



Annual Performance Plan 2023-2024

Annual Performance Plan

**Commission on
Restitution of
Land Rights**



1 April 2023 - 31 March 2024

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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
LAMOSA	Land Access Movement of South Africa
LAMOSA 1	Constitutional Court Judgment dated 27 July 2016
LAMOSA 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





**Honourable Minister
Thoko Didiza**

The democratic government of 1994 inherited a country riddled with severe inequalities caused by racially discriminatory laws and practices. One of the negative consequences of these laws and practices is land dispossession. Dispossession of communities solidified a system of segregation and racial privilege, resulting in inequality and poverty. To address the injustices of land dispossession, the land restitution programme was created and implemented. Despite widespread criticism and numerous challenges, the programme remains an important legislative framework for tackling land dispossession.

The programme also has the potential to make a significant contribution to economic development and poverty alleviation. However, the land restitution programme needs to be refined and developed further to be an effective mechanism for land reform and driving economic development.

The task of ensuring that all South Africans share in the country's wealth is far from complete, as stated by the President in his political statement of 8 January 2023. The government remains committed to ensuring equitable access to land to reverse apartheid spatial planning and increase the participation of historically disadvantaged communities in agriculture and other land-based industries. The adoption of the

Expropriation Bill by the National Assembly, which provides for expropriation without compensation in certain circumstances, will help to accelerate the land-reform process.

In terms of restitution, the Presidential Advisory Panel in its 2019 report emphasised the importance of capacitating the Commission on Restitution of Land Rights (CRLR) the settlement and finalisation of old order land claims can be expedited. I am pleased to report that, as outlined below and further elaborated in the Chief Land Claims Commissioner's (CLCC's) overview, the Commission is making significant progress in resolving the outstanding claims.

REVIEW OF PERFORMANCE IN THE PRECEDING PERIOD

From the Commission's inception until 31 December 2022, 82 761 claims have been settled. These claims constitute 452 829 households, of which 174 302 are headed by females and 1 240 are people with disabilities. In terms of awards to claimants, the cost ratio between financial compensation (R21 billion) and land restoration (R25 billion) is 50:50, indicating that the restitution programme has met and continues to meet its objectives. Some 3,86 million hectares of land have been restored.

The Commission has set a target of settling 349 claims and finalising 406 claims in the 2023/24 Annual Performance Plan.

LEGISLATIVE AND POLICY DEVELOPMENTS SUPPORTING LAND RESTITUTION

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

Update on the Land Court Bill

In September 2022, the National Assembly passed the highly anticipated Land Court Bill. While the Land Claims Court that was established by section 22 of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) has significant shortcomings, such as being restricted to acting judges in most instances and having a limited remit as regards adjudicating restitution and labour tenancy cases only, the Land Court bill seeks to establish a court with a broader remit to adjudicate a wide range of land disputes with adequate number of permanent judges.

It is anticipated in particular that the court will help in accelerating the land restitution programme by resolving the current problematic Land Claims court case backlog expeditiously.

Progress on processing of the Expropriation Bill

On 28 September 2022, the National Assembly passed the Expropriation Bill following extensive consultation by the Portfolio Committee on Public Works and Infrastructure with a range of stakeholders. The bill seeks to replace the existing apartheid-era Expropriation Act of 1975 by providing a common framework in line with the Constitution to guide processes and procedures for the expropriation of properties by organs of state. The bill provides for instances where there could be expropriation with nil compensation for both public purpose and in the public interest.

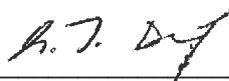
Property that may be targeted for nil compensation would, amongst others, include abandoned land, state land and land held for speculative purposes. While the bill still needs to be concurred to by the National Council of Provinces (NCOP) and signed into law by the President, the passage through the National Assembly remains a significant milestone as the bill edges closer to fruition. Together with the requirement of just and equitable compensation provided for by the

Constitution, the Expropriation Bill when passed will provide an additional mechanisms to the Department of Agriculture, Land Reform and Rural Development (DALRRD) and the CRLR to acquire land for land reform more cost effectively.

CONCLUDING REMARKS

The Presidential Advisory Panel on Land Reform and the LAMOS 1 and 2 Constitutional Court judgements all impress upon the CRLR and the state to take all necessary measures to ensure that the processing and settlement of old-order claims is expedited. To achieve this goal, the DALRRD is supporting the CRLR's efforts to transform itself into a smarter and faster organisation. The CLCC's overview includes updates on progress.

Finally, in presenting the CRLR's 2023/24 Annual Performance Plan, my department would like to thank the Portfolio Committee for its ongoing guidance and the valuable oversight it continues to provide.



Mrs AT Didiza, MP

Minister of Agriculture, Land Reform and Rural Development



Overview of the Chief Land Claims Commissioner



**Chief Land Claims Commissioner
Nomfundo Ntloko**

The National State of Disaster was lifted on 5 April 2022, with transition measures in effect from 4 April to 3 May 2022. Given the effects of Covid-19, the transition from remote to office-based work had its challenges for employees. Despite the shortcomings of Covid-19 working system, the Commission on Restitution of Land Rights (CRLR) maintained productivity completed the development of a turnaround strategy based on its current operating model, named the “Kuyasa” project, as stated in the 6th LAMOSAs Report. The turnaround strategy was submitted to the Land Claims Court (LCC) on 29 June 2022.

Project Kuyasa’s outcomes were based on the five outcomes of Operation Phakisa. The development and implementation of improved business processes and systems, the development of a claims backlog reduction strategy, the development of financial and settlement model options, and the establishment of the Commission as an autonomous entity are all goals of Project Kuyasa. To date, all objectives have been met.

The need to settle and finalise all outstanding old-order claims is undeniable and what matters now are the strategies and means to accomplish these. This overview, in addition to outlining targets, examines progress with the Project Kuyasa interventions. The following is an update on the status of Project Kuyasa deliverables:

ESTABLISHMENT OF THE COMMISSION AS AN AUTONOMOUS ENTITY

The CRLR developed and completed a business case as part of Project Kuyasa. This analyses and determines the Commission’s eligibility to be a Schedule 3A entity in detail. Additional consultation with relevant stakeholders is underway following the Minister’s approval of the Business Case.

DEVELOPMENT OF A CLAIMS BACKLOG REDUCTION STRATEGY

The development of a Claims Backlog Reduction Strategy is now complete. The backlog strategy will help the Commission to establish a verified backlog, as well as to put in place a plan to expedite the settlement of outstanding old-order claims to address the concern raised in the LAMOSAs judgments.

DEVELOPMENT AND IMPLEMENTATION OF IMPROVED BUSINESS PROCESSES AND SYSTEMS

The enormous commitment that exists in the CRLR has significantly contributed to the risks of non-adherence to policies and standardised Standard Operating Procedures (SOPs). The SOPs have now been developed and are linked to restitution legislation and policies. The CRLR is currently implementing the newly approved policies and SOPs.

DEVELOPMENT OF FINANCIAL AND SETTLEMENT MODEL OPTIONS

A review of the outstanding settlement models was required to expedite the settlement of land claims. The models of financial compensation have been updated. Six critical sectors have been identified as having the most outstanding land claims, namely Agriculture, forestry, sugar cane, mining, tourism/conservation and Urban/Mixed Developments (see Table 1).

Table 1: Details of settlement projects

Sector	Province	Pilot
Agriculture	Eastern Cape	Ncora Community Land Claim
Conservation & Tourism	North West	Pilanesburg Land claim
Forestry	Mpumalanga	Kaapsehoop Community Claim
Mining	Northern Cape	Richtersveld Land claim
	Limpopo	Modikwa Mine
Sugarcane	KwaZulu-Natal	Emakhasaneni Community land claim
Urban & Commercial Development	Western Cape	Protea Village
Financial Compensation	Western Cape	Klippieseiland

IMPROVED GOVERNANCE

In support of the above, Section 4 of the Act establishes the Commission as a statutory body. The body is expected to develop its own policies and procedures to regulate and standardise the manner in which certain functions/processes are undertaken. The requirement for a collaborative effort between national and provincial offices of the CRLR is of paramount importance in the development of policies and procedure in a manner that ensures that the policy instruments meet the requirements and challenges of regional implementers. In pursuing the above, the CRLR has resuscitated its Policy Forum and members have been appointed.

BUDGETARY CONSTRAINTS WITH RESPECT TO THE SETTLEMENT OF CLAIMS

The CRLR had 6 853 old-order claims outstanding on 30 January 2023. A significant portion of these claims need to be processed and recommended for settlement within the implementation period of the business plan. Current budgetary allocations, as indicated previous, regrettably remain insufficient to meet desired upscaling of claims settlements to eliminate the remaining old-order backlog in the short term.

It is critical that additional funding for the land restitution programme is made available. Part of this is required for urgently exploring the possibility of ring-fencing the commission's budget, which is currently included in the budget of the DALRRD.

PERFORMANCE REVIEW RELATING TO THE PRECEDING PERIOD

Previous programme performance reviews and audits have highlighted concerning weaknesses with the implementation controls, as well as the protracted claim settlement turnaround times., With the improvements made following the implementation of the Kuyasa business process, the CRLR has begun to turn this situation around.

This has resulted in the development and revision of operational policies, SOPs, guidelines and the overall internal policy control system in a manner that has markedly improved the CRLR's governance position, while ensuring that processes are standardised across provinces. Together with other benefits accruing from implementation of the Kuyasa project, this placed the Commission in a much better position to perform well in the coming period.

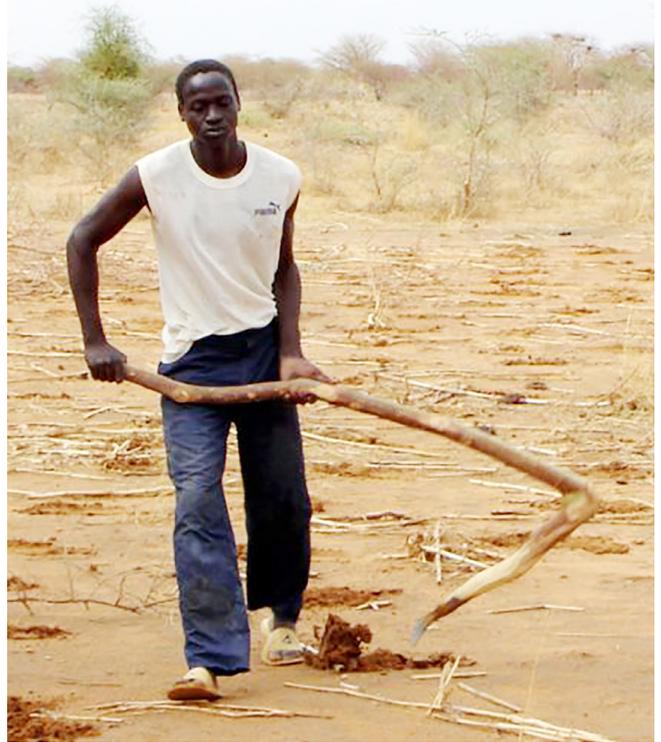
PERFORMANCE TARGETS FOR THE PERIOD AHEAD

The CRLR has set a target for 349 land claims settled and 406 land claims finalised in the financial year 2023/24. The targets represent an exponential increase over the previous period's targets but are based on the availability of the required funding.

My staff and I are grateful for the Minister's ongoing support in the implementation of the restitution programme for the greater good of the victims of past land dispossessions and in the preparation of this Annual Performance Plan in particular.



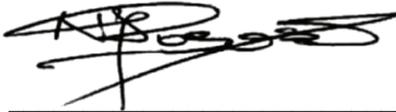
Nomfundo Ntloko
Chief Land Claims Commissioner



Official Sign-Off

It is hereby certified that this annual performance plan –

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



Ms N Ntloko
Chief Land Claims Commissioner



Mr M Kgobokoe
Deputy Director-General: Corporate Support Services



Ms R Sadiki
Chief Financial Officer



Mr R M Ramasodi
Accounting Officer

Approved by



Mrs A T Didiza, MP
Minister of Agriculture, Land Reform and Rural Development

1. Constitutional mandate

1.1 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

2.1 The Commission’s mandate

The Commission on Restitution of Land Rights (CRLR) is established by section 4 of the Restitution of Land Rights Act, 1994 (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 of Land Rights Act, 1994 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 of Land Rights Act, 1994 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, 1994, and specifically section 6, sets out the functions of the Commission, which, in essence, frame the mandate of the CRLR. These key functions are outlined as being to:

- Receive. Acknowledge receipt of all claims for the restitution of rights in land.
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- 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 LCC 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 LCC.
- Support. Provide reports as evidence in support of LCC 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 CRLR.
- 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 are prioritised.

In terms of the Restitution of Land Rights Act, 1994, 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 a combination of these forms.

3. Institutional policies and strategies governing the planning period

3.1 National Development Plan: Vision for 2030

The National Development Plan (NDP) is a long-term action plan that aims to eliminate poverty 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, 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, thereby contributing significantly to reducing overall unemployment.

The outcomes captured in the abovementioned vision cuts across the 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 are set out in more detail in the strategic plan of the Department of Agriculture, Land Reform and Rural Development (DALRRD).

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

3.2 Medium-term Strategic Framework

The CRLR’s 2021–2024 strategic plan is guided by and aligned with the 2019–2024 MTSF, which reflects government’s medium-term priorities 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 objective 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”.

3.3 Medium-term Budget Policy Statement

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

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

3.4 The DALRRD’s mandate

Although the CRLR is, by law, established as an entity, it currently operates as a component of Programme 3 of the DALRRD. The Director-General of the DALRRD is the CRLR’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 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 the 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 the 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, reads: “An effective land and agrarian reform programme that ensures food security, economic growth and spatial transformation”.

The 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 the 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 into law the Restitution Amendment Act, 2014 (Act No. 15 of 2014), 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 had failed to conduct proper consultations before the law was passed.

As a consequence, the court interdicted the CRLR from either processing any new-order land claims or 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 and the newly lodged claims were 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 also prohibited the CRLR from processing any new-order claims lodged between 1 July 2014 and 28 July 2016 until it had 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 the 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 seven reports to the LCC in compliance with the requirements of LAMOSAS 2, with the latest report submitted on 24 January 2023.

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 had a massive socio-economic impact that adversely affected most of the black population, leading to the loss of security of tenure and assets, of productivity and markets. The impact of dispossession also led to deprivation and an 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.

Of the claims lodged by 31 December 1998, 82 761 had been settled by 31 December 2022. In 2014, a second lodgement period was initiated. This started on 1 July 2014 and was intended to run to 30 June 2019. However, the process was stopped on 27 July 2016 after the Constitutional Court ruled the amending legislation to be unconstitutional and subsequently interdicted both the processing of the over 163 000 claims already lodged and the acceptance of any further claims.

At the heart of the issues involved in the Constitutional Court judgments of both LAMOSA 1 and LAMOSA 2 was a concern by the court that the lodgement of new claims while a substantial number of claims dating back to 1998 remained to be settled appeared to be prejudicial to those claimants whose claims had not yet been settled.

This happened at a time when there was a growing perception that the pace of land-claim settlements was extremely slow. Significantly, a series of performance reviews conducted at the CRLR have concerned themselves with, among other things, understanding the underlying causes of the perceived poor performance.

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

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

- The involvement of the CRLR in post-settlement matters distracted the organisation from settling land claims.
- The land claims lodged on or before 31 December 1998 had to be resolved expeditiously, consistent with the order of the Constitutional Court in the LAMOSA judgment.

- The CRLR's research capacity in technical areas was poor, as a result of which it had to rationalise its work.
- Records management was poor and there was no effective information management system.
- The CRLR's lack of independence from the DALRRD compromised operational efficiency and the statutory independence of the Commission needed to be restored.
- Regional land claims commissioners were appointed in terms of Section 4(3).
- The CRLR had improperly created artificial communities by consolidating community land claims.

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

The CRLR had a backlog of 6 853 old-order claims at 30 January 2023, a significant proportion of which need to be processed and recommended for settlement within the implementation period of this plan.

A critical issue is that adequate funding is made available for the actual process of land restitution. Part of the funding is needed to ring-fence the CRLR budget, which is currently included in the budget of the DALRRD. It is estimated that around R65 billion is needed to settle all outstanding pre-1999 claims. This amount excludes the CRLR's operating costs.

In view of the large number of old-order claims that remain to be finalised, quite apart from the new-order claims received, the MTEF allocations remain woefully inadequate. There is a need for increased budgetary allocations, especially considering that the remaining claims are mainly rural claims and thus more complex. As the budget allocation for each financial year has an impact on the number of claims that can be settled and finalised, this results in fluctuating MTEF targets.

5.1.2 Policy environment

The functions of the CRLR are to receive claims and to investigate and recommend awards. This involves attempts to resolve land claims through negotiation and/or mediation, failing which the claims are referred to the Land Claims Court for adjudication. Section 20 of the Restitution of Land Rights Act, 1994, states that "the Director-General of Land Affairs, which is today known as the Department of Agriculture, Land Reform and Rural Development (DALRRD) is the accounting officer of the Commission, and that the estimates of expenditure in respect of each financial year shall, after being prepared by the Chief Land Claims Commissioner or an official contemplated in section 8(1) and designated by the Chief Land Claims Commissioner, and submitted to the Director-General. The Commission reports directly to Parliament and indirectly to the Minister of Agriculture, Land Reform

and Rural Development, although the Director-General (DG) remains the Accounting Officer in terms of the PFMA [Public Service Management Act] and the Restitution Act.”

The DALRRD seconds its officials to the commission to undertake duties related to Programme 3, in accordance with Section 8 of the Restitution Act, which states, “the work incidental to the performance of the Commission by the officers appointed and seconded to the Commission is provisioned for by the Public Service Act, 1994 (Proclamation 103 of 1994)”. By this, is meant that the officials serving on Programme 3 are subjected to the Public Servants Association of South Africa (PSA) and provided for in terms of salary scales, terms of office, conditions of employment, disciplinary matters and other conditions as outlined in section 15 (Transfer and secondment from and to public service) of the PSA.

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

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

The PMFA in section 53 also outlines the process to be followed for annual budgeting by non-business public entities. This process applies to the CLCC, the DLCC and the RLCCs of the Commission. For budgeting purposes, the branch restitution is currently treated similarly to the rest of the programmes in the department, as outlined in section 40 of the PFMA. In this case, the executive authority is the Minister. A similar process will be followed after the establishment of the CRLR as a public entity.

In addition to the budgeting aspects, the Auditor-General of South Africa (AGSA) found in its audit that the CRLR is defined as an entity in terms of the Restitution Act and must thus report separately as an entity under Section 1 of the PFMA. This means that the

CRLR must prepare separate financial statements in terms of the Generally Recognised Accounting Practice (GRAP) for the period under review. Additional funding is required to accommodate functions such as supply chain management, human resource management, audit and risk management, and bookkeeping. Over the last two years, the CRLR has had to create separate reports for purposes of auditing for the CLCC, DLCC and RLCCs.

The current legislative framework and structure within the organisation have created an environment that limits the authority of the CLCC as regards decision-making powers and ultimate execution by the CRLR. The fact that other governmental functions are in control of the CRLR’s finances and human resources thus has a negative effect on the CRLR.

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 impact substantially on the operations of the CRLR, especially on the strategy to fast track the settlement of outstanding claims lodged before 31 December 1998 and 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 an 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 reiterated and consolidated the recommendations made by successive earlier entities and panels.

Furthermore, the panel’s recommendations are critical in that they complement the court rulings in the LAMOS 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. The recommendations 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 (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 and listed 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 the CRLR and the DALRRD
7. Limited post-settlement support from the DALRRD
8. Interpretation of mandates between the DALRRD and the CRLR

OPPORTUNITIES

1. Use and drive the institutional memory effectively
2. Leverage employee experience to self-capacitate
3. Become an autonomous organisation
4. Achieve a clearer understanding of business requirements
5. Develop processes, SOPs and SLAs
6. Conduct innovative policy research and revamp
7. Increase the availability of information to improve information management and statistics
8. Prioritise information technology (IT) as a function and the automation of processes
9. Improve the availability of software to automate processes
10. Develop legislation to deal with the new-order claims

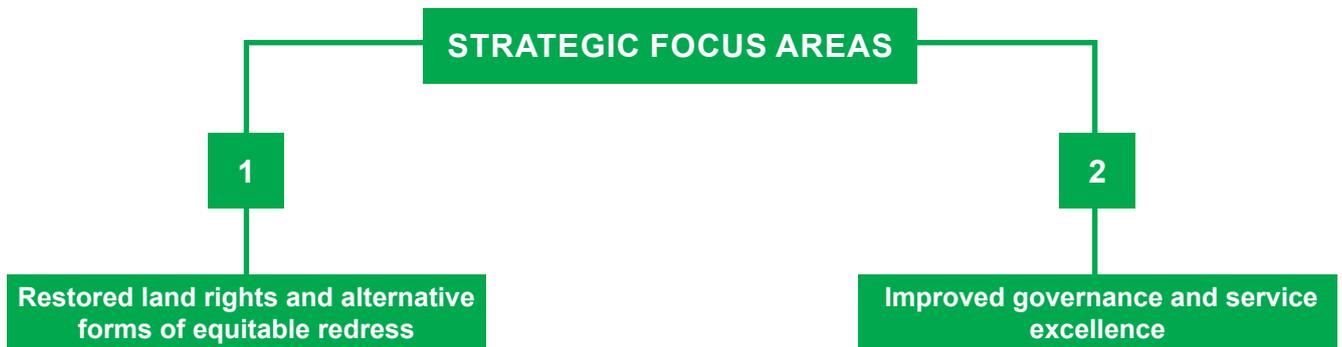
THREATS

1. Internal and external mandate uncertainty
2. Legal uncertainty
3. Unrealistic expectations
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

The CRLR has two overarching strategic outcomes:

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



5.3.2 Service delivery performance

As at 31 December 2022, 82 761 land claims had been settled. The settlement of these claims has resulted in the awarding of 3,8 million hectares of land to beneficiaries at total cost of R25 billion. These settlements also included financial compensation of R21 billion to claimants. The restitution programme has benefited 2 275 010 individual beneficiaries who were members of 452 829 households. Of those, 174 302 were female-headed households and 1 240 were households headed by persons living with disabilities.

Section 42C of the Restitution of Land Rights Act, 1994, provides for the Minister to allocate development grants to the beneficiaries who have received land. To date R5 344 107 044,45 has been allocated in this regard.

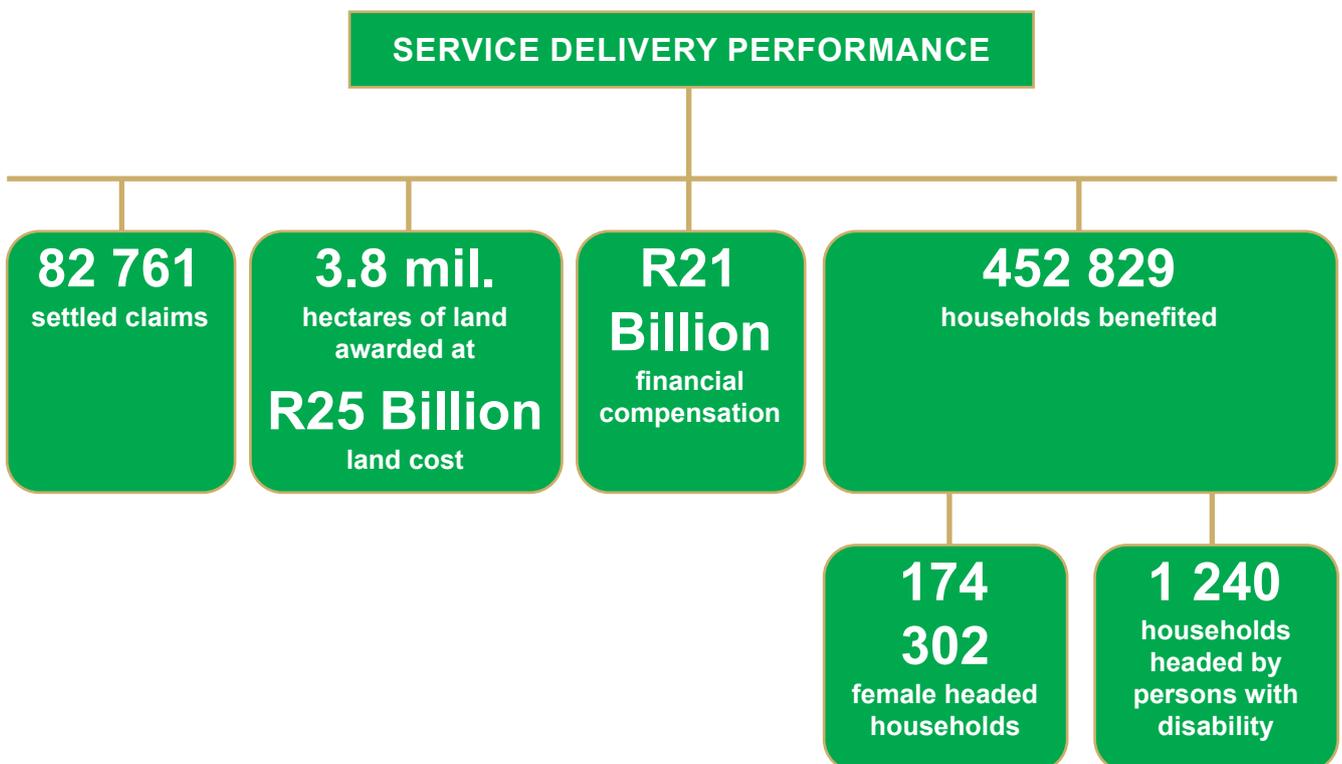


Table 2: Service delivery performance (cumulative statistics: 1995 – 31 December 2022)

PROVINCE	TOTAL CLAIMS LODGED	CLAIMS SETTLED	HHs	BEN	FHHs	PEOPLE LIVING WITH DISABILITIES	HECTARES	LAND COST
Eastern Cape	17 122	91 364	429 491	34 858	0	143 672	138 876 350,29	17 122
Free State	2 671	8 721	52 659	3 221	10	60 387	93 522 832,05	2 671
Northern Cape	13 431	21 729	83 795	9 734	18	23 970	101 419 933,57	13 431
Gauteng	16 014	97 318	551 969	33 084	580	869 987	8 366 797 976,38	16 014
North West	4 709	67 297	322 809	27 498	0	761 169	4 556 520 374,04	4 709
KwaZulu-Natal	3 365	61 139	315 365	20 933	58	555 868	6 476 019 408,41	3 365
Limpopo	4 062	25 921	139 920	10 457	159	848 516	919 595 621,23	4 062
Mpumalanga	3 977	45 517	226 290	19 669	37	584 109	4 077 013 814,67	3 977
Western Cape	17 410	33 823	152 712	14 848	378	11 212	305 049 750,52	17 410
Total	82 761	452 829	2 275 010	174 302	1 240	3 858 890	25 034 816 061,16	82 761

Table 2: Service delivery performance (continued)

PROVINCE	FINANCIAL COMPENSATION	DEVELOPMENT	RDG	SPG	RSG	TOTAL
Eastern Cape	6 325 376 735,25	377 479 960,36	81 426 000,00	39 003 850,00	50 972 735,00	7 013 135 630,90
Free State	449 679 893,22	40 164 289,71	9 174 000,00	4 400 640,00	1 721 295,00	598 662 949,98
Northern Cape	1 098 616 386,44	72 142 501,38	6 957 000,00	2 399 040,00	4 161 445,00	1 285 696 306,39
Gauteng	4 687 139 610,17	808 723 007,28	96 132 000,00	41 747 040,00	47 391 375,00	14 054 306 008,83
North West	3 333 849 009,75	857 202 219,86	97 955 640,00	45 028 440,00	26 142 580,00	8 916 698 263,65
KwaZulu-Natal	1 450 135 446,43	573 129 596,77	92 763 000,00	44 347 350,00	20 708 300,00	8 657 153 601,61
Limpopo	1 214 983 998,49	243 712 500,99	11 668 460,88	12 829 180,94	13 176 810,00	2 415 966 572,53
Mpumalanga	775 863 573,47	632 754 548,03	81 906 000,00	39 238 844,23	8 329 485,00	5 615 106 265,40
Western Cape	1 674 887 875,47	838 981 037,02	15 282 540,00	4 195 452,00	758 880,00	2 839 196 535,01
Total	21 010 532 528,69	4 444 289 661,40	493 264 640,88	233 189 837,17	173 362 905,00	51 395 877 134,30

5.3.3 Financial performance

The CRLR has spent in excess of R13 billion out of its household budget for land purchases and financial compensation in the last four financial years. The split between the amounts paid for land purchases vis-à-vis the payment of financial compensation is illustrated in Table 3. The amount paid for land purchases (31,8%) is less than the amount paid in financial compensation (56,9%). Development grants amounted to R1,79 billion, which is 11,26% of the expenditure.

Table 3: Expenditure on land purchase and financial compensation since 2016/18 (Rand)

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
2021/22	1 691 742 850	558 789 983	397 031 609	2 647 564 444
Total	9 066 651 972	5 074 922 811	1 794 513 035	15 936 127 820

Table 4: Household expenditure vs budget as at 31 January 2023 (Rand)

PROVINCE	BUDGET	EXPENDITURE	VARIANCE	PERCENTAGE
Eastern Cape	761 465	450 748	310 717	59%
Free State	4 725	1 663	3 062	35%
Gauteng	42 769	29 766	13 003	70%
KwaZulu Natal	775 519	325 524	449 995	42%
Limpopo	618 845	383 522	235 323	62%
Mpumalanga	334 457	158 643	175 814	47%
North West	399 279	397 978	1 301	100%
Northern Cape	85 916	41 312	44 604	48%
Western Cape	128 268	31 854	96 414	25%
Total	3 151 243	1 821 009	1 330 234	58%



5.3.4 Service delivery challenges

In the years that have passed since the promulgation of the Restitution of Land Rights Act, 1994, progress has been achieved in realising the main goals of the programme. However, various challenges beset the CRLR. Some of these challenges include:

- The processing, settling and finalisation of claims has taken place at a slow pace.
- Most settlements have involved financial compensation rather than the restoration of land.
- There has been an inadequate provision for post-settlement support and a failure to link restitution with broader development initiatives.
- Difficulties have been encountered with the reconstitution of communities and addressing 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 considers the progress that has been made by the CRLR in meeting the recommendations made by various entities, including the Presidential Advisory Panel on Land Reform and Agriculture, which reviewed the performance of the restitution programme. It also covers the progress made in relation to the land claims settlement milestones as per the LAMOSAS 2 requirements.

In 2019, the CRLR started a business improvement project, called Project Kuyasa. “Kuyasa” in isiZulu means “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:

- Developing a strategy for reducing backlog claims
- Putting into place business processes and systems
- Developing improved financial and settlement models
- Determining an appropriate organisational form with autonomy
- Developing an organisational structure designed to support the redesigned process, based on a new operating model
- Creating a strategy for people and change management

Based on these 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. The intention is 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 comprehensive assessment of each outstanding claim, the properties falling under these claims, the location of the claims and other attributable 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 CRLR’s management and key stakeholders on the current status of claims and the challenges identified.

The intention with the management tool is to monitor and track the settlement of claims by identifying challenges and blockages and dealing with these in good time. It will also enable managers to ensure that the targets set are adhered to and to implement intervention strategies timeously where necessary. The management tool is augmented by a monitoring and evaluation framework that has 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 make it more effective and efficient regarding in-service delivery and the processing of land claims. A key outcome of this project is the redesign of the business process and the alignment of policies and standard operating procedures.

The current land-restitution claim process and other key enabling processes was analysed to allow recommendations to be made on and the design of “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; the redesigned business process has indicated a potential to drastically reduce the time it takes to process a settlement claim from 242 weeks to 63 weeks.

Project 3: Financial model

The intention of this project is to provide support for the development of enhanced compensation models for the land restitution process, as well as developing 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, forestry or conservation land require the involvement of multiple-sector stakeholders during negotiations to frame sustainable settlement models that benefit claimants.

Under Project Kuyasa, the work being done also focuses on 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 more effective, sustainable and successful projects.

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

Project 5: Organisational form

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

Project 6: People management

The intention of this project is to develop an organisational structure that is best suited to the new CRLR. This structure must be aligned to the “to-be” vision and optimise service delivery. The project is expected to bring about an effective and efficient best-fit organisational structure that facilitates the delivery of the CRLR’s mandate and has priority focus on improved service delivery. The development of an organisational structure will be accompanied by the creation of a skills development report and a transition plan deriving 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 transition. The key is to ensure that change is implemented systematically and smoothly so that the lasting benefits of change are achieved and that both internal and external stakeholders are given a level of comfort with regard to the changes. It is imperative to create awareness of the need for both organisation and individual change and to encourage understanding of the impact, risk and readiness for change, while initiating a capacity-building journey among key leaders. A change and stakeholder management plan has been prepared and internal and external stakeholder questionnaires have been compiled.

Improved guidelines, policies and standard operating procedures

Project Kuyasa has in addition to the above identified the gaps that exist as regards policies in the CRLR and has recommended the introduction of additional 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 reviewing and developing policies and standard operating procedures is properly steered and monitored.

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. Provincial research units are initially being set up in the three provinces that have the highest number of outstanding claims. Here 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 appointed to manage the research strategy on the outstanding claims is in the process of finalising the research strategy. The work is being done in conjunction 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 smooth operation between the two institutions. The Commission will continue to interact with both the Office of the Valuer-General and the Director-General for greater efficiency.

Settlement negotiations: The provinces continue to negotiate with all the stakeholders to achieve the settlement of claims. The focus is on claims identified and registered in the project register, as required by the DALRRD and in line with the targets set in the annual performance plan. The focus will be on claims that should have been finalised in previous financial years. Performance is monitored by the national office by means of 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) comprising 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 the settlement of the claim is being negotiated. Where mediation towards settlement fails, the matter is referred to the LCC for adjudication in line with section 14 of the Restitution of Land Rights Act, 1994, 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

Figure 1 depicts the current organogram and reporting structure of the CRLR. Within the national office, the Regional Lands Claim Commissioner (RLCC), Deputy Land Claims Commissioner (DLCC) and Chief Director: Restitution Management Support (CD: RMS) reporting to the Chief Land Claims Commissioner (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.

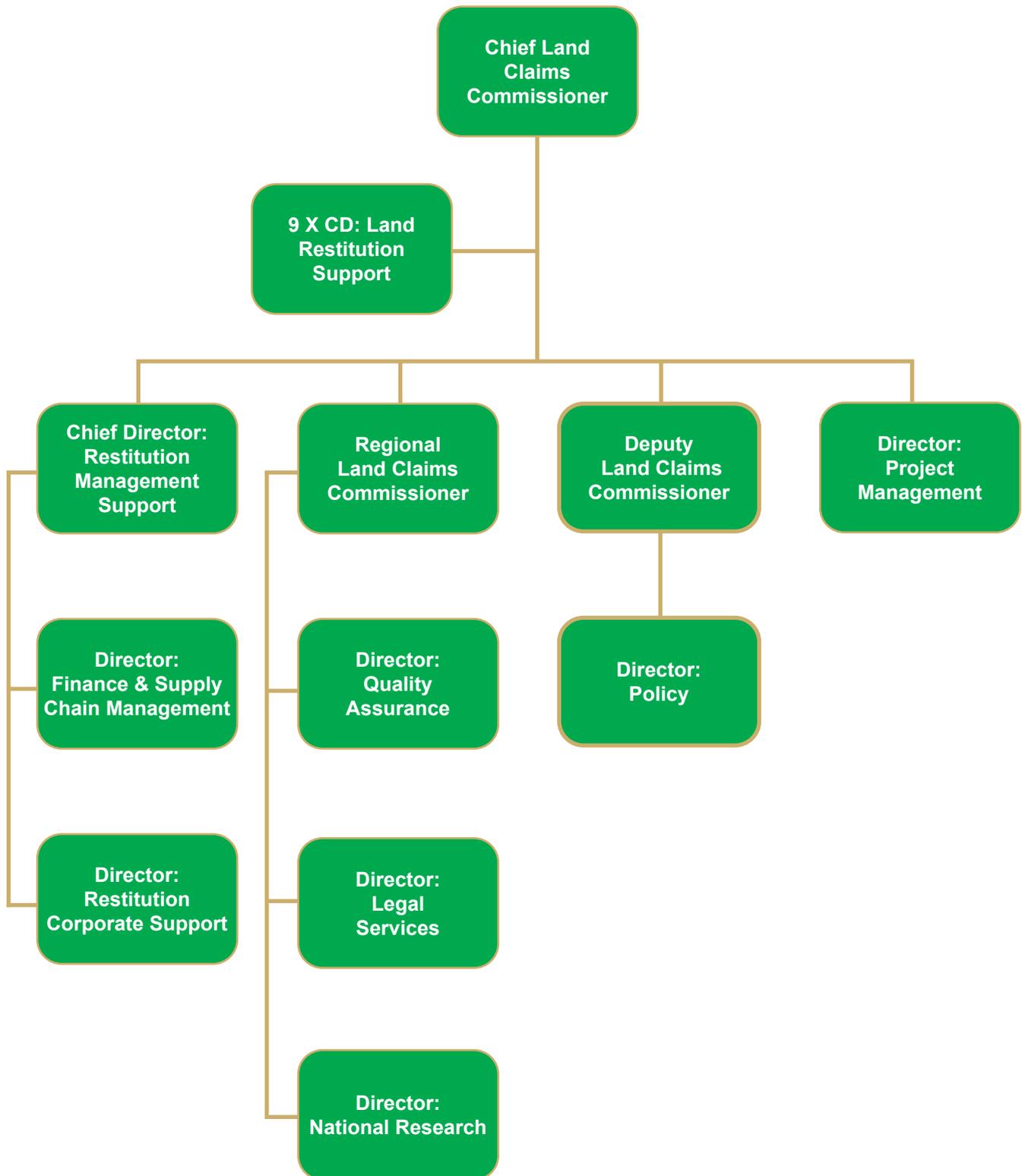


Figure 1: Organisational structure of the Commission

5.3.7 Resource considerations

Expenditure trends and projections

Figure 3 indicates how the CRLR’s budget has progressively decreased over the seven years from 2012/13 to 2022/23. However, the indicative budget for 2023/24 points to an increase in the budget allocation. In the MTEF, the indicative budget increases to make provision for operations, service delivery, performance in support of the settlement and the finalisation of claims.

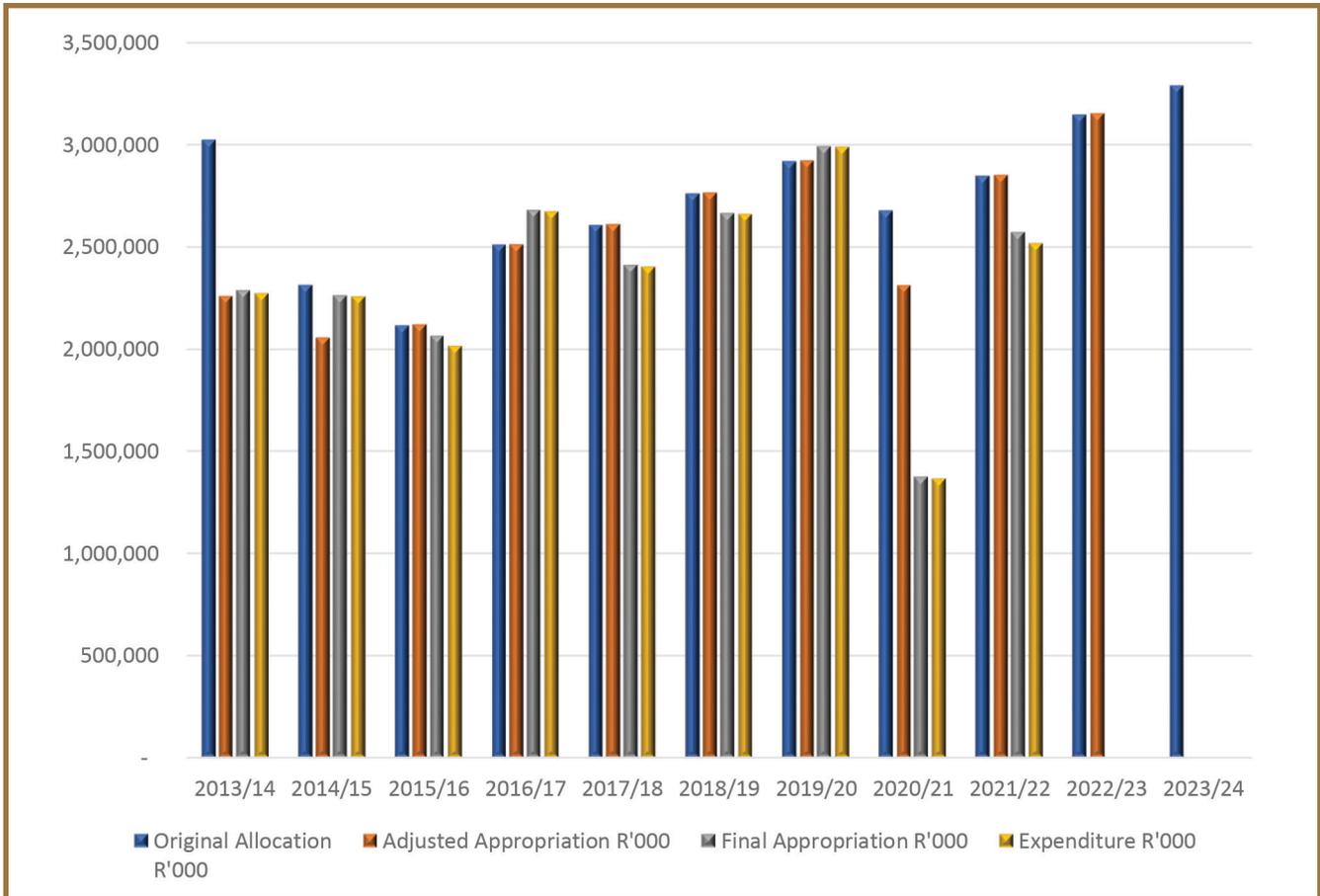


Figure 3: Budget trends

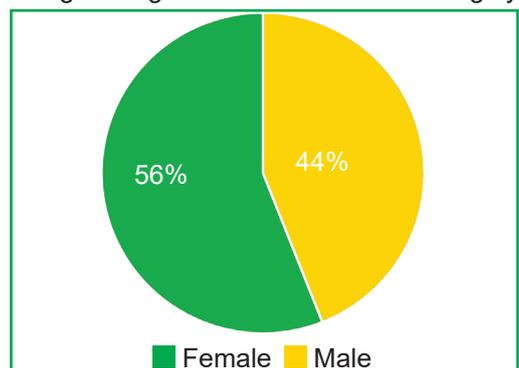
Human resources

The future structure of the CRLR and the 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, employment equity 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. We confirm the information to be correct.

Females make up 383 (56%) of staff, against 295 males (44%).



There are 14 staff members with disabilities (2.1% of the total establishment).





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 – see Table 5.

Table 5: Outcomes, outputs, performance indicators and targets for Outcome 1

OUTCOME	OUTPUT	OUTPUT INDICATORS	MTEF PERIOD		
			2023/24	2024/25	2025/26
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	349	408	437
	1.2 Land claims settled	1.2 Number of land claims settled	349	408	437
	1.3 Land claims finalised	1.3 Number of land claims finalised	406	378	399

Table 6: Annual and quarterly targets for Outcome 1

OUTPUT INDICATORS		ANNUAL TARGET (2023/24)	QUARTER 1	QUARTER 2	QUARTER 3	QUARTER 4
1.1	Number of land claims recommended for settlement	349	51	111	127	60
1.2	Number of land claims settled	349	51	111	127	60
1.3	Number of land claims finalised	406	75	135	100	96

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 area considers rapid land and agrarian reform that contributes to reduced asset inequality, the equitable distribution of land and food security.

Key initiatives include the following:

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

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

7. Explanation of planned performance

Improved governance and service excellence should be the priority of a capable, ethical and developmental state. It shows the 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 the DALRRD's impact statement. When governance is improved and corruption reduced, the department will be well positioned to achieve the required impact.

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 organisation's development needs to support the execution of the strategy. A set of 22 initiatives has been identified, the application of which will ensure that the five-year targets can be achieved. Each of these initiatives has been linked to the six outcomes as indicated above. The initiatives often impact on more than one outcome and this is indicated in the tables as primary or secondary links.

7.1 Cost drivers

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

7.1.1 Settlement of claims lodged before the 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 affected, 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 purchase of goods and services) to execute research and to fund the payment of service providers, such as valuers.

On 30 January 2023, 6 853 old-order land claims, lodged before the 1998 cut-off date, were outstanding. Of these, 43 per cent were in the research and gazetting stage and the full business process still has to be followed to settle the claims. In addition, there are some claims that have only been partly settled, i.e. some phases of a claim involving a number of properties have been settled but the remaining properties or portions have yet to be settled or restored. The current annual target identifies 349 claims that are to be recommended for settlement and 406 projects to be finalised.

The total operational budget of the CRLR and the Restitution Branch (i.e. CoE, goods and services, and machinery and equipment) amounts to R645 million in 2023/24. A linear projection, without taking into account that the operational budget includes management costs, legal costs and other costs not directly attributed to the settlement of claims, indicates that a total amount of R65 billion will be required to settle all claims scheduled for settlement over the next five years. This figure includes a 25 per cent margin of error as 43 per cent 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's (APP's) target of recommending 349 claims for settlement in 2023/24 will be handled by the Restitution Branch. Its household budget for 2023/24 totals R3, 291 billion, which includes the budget of the CRLR. The combination of the Restitution Branch and the CRLR budgets is problematic and a process should be initiated to split the budgets. The research of claims will generally be insourced but outsourced in the case of complex claims.

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

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

A total cost of R65 billion has been estimated for the finalisation of 8 447 claims. The CRLR is developing a process to determine a more accurate estimate for costs related to finalisation. Annual targets to finalise claims can only be set if substantial additional operational funding is allocated to the research, recommendation and settlement of claims (as a precursor to finalisation), particularly since 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 is the settlement of 349 claims and the finalisation of 406 claims with the available households budget of R3,291 billion in 2023/24.

Clearing the commitment register

Once a settlement (award) is approved by the Minister or the LCC, a commitment is raised. The claims in the commitment register fluctuate as new claims are settled (resulting in an increase) or are finalised (resulting in a decrease). By clearing the commitment register, targets are achieved insofar as the finalisation of claims is concerned.

Commitments presently amount to R5, 087 billion. Some 42 per cent of the commitments, amounting to R2,143 billion, are in respect of development grants, 13 per cent for the payment of land purchases and 45 per cent for payment of financial compensation. Commitments are directly related to the legal mandate of the CRLR as contained in the Act. Presently, all the commitments are funded from the project budget of Programme 3.

The commitment register is progressively being reduced through the finalisation of claims that were settled in 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.

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 that of the CRLR. As such, it may be appropriate to move the commitment in respect of development grants to the relevant programme within the 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

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.

Because of the CRLR's history of inaccurate information and data, a decision was taken that all claims must be lodged electronically. An electronic lodgement system has been developed. This system is being developed further 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 Land Rights Amendment Act, 2014, requires the CRLR to prioritise the settlement of claims lodged before the 1998 cut-off date that 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 of the CRLR will only be determined once business process mapping has been finalised and the organisational structure determined following an investigation into the most appropriate 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

Figure 2 illustrates the CRLR's current 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 its autonomy programme.

8.3 Critical funding

Human resources

In line with the approved structure of 11 December 2020, the staff complement is 678. A total of 70 positions are vacant, a vacancy rate of 10 per cent. A process of redesigning the structure of the CRLR, as part of its autonomy programme, is currently taking place. Requirements in terms of additional human resources for the future structures are being defined.

Goods and services

To expedite the settlement of claims, the offices need to appoint specialists to provide services such as claimant verification, valuations and the tracing of beneficiaries. These functions relate to both the clearing of the commitment register and the settling the outstanding claims. The costs incurred by these services cannot be covered by being transferred to household or capital budgets as they are unrequited and the research may, in some cases, lead to the dismissal of claims with no ultimate benefit to households.

Since the Restitution Branch does not have district offices, officials need to travel to communities to hold meetings, attend to negotiations and collect supporting documentation. The travel cost is a cost driver for the restitution offices. Further, the Restitution Branch supports communities with legal fees in terms of section 29(4) of the Act. Legal fees, as well as State Attorney fees, are also a big cost driver for the programme. A reprioritisation of funds is currently taking place in this regard.

Office equipment

Capital assets have a set depreciation period and some of the department's resources, like computers, have reached the end of their life cycle. A request has been made for additional funding to replace such assets. The financing costs incurred for the leasing of labour-saving devices is allocated as capital asset funding. When officials work in the field, they must be able to work remotely. A need has been identified for the necessary equipment. 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 both funding and human resources. There is also backlog of commitments made to claimants. Furthermore, there is a need to factor in grants to communities who have received land but are not able to utilise the land sustainably. This has resulted in bad publicity for the DALRRD as farms are not sufficiently supported by recapitalisation and development funding.

8.4 Summary of critical budget requirements

For the 2023–2026 MTEF, a baseline allocation of R10,319 billion has been made to cover the restitution budget for the purchase of land and the payment of development grants and financial compensation. The committed funds of projects already approved by the Minister amount to R5.09 billion, which has an impact on the budget required.

Table 7: MTEF budget allocation per item

ECONOMIC CLASSIFICATION	2022–23 ADJUSTED BUDGET	2023–24 REVISED BASELINE	2024–25 REVISED BASELINE	2025–26 REVISED BASELINE
Compensation of Employees	410 337	406 035	236 245	246 837
Goods and Services	200 332	238 845	303 292	329 170
Households	2 420 067	3 291 382	3 439 196	3 588 969
Provincial and local government	7 732	7 201	7 525	7 863
Land and subsoil Assets	732 136			
Machinery and Equipment	14 459	3 601	9 895	10 187
Total	3 785 063	3 947 064	3 996 153	4 183 026

Table 8 Indicative MTEF Budget allocation per sub-programme

PROGRAMME/BRANCH	2022–23 ADJUSTED BUDGET	2023–24 REVISED BASELINE	2024–25 REVISED BASELINE	2025–26 REVISED BASELINE
Sub-total National	278 670	174 364	199 344	216 570
Sub-total Province	355 150	499 625	357 613	377 487
Households	3 506 393	3 291 382	3 439 196	3 588 969
Total	3 785 063	3 965 371	3 996 153	4 183 026

8.4.1 Settlement of claims

As indicated above, the settlement of claims requires operational funding to process claims up to the 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 claims 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 mitigation linked to the respective outcome indicators have been detailed in Table 9.

Table 9 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 that the 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 • A supportive and enabling environment • COVID-19 • Propaganda • Reopening of claims 	<ul style="list-style-type: none"> • Clear mandate development • Implementation of an effective organisational form and associated structure with the necessary 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

NO.	OUTCOME INDICATOR	KEY RISKS		RISK MITIGATION
		Weaknesses	Threats	
Outcome 2: Improved governance and service excellence				
2.	Establish the CRLR as an autonomous organisation, improving the governance structures and overall service delivery	<ul style="list-style-type: none"> • Policy • Budget • Human resources and structure 	<ul style="list-style-type: none"> • Finances and funding • DPSA • National Treasury • DALRRD • 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 10.

Table 10: 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 the funds required for 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 a detailed business process that is elaborated into SOPs and timeframes Implementation of reviewed settlement models

RISK TYPE	RISK	RISK MITIGATION
Regulatory		
Reputational risks	Reputational risk linked to delays in the settlement of claims	<ul style="list-style-type: none"> Statutory Commission meetings to be held with widespread, formal communication aims, including the media, as well as the quarterly release of statistics Communication process under way in collaboration with the Government Communication and Information System (GCIS)
Legal and regulatory risks	No clear CRLR mandate (e.g. risk of 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 the DALRRD's processes Improvement of tracking and management of matters in the 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

12. 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 by 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 the 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"> 349 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 that have been settled either by the Minister or by delegation negotiation, 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. • A claim is settled once the Minister (or the duly delegated official(s)) has approved an award for the restoration of a right, or alternative land or financial compensation.
Source of data	<ul style="list-style-type: none"> • Signed section 42D and/ or 42E and /or a LCC 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, or 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 a LCC 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"> • 349 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 finalised
Definition	<ul style="list-style-type: none"> The indicator refers to land claims that have already been settled and have been finalised. 'Finalised' means full financial compensation or the land purchase price has been disbursed, and/or land has been transferred, or a combination of the two. 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 an LCC order has been effected, i.e. the property has been transferred to the beneficiary or the financial compensation has been paid.
Source of data	Includes one or a combination of: <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. Deeds Web report to confirm transfer to claimants. Deferral Memo signed by the RLCC that the claim and/or untraceable claims are to be referred.
Method of calculation/ assessment	<ul style="list-style-type: none"> Simple count of the number of claims that were finalised 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 letterhead dated within the period under review. Dated and signed non-compliant/dismissal letter on an approved letterhead, signed by the RLCC, in cases where the minimum period of 30 days has lapsed at the time of the RLCCs signature. Deeds Web printout confirming transfer details. Dated and signed declaration or reconciliation submission to clear funds from the commitment register. Dated and signed deferral memo on an 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"> 406 claims finalised.
Indicator responsibility	<ul style="list-style-type: none"> Head Branch Restitution and Chief Land Claims Commissioner as delegated by the Minister.



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