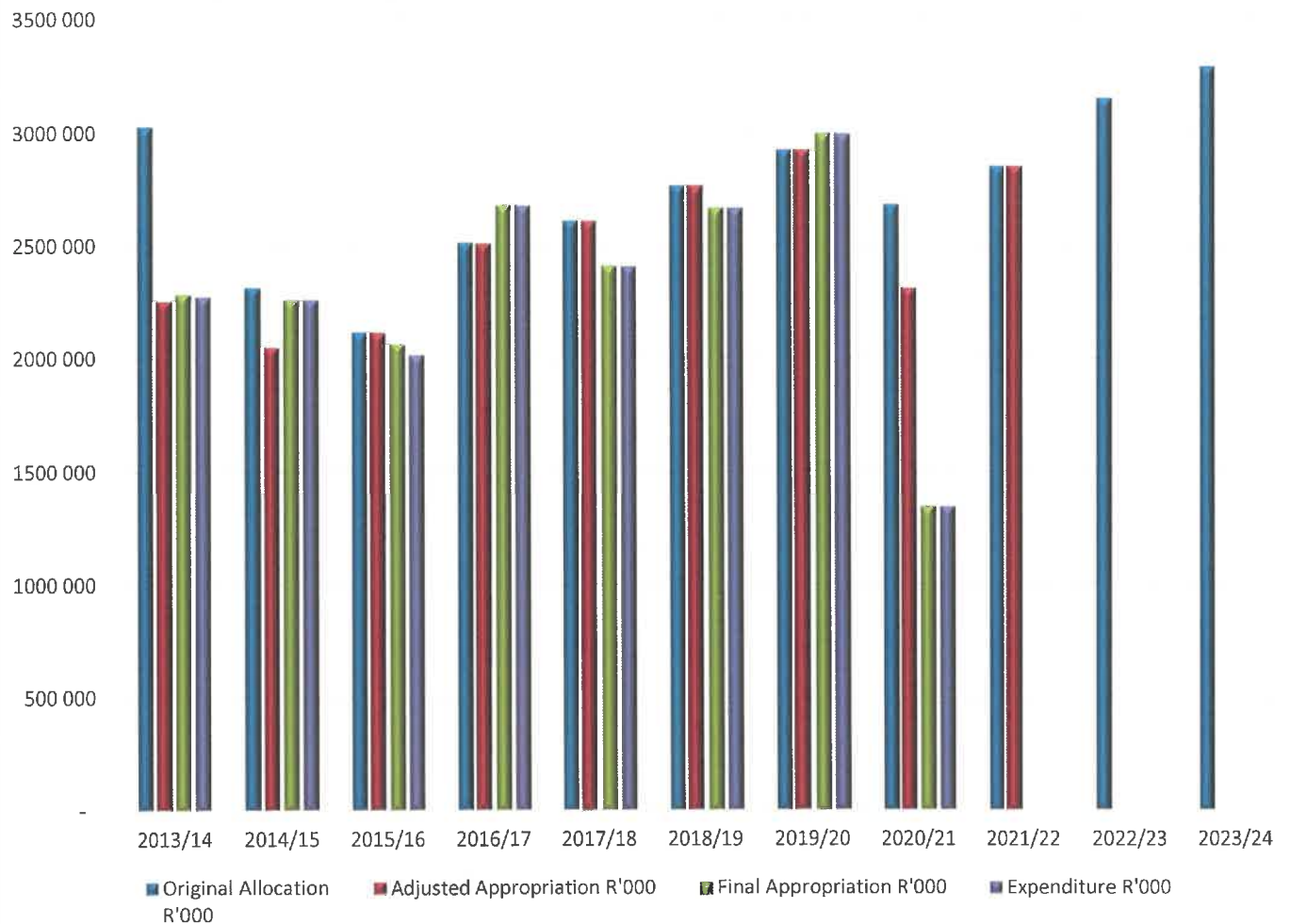


Figure 3: Budget trends

Human resources

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.

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

Female staff members comprise 56% or 387 of all staff, with 44% which is 301 males of the staff component.

There are 13 staff members with disabilities, which constitutes 1.85% of the total.

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		
			2021/22	2022/23	2023/24
1. Restored land rights and alternative forms of equitable redress.	1.1 Claims recommended for settlement	1.1 Number of land claims recommended for settlement	240	336	549
	1.2 Land claims Settled	1.2 Number of land claims settled	240	336	549
	1.3 Land claims finalised	1.3 Number of land claims finalised	316	372	477

Table 5: Annual and quarterly targets for Outcome 1

Output indicators		Annual target (2022/23)	Quarter 1	Quarter 2	Quarter 3	Quarter 4
1.1	Number of land claims recommended for settlement	336	48	79	108	101
1.2	Number of land claims settled	336	48	79	108	101
1.3	Number of land claims finalised	372	58	83	130	101

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.

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 projectised 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.

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 were 6907 outstanding claims that were lodged before the 1998 cut-off date as of 30 January 2022. Of these, 43% are in the research and gazetting stage, and 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 336 claims to be recommended for settlement by the CRLR: 336 claims to be settled and 372 projects to be finalised by the Restitution Branch. 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. CoE, goods and services, and machinery and equipment) is R647 million for 2021/22. A linear projection, without taking into account that the R6 213 million includes management costs, legal costs or any other costs not directly attributed to the settlement of claims, reflects that an amount of R65 billion will be required to settle all claims over the targeted next five years. There is a 25% margin of error on the R65 billion as 43% of the claims are still in the research and gazetting stage and have not been evaluated by the Valuer-General.

In-year costs for the settlement of claims

The APP sets a target of 336 of the claims lodged before the 1998 cut-off date to be recommended for settlement by the CRLR in 2022/23. These claims are to be settled by the Restitution Branch. The households budget allocated for 2022/23 is 3 152 billion. 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 effected, 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. These payments are made from the restitution grants through the transfers and subsidies to the households budget allocation.

A total cost of R65 billion has been estimated for the finalisation of 8 447 claims. 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 336 settlement and 372 claims to be finalised with an available budget of R3.7 billion for 2022/23

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

R5.2 billion. Some 46% of the commitments, amounting to R2,414 billion, are in respect of development, and 54% are for the payment of land purchases and financial compensation. Presently, all these commitments are funded from the households 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, 46% of the commitments, amounting to R2.414 billion, are in respect of development grants, and 54% are for the payment of land purchases and 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 Programme 3 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

As at 2021/22, the restitution database consisted of 780 employees with the approved structure (V2.9) developed by DALRRD consisting of 674 employees. A process of redesigning a new structure for the CRLR, 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 research, 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 through detailed research. 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. 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 2020–2023 MTEF, the baseline allocation amounts to R8.057 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 R5.49 billion, which has an impact on the required budget.

Table 9: MTEF budget allocation per item

ECONOMIC CLASSIFICATION	2021-22 Budget Allocation	2022-23 Baseline	Reprioritisation by Branches	2022-23 Revised Baseline	2023-24 Baseline	Reprioritisation by Branches 2	2023-24 Revised Baseline	2024-25 Baseline	Reprioritisation by Branches 3	2024-25 Revised Baseline
Compensation	365 079	352 264	-	352 264	358 015	-	358 015	374 093	-	374 093
Goods and services	274 267	268 290	2 810	271 100	284 980	3 408	288 388	321 505	-	321 505
Households	2 848 305	3 152 466	2 810	3 149 656	3 291 382	-	3 287 974	3 439 196	-	3 439 196
Provincial and local gov.	7 385	7 732	-	7 732	7 201	-	7 201	7 525	-	7 525
Land & Subsoil Assets	893	-	-	-	-	-	-	-	-	-
Machinery and equipment	10 221	7 392	-	7 392	2 901	-	2 901	3 031	-	3 031
Total	3 506 150	3 788 144	-	3 788 144	3 944 479	-	3 944 479	4 145 350	-	4 145 350

Table 10: Indicative MTEF Budget allocation per sub-programme

PROGRAMME / BRANCH	2022-23 Baseline	Reprioritisation by Branches	2022-23 Revised Baseline	2023-24 Baseline	Reprioritisation by Branches 2	2023-24 Revised Baseline	2024-25 Baseline	Reprioritisation by Branches 3	2024-25 Revised Baseline
Sub Total National	196 687	-	196 687	199 207	-	199 207	223 738	-	223 738
Sub Total Province	438 991	2 810	441 801	453 890	3 408	457 298	482 415	-	482 415
Households	3 152 466	-	3 149 656	3 291 382	-	3 287 974	3 439 196	-	3 439 196
Total	3 788 144	-	3 788 144	3 944 479	-	3 944 479	4 145 350	-	4 145 350

8.4.1 Settlement of claims

As indicated above, the settlement of claims requires operational funding to process claims up to section 42(D) stage. Depending on the methodology used (concurrent assessment of old and new claims, or separate, one after the other), the budget that is required varies between R77 billion and R116 billion.

8.4.2 Finalisation of claims

The finalisation of claims depends on three key factors:

- The number of claims lodged
- The ratio between financial and redress in the form of land
- The cost of land (urban, rural, dry land, conservation, etc.).

Based on estimates, the cost varies between R129 billion and R290 billion (settlement and finalisation, including old claims).

8.5 Updated key risks and mitigation from the strategy plan

Key risks and mitigations linked to the respective outcome indicators have been detailed in Table 12.

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 SOPs Lack of post-settlement support Stakeholder management 	<ul style="list-style-type: none"> Mandate uncertainty Unrealistic expectations Supportive and enabling environment COVID-19 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 SLAs 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
Outcome 2: Improved governance and service excellence				
No.	Outcome indicator	Key risks		Risk mitigation
		Weaknesses	Threats	
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, no standardised business process with timeframes	<ul style="list-style-type: none"> Developed detailed business process that is elaborated into SOPs and timeframes. Implementation of reviewed settlement models
Regulatory		
Risk		
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"> 336 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"> • 336 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.

	<ul style="list-style-type: none"> • 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"> • 372 claims finalised
Indicator responsibility	<ul style="list-style-type: none"> • Head Branch Restitution and Chief Land Claims Commissioner as delegated by the Minister