

# STRATEGIC PLAN 2021–2024



COMMISSION ON RESTITUTION OF  
LAND RIGHTS



# STRATEGIC PLAN

## Commission on Restitution of Land Rights



**1 April 2021–31 March 2024**

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# Table of contents

Minister's Statement	1
Overview of the Chief Land Claims Commissioner	3
Official Sign-Off	5

## A

### PART A: OUR MANDATE 6

1. Constitutional mandate	7
2. Legislative and policy mandates	7
3. Policy mandates	7
4. Relevant court rulings	8

## B

### PART B: OUR STRATEGIC FOCUS 10

5. Vision	11
6. Mission	11
7. Values	11
8. Situational analysis	11

## C

### PART C: MEASURING OUR PERFORMANCE 24

9. Institutional performance information	25
10. Impact statement	25
11. Measuring our outcomes	25
12. Explanation of enablers to achieve five-year targets	26
13. Cost drivers	28
14. Key risks and mitigations	32
15. Public entities	32

## D

### PART D: TECHNICAL INDICATOR DESCRIPTIONS 34

16. Outcome 1	35
17. Outcome 2	36

ANNEXURE A: District Development Model	39
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# Acronyms and abbreviations

<b>APP</b>	Annual Performance Plan
<b>BAS</b>	Basic Accounting System
<b>CD: LRS</b>	Chief Director: Land Restitution Support
<b>CD: RMS</b>	Chief Director: Restitution Management Support
<b>CD: SDC</b>	Chief Director: Service Delivery Coordination
<b>CLCC</b>	Chief Land Claims Commissioner
<b>CoE</b>	Compensation of Employees
<b>CPA</b>	Communal Property Association
<b>CRLR</b>	Commission on Restitution of Land Rights
<b>DALRRD</b>	Department of Agriculture, Land Reform and Rural Development
<b>DLCC</b>	Deputy Land Claims Commissioner
<b>DPME</b>	Department of Planning, Monitoring and Evaluation
<b>DPSA</b>	Department of Public Service and Administration
<b>GCIS</b>	Government Communication and Information System
<b>IMC</b>	Inter-Ministerial Committee on Land Reform
<b>IT</b>	Information Technology
<b>JCC</b>	Joint Coordination Committee
<b>LAMOS A</b>	Land Access Movement of South Africa
<b>LAMOS A 1</b>	Constitutional Court Judgment dated 27 July 2016
<b>LAMOS A 2</b>	Constitutional Court Judgment dated 29 March 2019
<b>LCC</b>	Land Claims Court
<b>MTEF</b>	Medium-Term Expenditure Framework
<b>MTSF</b>	Medium-Term Strategic Framework
<b>NDP</b>	National Development Plan
<b>OVG</b>	Office of the Valuer-General
<b>PFMA</b>	Public Finance Management Act
<b>RLCC</b>	Regional Land Claims Commissioner
<b>SLA</b>	Service-level Agreement
<b>SOPs</b>	Standard Operating Procedures
<b>SWOT</b>	Strengths, Weaknesses, Opportunities and Threats

# Minister's Statement



**Honourable Minister  
Thoko Didiza**

Merely a year ago, no-one could have imagined that the COVID-19 pandemic would create the scale of disruption across the whole world that we have seen to date. It is within this setting of disruption, loss and a new world of work that this strategic plan emerges.

The drafting of this strategic plan was preceded by a period of national debate on the issue of land reform and the urgency expressed in both 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, to accelerate land redistribution, expand agricultural production and transform the industry. The Panel's role in interacting with and advising the Inter-Ministerial Committee on Land Reform, chaired by the Deputy President, was critical.

Both reports echo previous recommendations made by the Department of Planning, Monitoring and Evaluation (DPME) and the Agriculture and Land Reform Phakisa, namely, that the Commission on Restitution of Land Rights (CRLR) should focus on the settlement of land claims and specifically the acceleration and resolution of the old order claims as its core mandate. Within the Department of Agriculture, Land Reform and Rural Development (DALRRD), this mandate-focused approach has brought a renewed realisation that the CRLR needs to be capacitated to focus on the investigation and settlement of land claims, while the Department takes care of the broader aspects of sustainable land reform and agrarian transformation.

This specialisation, which is in line with the Restitution of Land Rights Act, together with other interventions detailed in this strategy, are meant to create a commission of excellence that can significantly scale up the pace of settling land claims.

Since settling of land claims is not enough without requisite upfront land use planning, and continuous farmer development support, relevant branches within the Department have been charged with the responsibility to coordinate and provide this support not only to restitution projects, but also to other land reform projects and beneficiaries.

At a legislative and policy level, the following measures, which are aimed at supporting faster and more cost-effective land reform, are noteworthy:



## Introduction and processing of the Expropriation Bill

A new Expropriation Bill is being processed and will serve as the law of general application required in terms of section 25(3) of the Constitution. This law will enable government to utilise a suite of land acquisition methods – inclusive of expropriation without compensation.

## Strengthening the Office of the Valuer-General

The benefits of an improved expropriation legislation would not be optimally realised without repositioning the Office of the Valuer-General (OVG) as a well-oiled machine to timeously conduct land valuations and facilitate expropriation as envisioned in section 25(3) of the Constitution.

In this regard, the Department has begun to take measures to ensure that the OVG is properly capacitated to ensure that land acquisition for land reform is expedited. This includes improving and closing any gaps that exist in the regulations that inform the process of land valuation and the determination of compensation.

These measures are of critical importance for the obvious fact that any blockages in the OVG impact negatively on the performance of land reform.

## Concluding remarks

Despite the shadow of the COVID-19 pandemic on almost every sector of the economy and on people's lives, we are known to be a resilient nation and will emerge stronger and better post-COVID-19. The theme of the 2021 State of the Nation address is: *"Following up on our commitment: Making your future work better"*. I have no doubt that the CRLR's strategic plan will do exactly that.

It is fitting that we pay homage to those South Africans who lost their lives due to the merciless COVID-19 pandemic that continues to ravage our country and the entire world. We are particularly indebted to the late Dr Vuyo Mahlati, who chaired the Presidential Advisory Panel on Land Reform in whose honour I wish to dedicate this strategic plan.

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



# Overview of the Chief Land Claims Commissioner



**Chief Land Claims Commissioner  
Nomfundo Ntloko-Gobodo**

The Commission on Restitution of Land Rights is acutely aware of the urgency to expedite the processing and settlement of all outstanding land claims. The various weaknesses that have prevented the programme from operating optimally have been identified in various independent performance evaluations.

Such performance reviews include the assessments of the South African Human Rights Commission, the Department of Planning, Monitoring and Evaluation, National Treasury and the Agriculture and Land Reform Phakisa held in 2016.

More recently, the High-level Panel, chaired by former President, Mr. Kgalema Motlanthe, and the Presidential Advisory Panel on Land Reform and Agriculture, under the auspices of the Inter-Ministerial Committee on Land Reform, provided various findings and made recommendations pertinent to the work of the CRLR.

These reviews have assisted in identifying policy and institutional weaknesses, as well as desirable improvements that accord with the legislative framework. This plan elaborates on the strategic interventions that are intended to address the weaknesses summarised below.

The primary intervention seeks to equip the CRLR to expedite the investigation and settlement of all outstanding claims. The achievement of this goal will also assist the CRLR to expeditiously address the requirements of the second Land Access Movement of South Africa judgment of March 2019 (LAMOSA 2). The following enabling factors are key to the success of this intervention:

- The CRLR focuses on investigating and settling land claims.
- The OVG is properly positioned to procure and moderate land valuations so that turnaround times are drastically improved.
- Commensurate budgetary allocations are aligned to scale up settlement targets.
- To ensure that settlement support is not compromised, the CRLR will enter into service-level agreements with the Department of Agriculture, Land Reform and Rural Development in relation to settlement support, the establishment and registration of communal property institutions, and post-land transfer support.

Secondly, to improve operating systems and processes, the CRLR is instituting a business process improvement plan, together with corresponding policies and standard operating procedures.

Furthermore, to improve corporate governance and meet the Auditor-General's requirements, which are based on the Restitution Act, a third intervention is also planned, which seeks to ultimately transform the CRLR into an autonomous entity.



Finally, the CRLR is also engaging stakeholders of various economic sectors and government departments to develop improved sector-based settlement models, as well as to develop an automated end-to-end information management system that is linked to an improved business process.

### Overall focus during the previous planning period and the key accomplishments

During the preceding period, the CRLR was able to achieve its targets to settle and finalise all land claims, and expended all the allocated budget. During this period, strategic objectives were rationalised and reduced from four to three. As a result, the objective relating to phased claims was dropped, leaving the three objectives of research, settled claims and finalised claims.

The LAMOSA 2 judgment also provided a sharper focus on the need to settle all outstanding claims. To the extent allowed by budgetary allocation, this sense of urgency is reflected in the settlement projections contained in this plan.

### The institution's strategic focus for the planning period ahead

The contribution of the CRLR to the National Development Framework and the Medium-term Strategic Framework will relate particularly to sustainable land reform and agrarian transformation, which is set out in more detail in the strategic plan of the DALRRD.

The CRLR sees itself playing a key role towards radical rural economy transformation. The primary focus of the CRLR is land restitution, which forms one of the elements of the land reform programme. This will contribute to ensuring the sustainable and rapid transfer of land to beneficiaries, without distorting land markets or business confidence.

In responding to the concerns raised on the slow pace of claims settlement, the CRLR has established Project Kuyasa to develop process- and system-related solutions to

fast-track the settlement of outstanding restitution claims lodged before 31 December 1998.

Project Kuyasa has five key outcomes, being to:

- Develop an operating model that will assist the CRLR to be better poised to deal with its current and future challenges of backlog resolution.
- Redesign the claims process to facilitate the fast-tracking of backlog claims.
- Propose key capabilities that are required to support the redesigned process.
- Propose governance structures that will guide the CRLR's internal operations and its interaction with other institutions that impact on its operations.
- Develop high-level implementation plans to guide the CRLR in implementing the proposals.

As of the formulation of this plan, the CRLR had 8 447 outstanding (old order) claims, which constitute the baseline. The CRLR is targeting the settlement of all outstanding old order claims targeted for the duration of the implementation of this plan, provided that the COVID-19 pandemic situation and the restitution programme's budgetary allocations are conducive.

The CRLR is indebted to the Minister for the guidance and counsel provided during consultations leading up to the finalisation of this strategic plan. We are assured of the Minister's continued support and guidance during the implementation of this plan.

As we continue to go about our responsibility, we cannot forget to remember and honour those who have departed as a result of COVID-19 and those who have been affected by this pandemic. May their souls rest in eternal peace and may those who are infected and affected continue to get the necessary support.

**Nomfundo Ntloko-Gobodo**  
Chief Land Claims Commissioner

# Official Sign-Off

It is hereby certified that this strategic 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 2021–2024.



**Ms. NS Ntloko-Gobodo**  
**Chief Land Claims Commissioner**



**Ms. R Sadiki**  
**Chief Financial Officer**



**Mr. M Kgobokoe**  
**Acting Deputy Director-General: Strategic Management**



**Mr. RM Ramasodi**  
**Accounting Officer**

Approved by

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



# PART A

## OUR MANDATE



# 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.
- **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.** 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. Policy mandates

### National Development Framework: Vision for 2030

The National Development Plan (NDP) is a long-term action plan that aims to eliminate poverty, and 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, supply 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 to create close to one million new jobs, contributing significantly to reducing overall unemployment.

The outcomes captured in the abovementioned vision cut 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 Land Reform and Rural Development (DALRRD).

The CRLR plays a key role in radical rural economy transformation. The primary focus of the CRLR is land restitution, which will contribute to ensuring the sustainable and rapid transfer of land to beneficiaries.

## 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 MTSF Priority 6, which envisions “*a capable, ethical and developmental state*”.

## Medium-Term Budget Policy Statement

The Medium-Term Budget Policy Statement 2020 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 further 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 consultation before the law was passed.

As a consequence, the court further interdicted the CRLR from neither processing any new order land claims nor receiving 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 LAMOSA 2) after the Speaker of the National Assembly and the Chairperson of the National Council of Provinces (Parliament) – the applicants – had sought an extension to the 24 months given by the Constitutional Court in the 2016 court order. This LAMOSA 2 judgment dismissed the application for an extension and further made provision for appropriate Land Claims Court judicial oversight or 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 three reports to the LCC in compliance with the requirements of LAMOSA 2 with the latest report submitted on 19 November 2020.

The extensive steps being taken by the CRLR in repositioning itself for improved performance and meeting the LAMOSA 2 court order, as contained in the successive reports submitted to the LCC Judge-President, are dealt with under section 8.7 of this strategic plan.





# PART B

## OUR STRATEGIC FOCUS



# PART B: OUR STRATEGIC FOCUS

## 5. Vision

A Commission of excellence that ensures that effective, efficient and speedy redress is provided to victims of racially based land disposessions.

## 6. Mission

We exist to provide equitable redress to victims of racially motivated land dispossession, in line with the provisions of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), as amended.

## 7. Values

The CRLR upholds these values:

- We value and encourage diversity and will not discriminate against anyone.
- We uphold the rights of individuals as enshrined in the Constitution of the Republic of South Africa.
- We strive to be transparent, accountable and responsive in all the services we offer to claimants and other stakeholders in order to ensure equitable redress.
- We strive towards maintaining efficient service standards through improved business processes and a focus on ethical and professional operational principles.
- We ensure that we have a dedicated, loyal, results-oriented, professional and people-focused workforce that is passionate, and is committed to serving the people of South Africa.

## 8. Situational analysis

### 8.1 External environment analysis

#### 8.1.1 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.

The first lodgement phase, which ended on 31 December 1998, included over 79 696 claims, of which 81 782 have been settled. 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 LAMOSA 1 and LAMOSA 2 is the concern that the opening of lodgement of new claims, while a substantial number of claims dating back to 1998 remains 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 is extremely slow. Significantly, a series of performance reviews conducted on the CRLR has also been concerned, among other things, with 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 LAMOSI 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 8.7. below.

The CRLR currently has a total of 8 447 old order – backlog claims still outstanding, a portion 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 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 2020 to settle close to 80 000 claims. In 2020, the CRLR's Medium-Term Expenditure Framework (MTEF) allocation for 2020–2023 was R8.057 billion, of which R5.3 billion was allocated from 2020/21.

In view of the over 8 000 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.

### 8.1.2 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, clarity 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 8.7, which has multiple subprojects, aimed at improving institutional and operational systems, including the development and review of policies, legislative amendments and settlement models.

#### *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.

### 8.1.3 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 LAMOSA 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 Department*

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 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.

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.

#### **8.1.4 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.

## **8.2 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 are addressed in the document through the outcomes and outcome indicators.



## S

## 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)

## W

## 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

## O

## 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

## T

## 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

### 8.3. Strategic focus areas of the CRLR

The CRLR has two overarching strategic focus areas:

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

## STRATEGIC FOCUS AREAS

### OUTCOME CORE

Restored land rights and alternative forms of equitable redress

# 1

# 2

### OUTCOME ENABLER

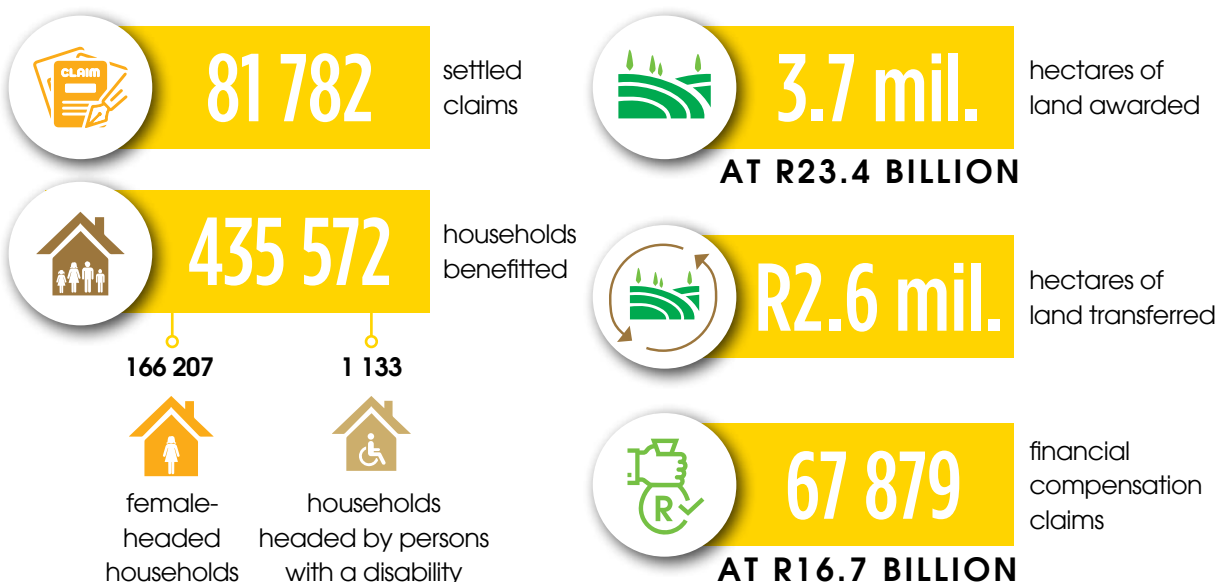
Improved governance and service excellence

### 8.4 Service delivery performance

As at 31 March 2020, 81 782 land claims have been settled. The settlement of these claims has resulted in the award of 3.7 million hectares of land to the beneficiaries at an amount of R23.4 billion to qualifying claimants, of which 2.6 million hectares has been transferred. The restitution programme has benefitted 2.2 million individual beneficiaries who are members of 435 572 households. Of those, 166 207 are female-headed households and 1 133 households are headed by persons living with disabilities.

Financial compensation claims amounted to 67 879 of the 81 782 total land claims that had been settled. A total of R16.7 billion has been approved. Had these beneficiaries chosen land restoration, government would have acquired a further 3.2 million hectares.

## SERVICE DELIVERY PERFORMANCE





Section 42C of the Restitution Act provides for the Minister to allocate development grants to the beneficiaries who have received land. To date R5 161 873 114 has been allocated towards these grants over time.

Table 1: Service delivery performance

Province	Total claims lodged	Total claims settled	Hectares settled or awarded	Hectares transferred	Total amount approved for acquiring land	Financial compensation approved	Beneficiaries (total households)	Individual beneficiaries
Eastern Cape	16 716	16 954	137 810	18 811	128 859 350	4 546 472 963	84 512	382 606
Free State	2 682	2 669	59 759	60 828	80 146 832	449 590 939	8 621	52 379
Northern Cape	3 852	4 024	837 139	633 791	881 532 806	1 188 055 330	25 670	135 526
Gauteng	13 162	13 351	17 443	6 191	101 419 934	1 008 786 304	20 056	80 493
North West	3 902	3 964	548 724	507 475	3 400 009 176	719 873 935	44 477	222 059
KwaZulu-Natal	16 394	15 804	841 067	504 391	8 140 212 508	3 778 538 072	95 904	545 777
Limpopo	3 489	4 511	734 193	558 650	4 411 294 360	2 310 769 750	63 759	307 151
Mpumalanga	3 400	3 223	528 551	346 220	6 072 729 166	1 134 596 814	59 223	303 629
Western Cape	16 099	17 282	11 050	10 832	134 495 047	1 532 563 283	33 350	149 488
<b>Total</b>	<b>79 696</b>	<b>81 782*</b>	<b>3 715</b>	<b>2 647 189</b>	<b>23 350 699 178</b>	<b>16 669 247</b>	<b>435 572</b>	<b>2 179 108</b>

\* Due to the number of rights lost and claim forms lodged being used interchangeably, the settled figure is 81 782

## 8.5 Financial performance

The CRLR has spent in excess of R11 billion out of the CRLR's households 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 2. The amount paid towards land purchases (33.54%) is less than the amount paid in financial compensation (55.60%). Development grants amounted to R1.19 billion, which is 10.04% of the expenditure.

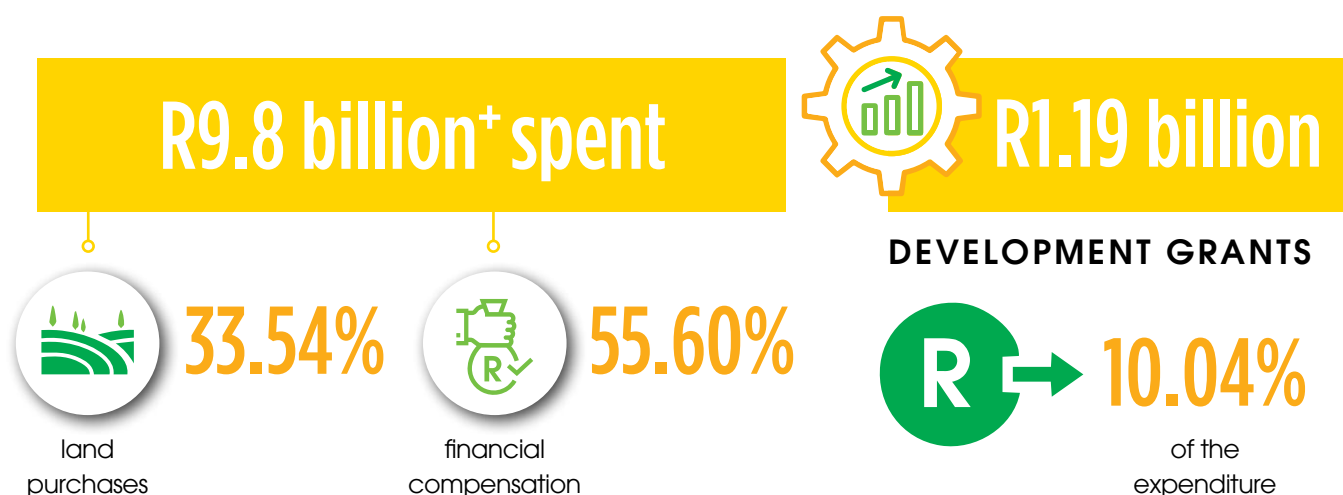


Table 2: Expenditure on land purchases and financial compensation since 2016/17

Financial year	Financial compensation	Land purchases	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	3 059 102 981
<b>Total</b>	<b>6 133 527 123</b>	<b>3 700 516 828</b>	<b>1 196 006 426</b>	<b>11 030 050 377</b>

Table 3: Expenditure vs budget as at 30 November 2020

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	321 191	97 487	223 704	30
Gauteng	25 613	14 105	11 508	55
North West	23 938	3 231	20 707	13
KwaZulu-Natal	482 703	270 172	212 531	56
Limpopo	412 030	238 737	173 293	58
Mpumalanga	216 261	91 927	124 334	43
Western Cape	322 260	316 181	6 0789	98
National Office	2 309 035	1 204 961	1 103 609	52
<b>Total</b>	<b>2 309 035</b>	<b>1 238 546</b>	<b>1 070 489</b>	<b>54</b>

## 8.6 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.
- 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, impacting on information and operating systems, exacerbated by a disjuncture between the mandate and the existing organisational structure.
- The programme is under-funded.



## 8.7 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 improvement
- 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 aforementioned objectives, 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.

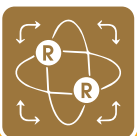
The current land restitution claim process and other key enabling processes was analysed to recommend and design the "to-be business processes". This included the identification of key enablers (people, facilities and governance) and the development of an implementation plan.

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.

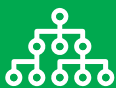


#### Project 4: Settlement Model

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 has been 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.





## 8.8 Institutional and organisational structure of the CRLR

The structure, as illustrated in Figure 1, is the current de facto organogram and reporting structure. Within the National Office, the Regional Lands Claim Commissioner (RLCC), Deputy Land Claims Commissioner (DLCC) and Chief Director: Restitution Management Support (CD: RMS) 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.

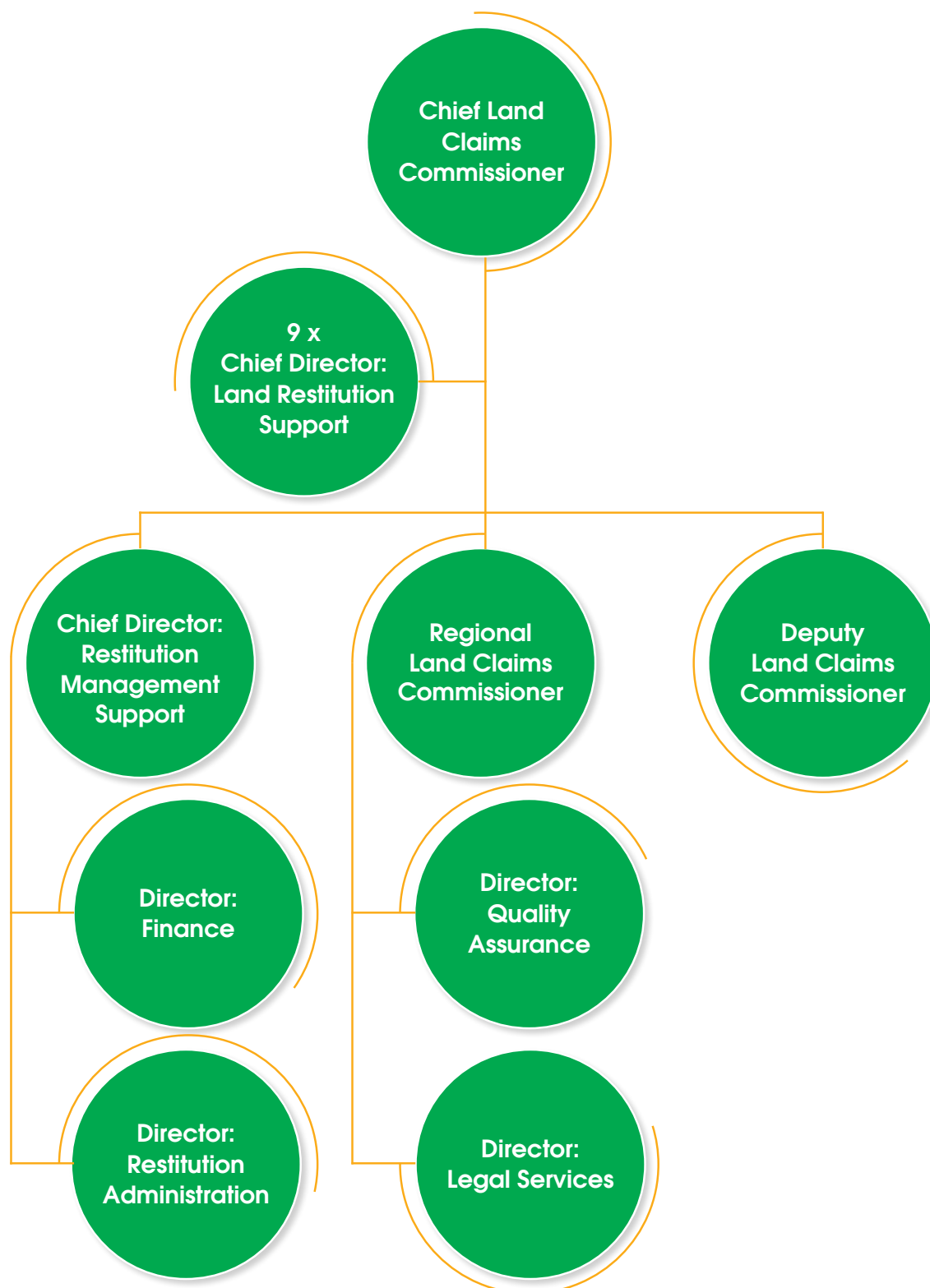


Figure 1: Organisational structure

## 8.9 Resource considerations

### *Expenditure trends and projections*

Figure 2 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 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.

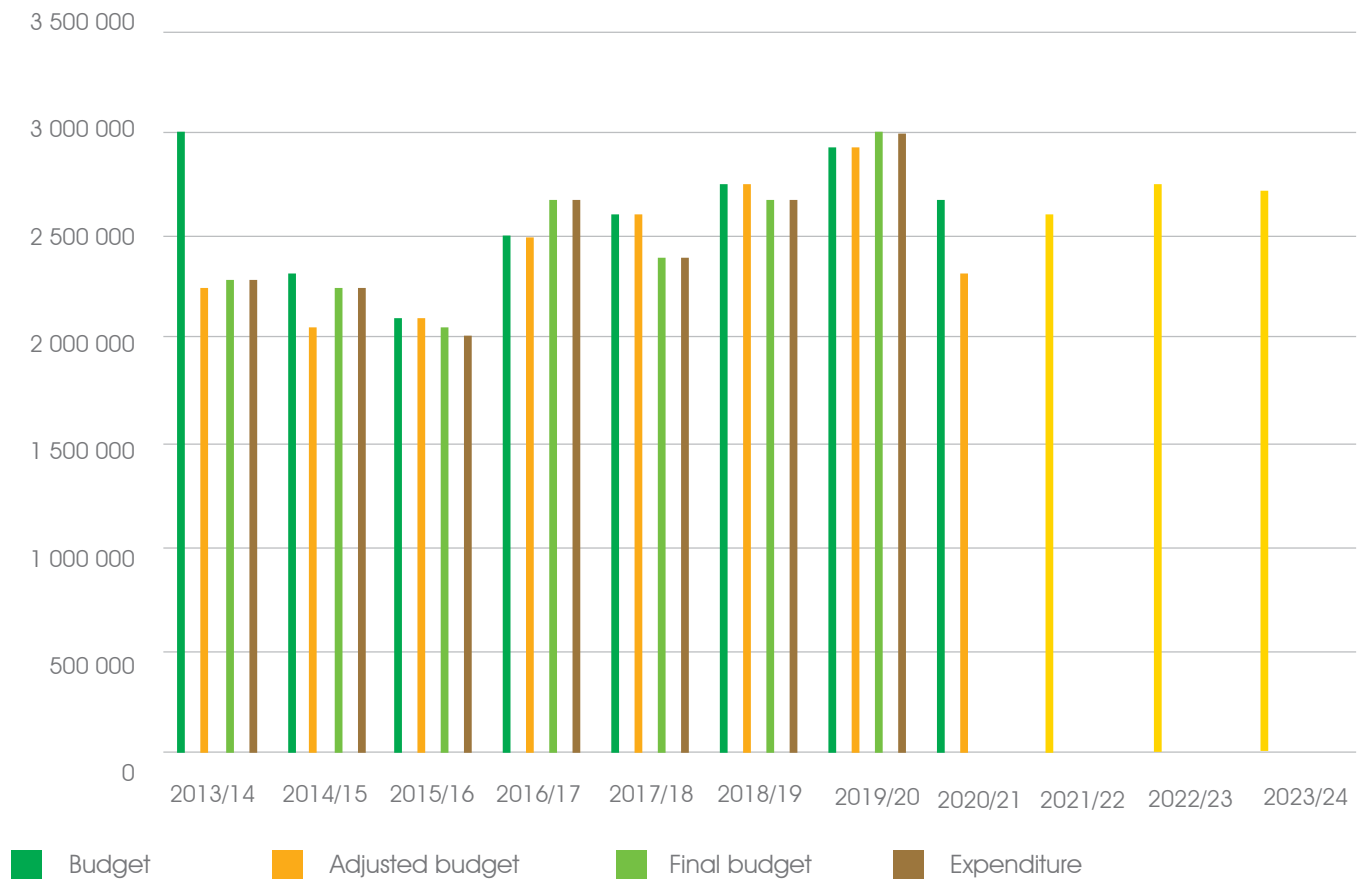


Figure 2: Budget trends

### *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*

1

The average age of all staff members is just over 41 years. The average age of senior management service 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. There are 13 staff members with disabilities, which constitutes 1.85% of the total.

#### *Employment equity: Gender distribution*

2

Female staff members comprise 60% or 361 of all staff, while 40% of the staff component is male.





# PART C

## MEASURING OUR PERFORMANCE



# Part C: Measuring our performance

## 9. Institutional performance information

As indicated above, the CRLR was established to solicit, investigate and make a recommendation (based on negotiations and mediation) for restitution for persons and communities dispossessed of rights in land, after 19 June 1913, as a result of past racially discriminatory laws and practices, and where a claim was lodged no later than 31 December 1998. Where a claim cannot be resolved by negotiation or mediation, it is referred to the LCC for adjudication.

Reflecting on the years since the promulgation of the Restitution Act, it became evident that there was a need to overhaul the manner and pace at which the restitution programme is delivered. This is clearly supported by the studies and evaluations done and highlighted above.

The CRLR aims to achieve its mandate in line with key national, provincial and municipal plans and policies, and will contribute towards the achievement of the NDP, NDP Five-Year Implementation Plan, the MTSF and priorities of women, children, youth and people with disabilities, as well as the district development model priorities. To effectively deliver on its mandate, the CRLR will focus its efforts on activities that will ensure that it achieves the following impact and outcomes.

## 10. Impact statement



### Impact statement

Restored land rights or awarded alternative forms of equitable redress to previously dispossessed claimants

## 11. Measuring our outcomes

### MTSF priority

Under MTSF Priority 4: Spatial Integration, Human Settlements and Local Government, the rural economy programme is targeting an outcome of sustainable land reform, of which restored land rights and alternative forms of equitable redress form a key part. The first outcome the CRLR wishes to achieve is restored land rights or alternative forms of equitable redress.

Table 4: MTSF Priority 4: Spatial Integration, Human Settlements and Local Government

Outcome	Outcome indicator	Baseline	Five-year target
<b>Outcome 1: Restored land rights or alternative forms of equitable redress</b>	1.1 Number of land claims settled	81 782 claims	8 447 claims
	1.2 Number of land claims finalised	9 365 claims	2 407 claims
	1.3 Strategy for the adopted reopening of claims developed (parliamentary level)	New indicator	Draft strategy plan approved

In order to achieve Outcome 1, the CRLR also needs to see improved governance and service excellence. This outcome refers to ethical and well-run governance. This links to Priority 6 of the MTSF: A capable, ethical and developmental state.

Table 5: MTSF Priority 6: A capable, ethical and developmental state

Outcome	Outcome indicator	Baseline	Five-year target
<b>Outcome 2: Improved governance and service excellence</b>	2.1 Number of policies or guidelines approved	8 policies and guidelines	8 policies or guidelines
	2.2 Number of weeks taken to settle land claims	246 weeks	89 weeks
	2.3 CRLR listed as a Schedule 3A public entity	Business case developed	CRLR registered as a Schedule 3A public entity

## 12. Explanation of enablers to achieve five-year targets

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 has 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.

Table 6: Project initiatives and their links to the outcome indicators

No.	Project initiatives	Link to outcome indicators		Start period	Duration	Impact
		Primary link	Secondary link			
1.	Define outstanding claims baseline (completion of both the Backlog Reduction Technical Task Team peer review and verification audit)	1.1	1.2	In progress	1.5 years	High
2.	Utilise the interim outstanding claims template and management reporting tool to start a centralised knowledge management repository	1.1	1.2	In progress	2 years	High
3.	Proactively identify overlapping and/or competing claims	1.1	2.1	Year 1: Quarter 3	1.5 years	Medium
4.	Develop and standardise the missing documentation/files strategy to roll out across all provinces	1.1	2.1	Year 1: Quarter 3	1 year	Medium
5.	Revise the untraceable claimant procedures (leading to potential deferrals)	2.1		Year 1: Quarter 1	1 year	Medium
6.	Implement administrative (back office) support systems	2.2		Year 1: Quarter 2	1 year	Medium
7.	Develop and implement a strategy for the fast-tracking of all settled, but not finalised claims (completion of commitment register)	1.1	1.2	Year 1: Quarter 2	2 years	High
8.	Institutionalise monitoring and evaluation	2.3		In progress	3 years	Medium



No.	Project initiatives	Link to outcome indicators		Start period	Duration	Impact
		Primary link	Secondary link			
9.	Determine and establish an appropriate organisational form for the CRLR	2.3		In progress	3 years	High
10.	Implement to-be processes with developed SOPs and improve the flow of information within the CRLR (Project Kuyasa)	2.2		In progress	5 years	High
11.	Create an SOP repository with training (internal), education and outreach (external) and change management	2.2	2.1	Year 1: Quarter 2	3 years	Medium
12.	Develop a prioritisation strategy for the settlement of state land claims	1.1	1.2	Year 1: Quarter 1	3 years	Medium
13.	Develop improved settlement options (Project Kuyasa)	1.1	1.2	In progress	5 years	High
14.	Conduct a functional assessment and structural redesign within the CRLR (Project Kuyasa)	2.3		In progress	5 years	High
15.	Establish a number of SLAs with third-party entities that are linked to the business processes and SOPs	2.2	2.3	In progress	3 years	Medium
16.	Develop a stakeholder engagement plan, which is integrated into the process steps	2.2	1.2	In progress	1 year	Medium
17.	Establish a call centre to effectively manage the enquiries process (provincially based)	1.1	1.2	Year 3: Quarter 1	3 years	Medium
18.	Review and manage the existing LCC matters and new referrals	1.1	1.2	In progress	3 years	High
19.	Develop an end-to-end information management system	2.2	1.1	Year 2: Quarter 1	5 years	High
20.	Develop the legal case monitoring and management system (including conveyancing)	1.1	1.2	Year 2: Quarter 2	3 years	Medium
21.	Proactively plan for new order claims	1.3		Year 2: Quarter 2	2 years	High
22.	Prepare proactive legislative amendments	2.3	1.3	Year 2: Quarter 1	2 years	Medium



## 13. 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, which has commenced.

### 13.1 Settlement of claims lodged before the 1998 cut-off date

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. 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.

#### Total cost for the settlement of all 8 447 claims

There are 8 447 outstanding claims lodged before the 1998 cut-off date. Of these, 43% are in the research and gazetting stage, and the full business process must be

followed to settle the claims. In addition, some claims have only been partly settled, i.e. settlement in respect of other properties under claim is still outstanding. The current annual target for 2021/22 identifies 240 claims to be recommended for settlement, as well as 240 claims to be settled. There is a total of 316 projects that are targeted for finalisation by the Restitution Branch.

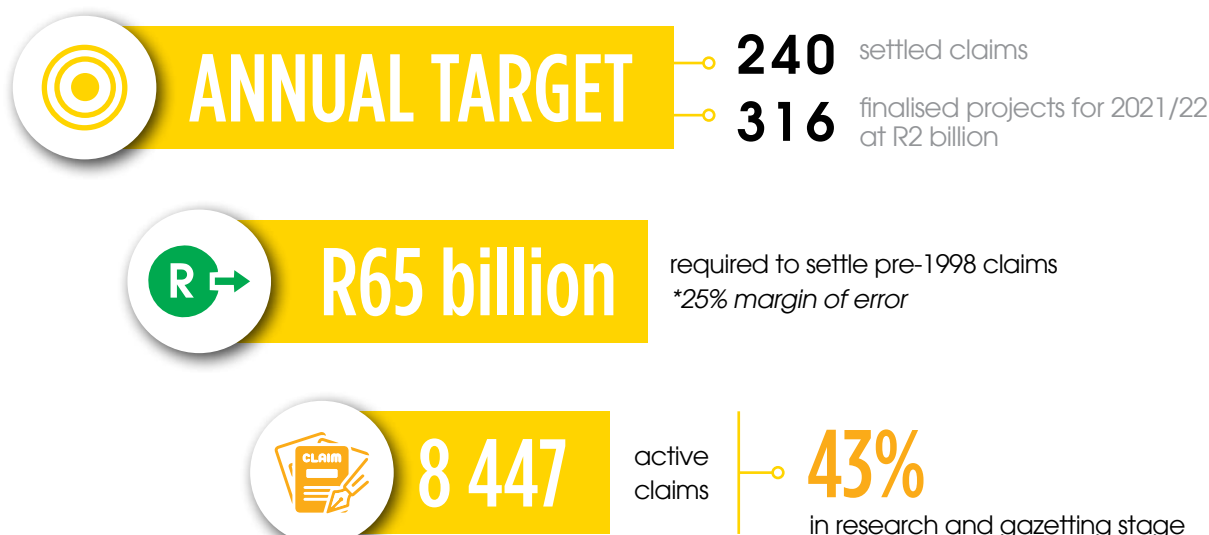
The total operational budget of the CRLR and the Restitution Branch (CoE, goods and services, and machinery and equipment) is R613 million for 2020/21. A linear projection, without taking into account that the R613 million includes management costs, legal costs or any other costs not directly attributed to the settlement of claims, reflects that an amount of R65 billion will be required to settle all old order claims. 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 annual performance plan (APP) sets a target of 240 of the claims lodged before the 1998 cut-off date to be recommended for settlement by the CRLR in 2021/22. These claims are to be settled by the Restitution Branch.

The operational budget allocated for 2020/21 was R613 million. This includes the budget of the CRLR and the Restitution Branch. Therefore, a process should be highlighted to split the respective budgets. Research of claims will be insourced and (in the case of complex claims) outsourced.

## PRE-1998 CLAIMS



## 13.2 Finalisation of claims lodged before the 1998 cut-off date

A claim is finalised when the settlement, as contained in section 42D 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.

### Total cost for the finalisation of all 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 targets 316 claims to be finalised with an available budget of R2 billion for 2021/22.

### 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 R5.7 billion. Some 46% of the commitments, amounting to R2.614 billion, are in respect of development grants, while 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.

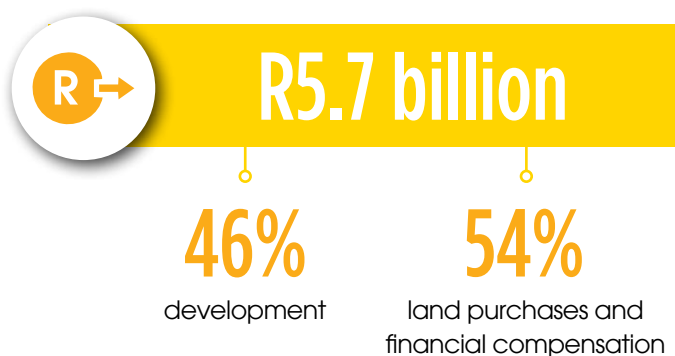
## 13.3 Reopening of claims

As indicated above, the Restitution of Land Rights Amendment Act, 2014 (Act No. 15 of 2014), came

into operation on 1 July 2014 and provided for the re-opening of the lodgement of land claims for a period of five years up to 30 June 2019.

To facilitate an efficient relodgement of claims, an electronic lodgement system was 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.

## CURRENT COMMITMENTS



## 13.4 Critical funding areas

### Human resources

As at 2019, the restitution database consisted of 688 employees, with the approved structure (V2.9) developed by DALRRD consisting of 769 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 the 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. The research is expedited using both internal staff and outsourced capacity, especially in respect of complex claims.



As the Restitution Branch does not have district offices, officials need to travel long distances to communities to hold meetings, attend to negotiations and collect supporting documentation. The travel cost is thus a significant cost driver for the restitution offices.

### **Machinery and equipment**

Capital assets have a set depreciation period, and some of the 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**

As indicated, a significant proportion of the commitment register funds relate to development grants belonging to claimants who have received land. Since these funds were not

approved and released, they thus remain on the existing CRLR budget. A significant uptake – at any given time – on the existing committed grant funds would threaten to deplete the current budget meant to settle and finalise claims.

There is thus a need for a properly coordinated and funded post-settlement programme that begins to alleviate the burden for post-settlement funding on the Commission.

## **13.5 Summary of critical budget requirements**

**For the 2020–2023 MTEF, the baseline allocation amounts to R8.057 billion for the restitution budget for purchasing land, paying out development grants and paying 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 7: Adjustment Estimate of National Expenditure 2020/21

Economic classification	Budget R'000	Special adjustment R'000	Spending as at 31 August 2020 R'000	Balance R'000	Percentage spent R'000	Additional budget R'000	Adjustment budget R'000
Compensation of employees	450 462	-30 407	156 688	263 367	37%	-	420 055
Goods and services	91 445	-36 432	20 577	234 436	8%	- 91 290	163 723
Interest and rent on land	-	-	4 552	- 4 552	4552%	4 552	4 552
Provincial/local government	6 704	-	7 442	-738	111%	12 036	18 740
Households	2 680 656	-336 432	498 275	1 845 949	21%	- 35 189	2 309 035
Machinery and equipment	2 519	-	1 647	872	65%	3 237	5 756
Land and sub soil			6 987	- 6 987	6 987%	-	-
<b>Total</b>	<b>3 431 786</b>	<b>- 403 271</b>	<b>696 168</b>	<b>2 332 347</b>	<b>23%</b>	<b>-106 654</b>	<b>2 921 861</b>

Table 8: Indicative MTEF budget allocation per item

Item	2021/22			2022/23			2023/24		
	Original allocation	Re-prioritisation	Total allocation	Original allocation	Re-prioritisation	Total allocation	Original allocation	Re-prioritisation	Total allocation
Compensation of employees	479 891	-63 443	416 448	502 936	-85 730	417 206	477 391	-67 252	410 139
Goods and services	307 478	-8 504	298 974	319 010	-16 510	302 500	333 070	-23 290	309 780
Capital assets	2 658	-29	2 629	2 809	-31	2 778	2 933	-32	2 901
Current transfers	7 073	312	7 385	7 334	398	7 732	7 657	100	7 757
Capital transfers	285 009	-250 000	2 600 091	3 152 466	-402 062	2 750 404	3 291 407	-583 380	2 708 027
<b>Total</b>	<b>3 647 191</b>	<b>-321 664</b>	<b>3 325 527</b>	<b>3 984 555</b>	<b>-503 935</b>	<b>3 480 620</b>	<b>4 112 458</b>	<b>-673 854</b>	<b>3 438 604</b>

Table 9: Indicative MTEF budget allocation per sub-programme

Item	2021/22			2022/23			2023/24		
	Original allocation	Re-prioritisation	Total allocation	Original allocation	Re-prioritisation	Total allocation	Original allocation	Re-prioritisation	Total allocation
National office	226 521	-12 488	214 033	241 350	-19 157	222 193	242 114	-16 341	225 773
Regional office	570 958	-59 176	511 782	591 136	-82 716	508 420	579 351	-74 133	505 218
Restitution grants	2 849 712	-250 000	2 599 712	3 152 069	-402 062	2 750 007	3 290 993	-583 380	2 707 613
<b>Total</b>	<b>3 647 191</b>	<b>-321 664</b>	<b>3 325 527</b>	<b>3 984 555</b>	<b>-503 935</b>	<b>3 480 620</b>	<b>4 112 458</b>	<b>-673 854</b>	<b>3 438 604</b>

## 13.6 Settlement of claims

As indicated above, the settlement of claims requires operational funding to process claims up to section 42D stage. The current assessment of old and new claims indicate that an amount of R116 billion would be required to settle these claims.

## 13.7 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 current estimates, the cost to settle and finalise old order and new claims is around R129 billion.

# 14. Key risks and mitigations

Key risks and mitigations linked to the respective outcome indicators have been detailed in Table 10.

A summary of the strategic risks and mitigation strategies that may affect the achievement of the identified outcomes and the respective risk mitigations have been outlined in Table 10.

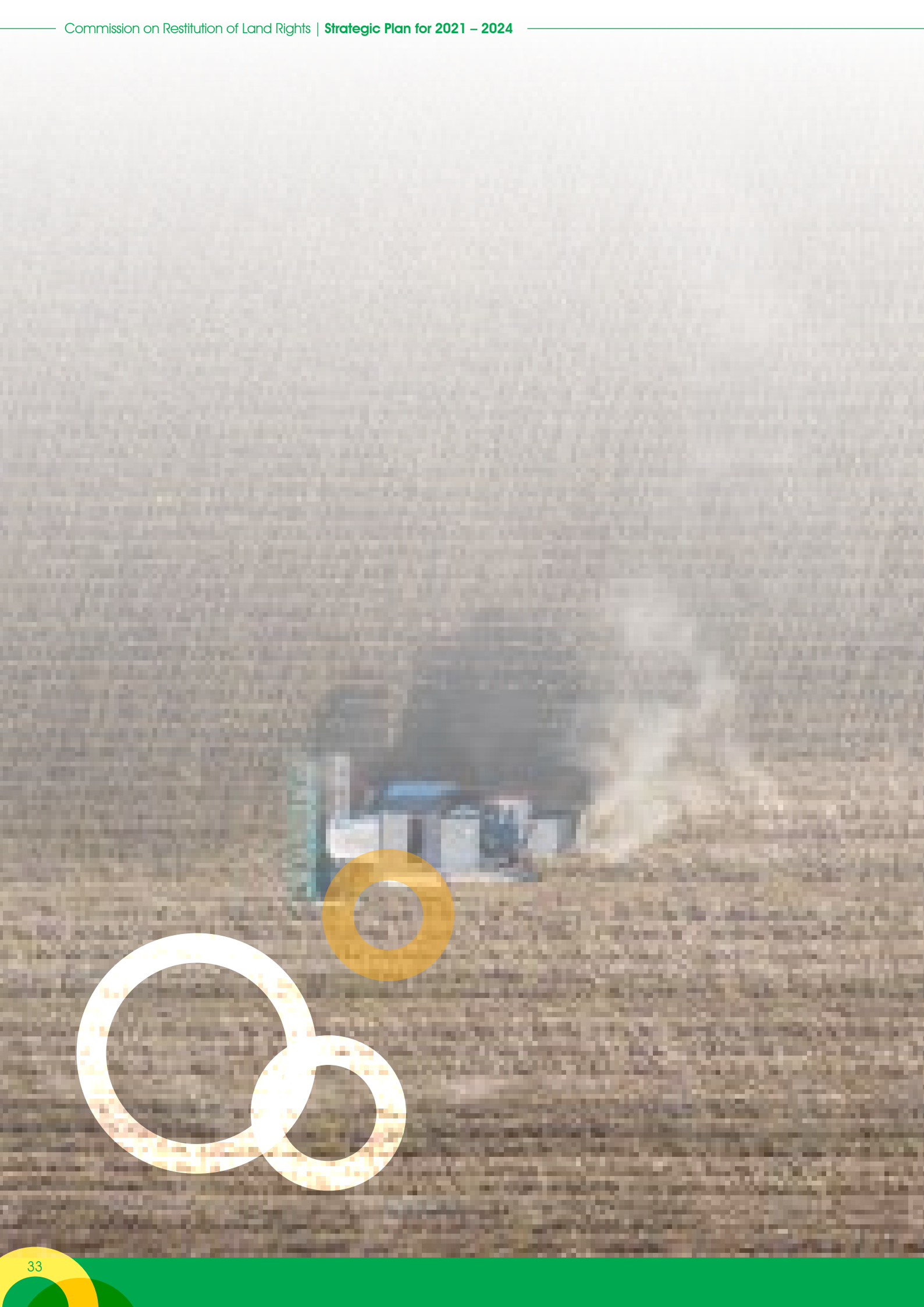
Table 10: Summary of strategic risks

Risk type	Risk	Risk mitigation
<b>Finance</b>		
<b>Budgetary risks</b>	Limited budget	<ul style="list-style-type: none"> <li>• Offers to be negotiated and linked to the recommendations of the Valuer-General</li> <li>• Annual submissions to National Treasury to indicate funds required in the Adjustment and Medium-Term Expenditure Framework cycle</li> </ul>
<b>Expenditure risks</b>	Under-spending	<ul style="list-style-type: none"> <li>• Monthly expenditure monitoring and cash flow revision(s) to be done</li> </ul>
<b>Support</b>		
<b>IT systems</b>	Lack of effective information and records management system	<ul style="list-style-type: none"> <li>• Development of standardised business process to be fed into the project and management information system</li> <li>• Apply change management principles during implementation</li> </ul>
<b>Human resource risks</b>	Ineffectual human resources	<ul style="list-style-type: none"> <li>• Development of revised institutional form and continual training</li> </ul>
<b>Process risks</b>	Delays in implementation of settlements No standardised business process with timeframes	<ul style="list-style-type: none"> <li>• Developed detailed business process that is elaborated into SOPs and timeframes.</li> <li>• Implementation of reviewed settlement models</li> </ul>
<b>Regulatory</b>		
<b>Reputational risks</b>	Reputational risk linked to delays in the settlement of claims	<ul style="list-style-type: none"> <li>• Statutory Commission meetings to be held with formal and widespread communication aims, including media, as well as quarterly statistics releases</li> <li>• Communication process underway in collaboration with the Government Communication and Information System (GCIS)</li> </ul>
<b>Legal and regulatory risks</b>	Definite mandate of the CRLR (e.g. scope creep into post-settlement issues) Litigation risks	<ul style="list-style-type: none"> <li>• Clarify mandate in the context of future autonomy and develop plans to ensure integration with DALRRD's processes</li> <li>• Improvement of tracking and management of matters in court compliance checklist and quality control by quality assurance</li> <li>• Increased quality assurance capacity</li> </ul>

## 15. Public entities

N/A





# PART D

## TECHNICAL INDICATOR DESCRIPTIONS



## 16. Outcome 1

### 16.1 Output indicator 1.1

Indicator title	Number of land claims settled
<b>Definition</b>	<ul style="list-style-type: none"> <li>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, untraceable or uncooperative beneficiaries where the settlements were not previously counted.</li> <li>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.</li> </ul>
<b>Source of data</b>	Signed section 42D/42E or court order, making an award of financial compensation, land or alternative redress.
<b>Method of calculation or assessment</b>	Simple count: Claims are counted as settled when signed by the Minister of Agriculture, Land Reform and Rural Development as per delegation, or court directive is received.
<b>Assumptions</b>	Effective processing of claims
<b>Disaggregation of beneficiaries</b>	N/A
<b>Spatial transformation</b>	<ul style="list-style-type: none"> <li>Equitable redress to victims of racially motivated land dispossession</li> <li>Integration of segregated communities</li> </ul>
<b>Desired performance</b>	240 claims (2021/22)
<b>Indicator responsibility</b>	Chief Land Claims Commissioner

### 16.2 Output indicator 1.2

Indicator title	Number of land claims finalised
<b>Definition</b>	<ul style="list-style-type: none"> <li>The indicator refers to the 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.</li> <li>A claim is finalised when the settlement, as contained in section 42D, or a court order, has been effected, i.e. the property has been transferred to the beneficiary or the financial compensation paid.</li> </ul>
<b>Source of data</b>	<ul style="list-style-type: none"> <li>Includes one or a combination of:               <ul style="list-style-type: none"> <li>Signed-off provincial reports</li> <li>Basic Accounting System (BAS) reports</li> <li>Project summaries</li> <li>Non-compliant or dismissal letter to the claimant signed by the Regional Land Claims Commissioner</li> <li>Approved declaration or reconciliations to clear funds from the commitment register</li> <li>DeedsWeb report to confirm transfer to claimants</li> </ul> </li> </ul>
<b>Method of calculation or assessment</b>	Simple count of the number of claims that were finalised within the period under review
<b>Assumptions</b>	Claims settled
<b>Disaggregation of beneficiaries</b>	N/A
<b>Spatial transformation</b>	<ul style="list-style-type: none"> <li>Equitable redress to victims of racially motivated land dispossession</li> <li>Integration of segregated communities</li> </ul>
<b>Desired performance</b>	316 claims (21/22)
<b>Indicator responsibility</b>	Head: Restitution Branch



## 16.3 Output indicator 1.3

Indicator title	Draft strategy for the re-opening of claims developed (parliamentary level)
<b>Definition</b>	<ul style="list-style-type: none"> <li>The indicator refers to the strategic approach to be followed to deal with claims lodged after 31 December 1998 (new order claims).</li> <li>The approach will be in the form of a document spelling out the strategy to ensure that the Commission is prepared for the re-opening of new order claims (post-1998).</li> </ul>
<b>Source of data</b>	Document approved and signed off by the Minister
<b>Method of calculation or assessment</b>	Simple count of approved documents
<b>Assumptions</b>	Clear guidance is provided at parliamentary level and/or as determined by the Constitutional Court on the processing or otherwise of new order claims
<b>Disaggregation of beneficiaries</b>	N/A
<b>Spatial transformation</b>	N/A
<b>Desired performance</b>	One strategy at the end of the reporting period
<b>Indicator responsibility</b>	Chief Land Claims Commissioner with support from the Head: Restitution Branch

## 17. Outcome 2

### 17.1 Output indicator 2.1

Indicator title	Number of policies or guidelines approved
<b>Definition</b>	The indicator refers to the number of policies or guidelines that has been approved after review, amendment and/or drafting.
<b>Source of data</b>	Document approved and signed off by the Minister
<b>Method of calculation or assessment</b>	Simple count of approved documents
<b>Assumptions</b>	Ministerial support
<b>Disaggregation of beneficiaries</b>	N/A
<b>Spatial transformation</b>	N/A
<b>Desired performance</b>	Eight policies or guidelines
<b>Indicator responsibility</b>	Chief Land Claims Commissioner



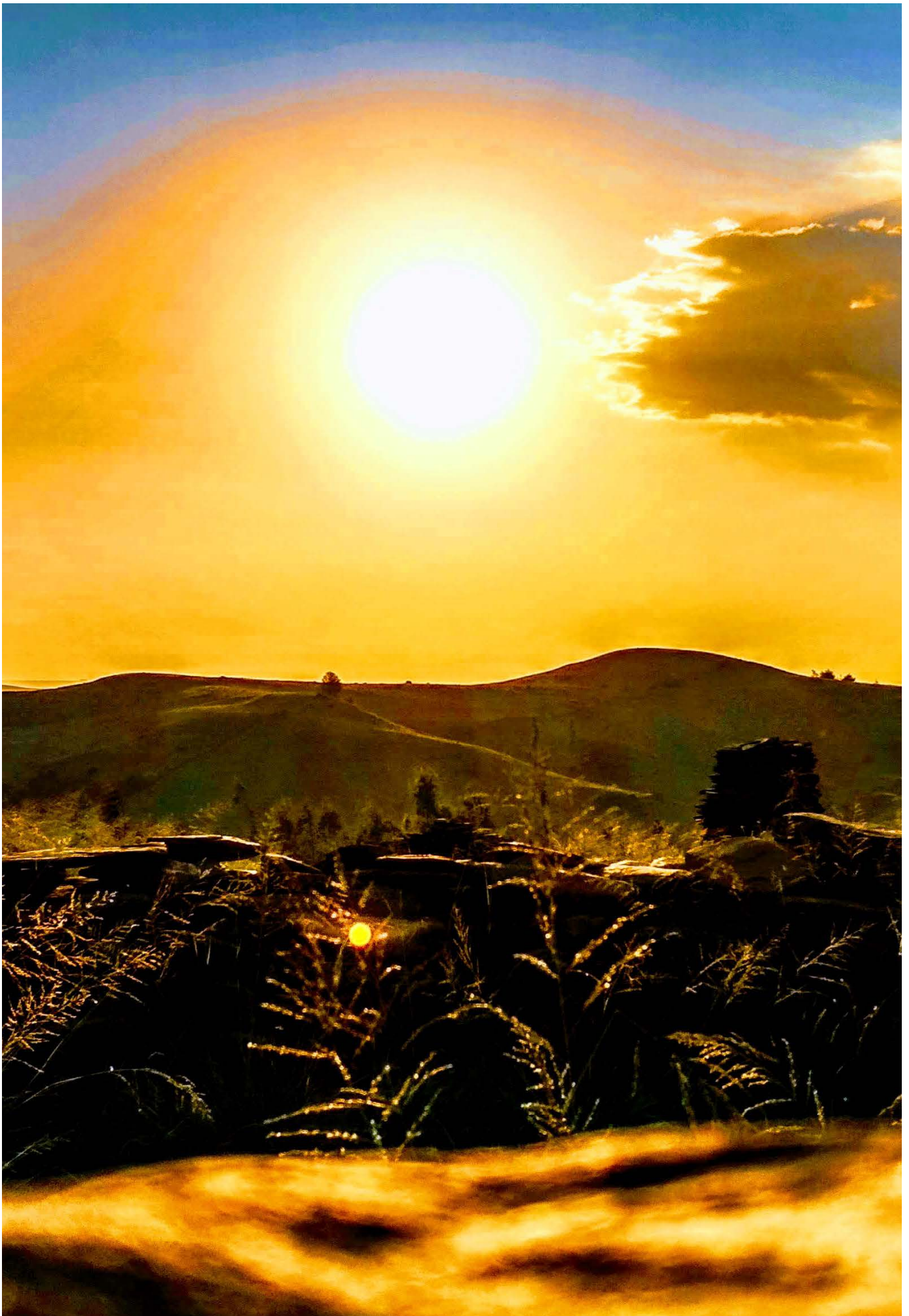
## 17.2 Output indicator 2.2

Indicator title	Number of weeks taken to settle land claims
<b>Definition</b>	The indicator refers to the number of calendar weeks, excluding days falling in compulsory leave directives, from the date of logging the claim as active, to the date of approval of the recommendation by the Minister or as may be delegated.
<b>Source of data</b>	<ul style="list-style-type: none"> <li>Claims tracker database (for each province) with dated milestones indicating the start and end dates for each milestone within the claims process</li> <li>Manual MS Project (2021/22)</li> <li>End-to-end system (to be implemented 2022/23/24)</li> </ul>
<b>Method of calculation or assessment</b>	Determination of calendar weeks that have lapsed since the logging of a claim as active to the date of the approval of the recommended settlement.
<b>Means of verification</b>	<ul style="list-style-type: none"> <li>Provincial claims process tracker (consolidated MS Excel spreadsheet)</li> <li>Manual MS Project</li> <li>End-to-end system (to be implemented)</li> </ul>
<b>Assumptions</b>	<ul style="list-style-type: none"> <li>Implemented “to-be” business processes</li> <li>No unforeseen delays in process steps</li> </ul>
<b>Disaggregation of beneficiaries</b>	N/A
<b>Spatial transformation</b>	N/A
<b>Desired performance</b>	89 weeks (21/22)
<b>Indicator responsibility</b>	Chief Land Claims Commissioner

## 17.3 Output Indicator 2.3

Indicator title	CRLR listed as a Schedule 3A public entity
<b>Definition</b>	<ul style="list-style-type: none"> <li>The indicator refers to the listing of the CRLR as a Schedule 3A entity in terms of the Public Finance Management Act, 1999 (Act 1 of 1999) (PFMA). The Minister of Finance, acting in terms of sections 47 and 48 of the PFMA, will gazette the listing and classification of the entities in the relevant PFMA schedule.</li> <li>The process includes the development of the business case, managing the approval process with the Department, the Department of Public Service and Administration (DPSA), National Treasury and Cabinet, registering the Commission as a Schedule 3A public entity and transition.</li> </ul>
<b>Source of data</b>	<ul style="list-style-type: none"> <li>Business case (process)</li> <li>Approval (process)</li> <li>Listing (Government Gazette at the end of the reporting period)</li> <li>Transition (after listing)</li> </ul>
<b>Method of calculation or assessment</b>	Simple count of Government Gazette notice
<b>Assumptions</b>	<ul style="list-style-type: none"> <li>Approval of business plan to establish entity</li> <li>Support and approval of the Minister of Agriculture, Land Reform and Rural Development</li> <li>Support and approval of the Minister of Finance</li> </ul>
<b>Disaggregation of beneficiaries</b>	N/A
<b>Spatial transformation</b>	N/A
<b>Desired performance</b>	CRLR is listed as a Schedule 3A public entity by the end of the reporting period
<b>Indicator responsibility</b>	Chief Land Claims Commissioner







## ANNEXURE A: District Development Model

Areas of intervention	Project description	Budget allocation	District Municipality	Project leader
Land Restitution (Eastern Cape)	Settlement of outstanding claims	R8.0 billion budget estimate	Amathole	CD: LRS Eastern Cape RLCC
			Alfred Nzo	
			OR Tambo	
			Chris Hani	
			Joe Gqabi	
			Sarah Baartman	
Land Restitution (Free State)	Settlement of outstanding claims	R30 million budget estimate	Fezile Dabi	CD: LRS Free State RLCC
			Lejweleputswa	
			Thabo Mafutsanyana	
			Xhariep	
Land Restitution (Gauteng)	Settlement of outstanding claims	R741 million budget estimate	Ekhuruleni	CD: LRS Gauteng RLCC
			Johannesburg	
			Tshwane	
			Sedibeng	
			West Rand	
Land Restitution (KwaZulu-Natal)	Settlement of outstanding claims	R16.4 billion budget estimate	Amajuba	CD: LRS KwaZulu-Natal RLCC
			Ethekwini	
			Harry Gwala	
			Ilembe	
			King Cetshwayo	
			Ugu	
			Umgungundlovu	
			Umkhanyakhude	
			Umzinyathi	
			Uthukela	
Land Restitution (Limpopo)	Settlement of outstanding claims	R5.4 billion budget estimate	Sekhukhune	CD: LRS Limpopo RLCC
			Vhembe	
			Waterberg	
Land Restitution (Mpumalanga)	Settlement of outstanding claims	R8.5 billion budget estimate	Ehlanzeni 1	CD: LRS Mpumalanga RLCC
			Ehlanzeni 2	
			Gert Sibande	
			Nkangala 1	
			Nkangala 1	
Land Restitution (Northern Cape)	Settlement of outstanding claims	R633 million budget estimate	Frances Baard	CD: LRS Northern Cape RLCC
			John Taolo Gaetsewe	
			Namakwa	
			Pixley kaSeme	
Land Restitution (North West)	Settlement of outstanding claims	R2.8 billion budget estimate	ZF Mgxawu	CD: LRS North West RLCC
			Bojanala	
			Dr Kenneth Kaunda	
			Dr Ruth Segomotsi Mompati	
			Ngaka Modiri Molema	
Land Restitution (Western Cape)	Settlement of outstanding claims	R139 million budget estimate	West Coast	CD: LRS Western Cape RLCC
			Overberg	
			Garden Route	
			Cape Winelands	
			Cape Town Metro	









## NATIONAL OFFICE

**Postal address:**

Private Bag X833, Pretoria, 0001

**Physical address:**

8th Floor, Centre Walk Building, cnr Pretorius and  
Thabo Sehume Streets, Pretoria  
Tel: 012 407 4400/4402

**Contact us:**

Website: [www.dalrrd.gov.za](http://www.dalrrd.gov.za)  
Toll free contact number: 0800 007 095

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