



**SEVENTH LAMOSA REPORT  
TO THE ACTING JUDGE OF THE LAND CLAIMS COURT**

**AS REQUIRED IN TERMS OF THE CONSTITUTIONAL  
COURT ORDER DATED 19 MARCH 2019 – LAMOSA II**

**24 JANUARY 2023**

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A handwritten signature in black ink, appearing to read "Ms N Ntloko".

## 1. INTRODUCTION

### 1.1. PURPOSE OF THE REPORT

The Chief Land Claims Commissioner (CLCC) submits this report to the Acting Judge President of the Land Claims Court (LCC) on behalf of the Commission on Restitution of Land Rights (CRLR, hereafter referred to as the "Commission") in compliance with the Constitutional Court order dated 19th March 2019 – also commonly referred to as LAMOSA II Judgment.

This report follows on the 6<sup>th</sup> Lamosa report submitted in June 2022.

### 1.2. BACKGROUND

The Constitutional Court Order delivered on 19 March 2019 – also commonly referred to as LAMOSA II - requires the Commission to furnish the LCC with the information itemised below at six monthly intervals starting from the date of the Order:

The Commission, thus, needs to appraise the Court with information regarding;

- The number of outstanding old order claims in each of the regions on the basis of which the Commission's administration is structured.
- The anticipated date of completion, in each region, of the processing of old order claims, including short-term settlement targets.
- The nature of any constraints, whether budgetary or otherwise, faced by the Commission in meeting its anticipated completion date;
- The solutions that have been implemented or are under consideration for addressing the constraints; and
- Such further matters as the LCC may direct; until all old order claims have been processed.

In line with the Commission reporting requirements to the LCC, this report also contains information on claims that the Commission has committed to refer to the LCC



as discussed in the on-going engagements between the Commission and the Acting Judge President.

### 1.3. OUTLINE OF THE REPORT

The report provides background and key information on the operations of the Commission. The Commission is in the process of fundamentally changing the way it conducts its business, for the greater benefit of the people that it was established to serve.

The report starts with providing a timeline of the Commission and re-affirming the business of the Commission. It then provides a summary of the Kuyasa Project which sets out the way in which the Commission is changing the way it conducts business.

The report highlights the current policy climate and addresses Legal matters such as land claims referred to the LCC.

A detailed report is provided on the number of outstanding old order claims; setting out national and provincial breakdown with progress as well as indications of land use, land portions associated with the outstanding land claims. It is followed by the progress against the Annual Performance Plan (APP), which addresses short term targets, and settling of outstanding claims based on the Medium-Term Expenditure Framework (MTEF).

Lastly the report addresses challenges, constraints and proposed solutions.



## 2. HISTORY/TIMELINE OF THE COMMISSION

The key milestones in the Commission history are:

- the establishment of the LCC in 1995;
- the cut-off date for lodgement of claims in 1998;
- the initial date for finalisation of claims in 2005;
- the extension to finalise claims in 2008;
- the establishment of the Department of Rural Development and Land Reform (DRDLR) in 2009 which led to hand over of Post Settlement Support to the Department of Agriculture, Land Reform and Rural Development (DALRRD) in 2013;
- the reopening of lodgement of claims in 2014; and
- the Lamosa judgments in 2016 and 2018.

These key milestones defined and guided the Commission in the implementation of their duties, settlement of claims and directives for future operations.

The diagram below indicates the major timeline events in the Commission:

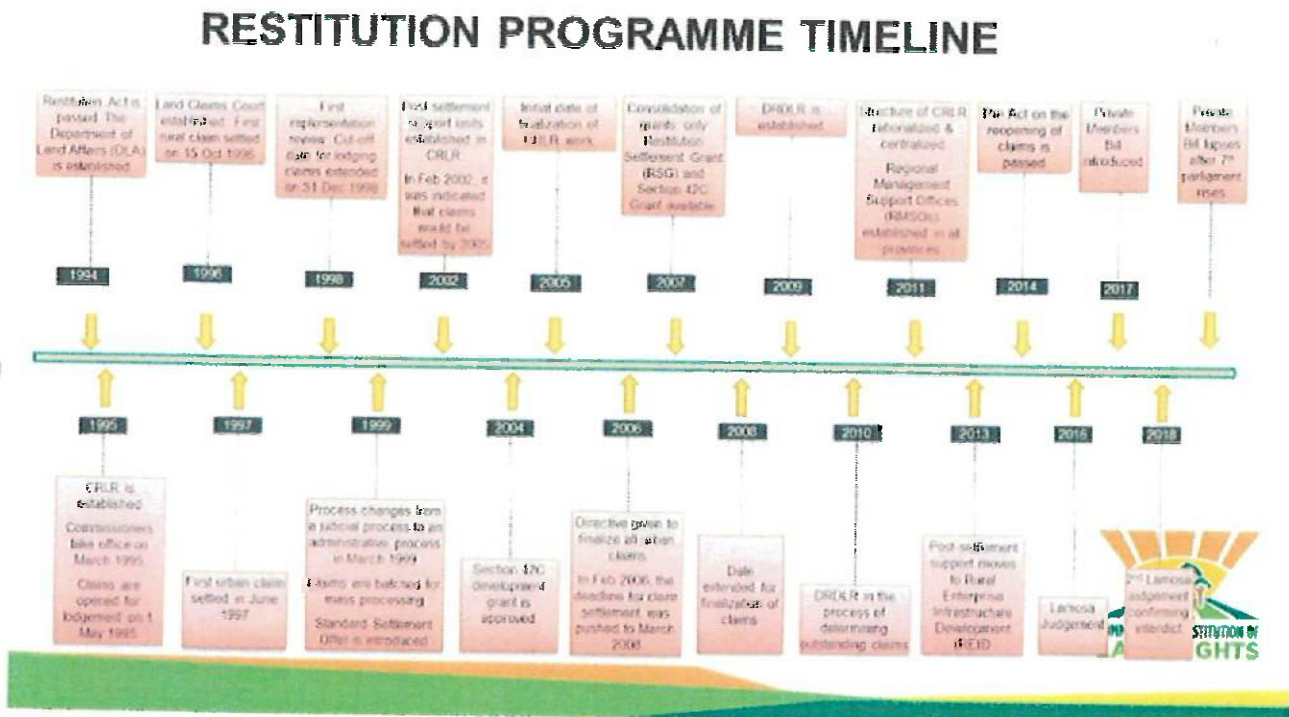
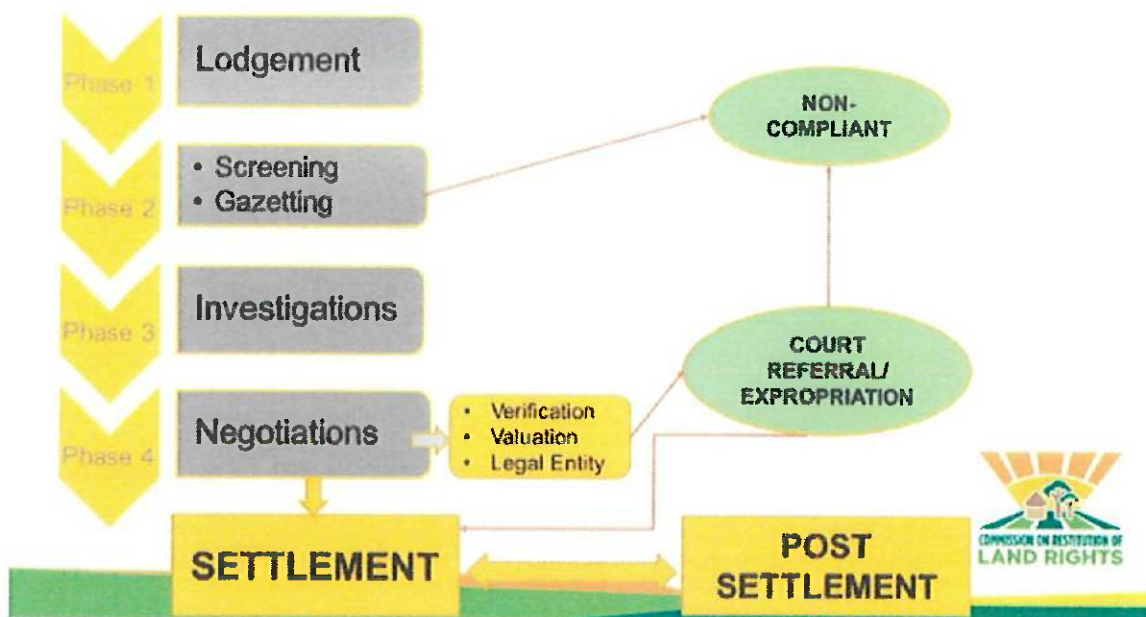


Figure 1- Restitution Timeline



### 3. RESTITUTION BUSINESS PROCESSES

The Commission has refined and re-affirmed the business processes for Restitution. The diagram below sets out these processes. There are four (4) primary phases; Lodgement, Screening and Gazetting, Investigations and Negotiations. After phase 4, claims proceed to Settlement and finalisation after which the DALRRD should proceed with Post Settlement Support.



**Figure 2 - Restitution Business Process**

#### 4. TURNAROUND STRATEGY – PROJECT KUYASA

As briefly reported in the 6<sup>th</sup> Lamosa report, the Commission has developed a turnaround strategy on its current operating model, making use of the project named “Kuyasa”.

Project Kuyasa outcomes was designed on the five (5) outcomes that emanated from Operation Phakisa. Project Kuyasa consists of several organisational improvement objectives such as the development and implementation of improved business processes and systems, the development of a claims backlog reduction strategy, development of financial and settlement models options. The Commission can now report that to date, all the above objectives have been achieved.

In terms of the establishment of the Commission as an autonomous entity, the road to autonomy, as set out in the diagram below, is linked to the approval of a business case and the processing of the Restitution of Land Rights Amendment Bill.

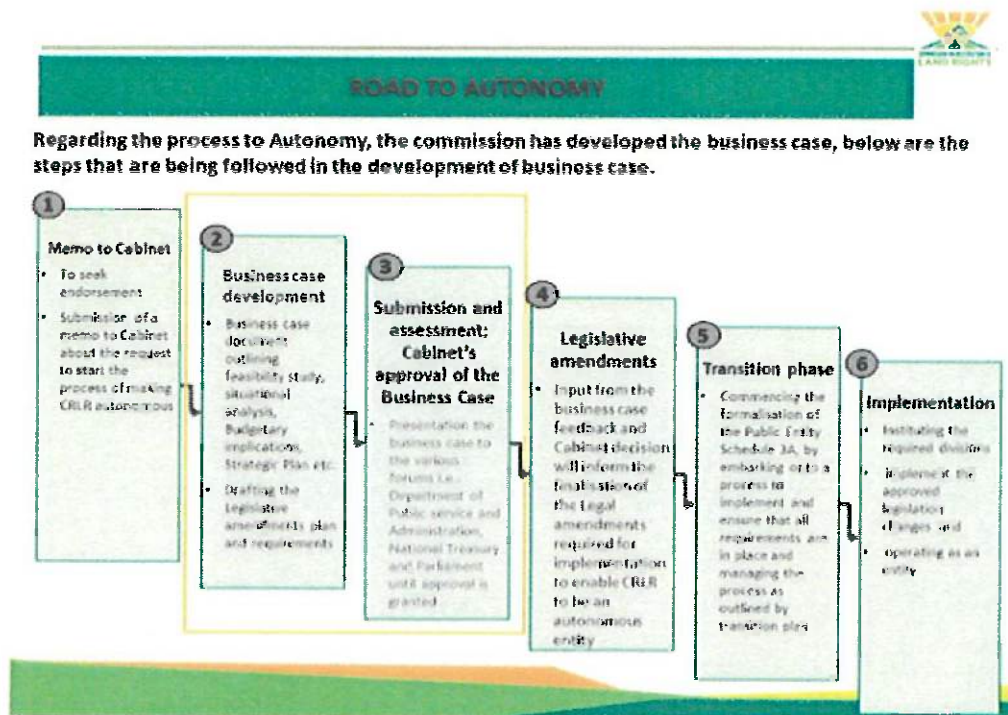


Figure 3 - Road to Autonomy



#### 4.1. BUSINESS CASE

The Commission developed and completed a Business Case through Project Kuyasa. The Business case provides a detailed analysis and determination for the Commission to be a Schedule 3A entity. Following the approval of the Business Case by the Minister, further consultation was undertaken. The Department of Public Service and Administration (DPSA) provided written endorsement of the Business case. The approved Business Case was also submitted to National Treasury for further consultation. The Commission is still waiting for National Treasury to respond and provide guidance on the proposal made.

#### 4.2. RESTITUTION OF THE LAND RIGHTS AMENDMENT BILL

The Business Case that has been developed and endorsed is linked to a draft Bill. The development of the Bill was spearheaded by the Legislative Specialists in DALRRD. However, the Bill cannot be processed until adoption via the cluster system. Internal consultation in the organisation needs to be finalised with the DG's office before processing via the cluster. The Commission is waiting for further guidance from the DG. Therefore, delays to address these issues will have an impact on the previous plans presented and adopted at EXCO regarding timeframes on the road towards autonomy.

The amendments to the Restitution Act will ensure an efficient and effective autonomous Commission. The Commission objectives will increase participation, ownership and access to resources and opportunities by women, youth and persons with disabilities. The Bill is founded on resolving challenges that were experienced under the Restitution of Land Rights Act, such as backlogs in settlement of land claims and dispute resolution mechanisms when disputes arise.





#### 4.3. INTERIM STRUCTURE

A long-term structure linked to the proposed schedule 3(A) has been developed. This can only be processed with the adoption of the Bill and the Business Case. A transition plan to be dealt with by DPSA at the Bargaining Council has also been developed. The DPSA has also provided written endorsement of the proposed interim structure. The purpose for the interim structure that was developed, was due to the risk assessment undertaken to ensure segregation of duties and addressing concerns raised by the Auditor-General. The interim structure also dealt with the separation between the Commission and the Branch Restitution. It should be noted that for the past few years the Commission submitted separate Annual Performance Plans and Separate Financial statements. The Commission was also compelled to submit its own separate strategic plan.

#### 4.4. PROGRESS ON THE AUDIT REPORT 2021

In the previous Lamosa reports, the Commission reported on the independent audit conducted in 2021. This audit established the outstanding claims baseline. The report also identified 27 key findings. Some of the key findings are Legal and Policy issues whilst the other are record keeping issues. The Commission has drafted and Implementation plan and has also commenced with resolving these findings which should be completed by March 2024.

#### 4.5. RISKS ASSOCIATED WITH THE ABOVE MATTERS

Failure of processing the Interim Structure towards approval by DALRRD now compels the Commission to review commitments raised in the strategic plan and annual performance plans.

Non-adherence to the new Policies and Standard Operating Procedures (SOPs) (Section 5) is expected to be a massive outcome during the following audit cycle.

The above risks will lead to reduced targets.

The implementation of the audit findings will have a five to eight percent impact on the number of claims outstanding.

Failure to mitigate the risks identified will further negatively affect the fraud and risk register management.



## 5. CURRENT POLICY CLIMATE

### Improved governance and service excellence

The 2017/2018 Audit raised concerns about noncompliance with policy approval processes as well as gaps in policies, standard operating procedures, and guidelines.

In response to the foregoing, the Commission developed a turnaround strategy known as Project Kuyasa. This resulted in the development and revision of operational policies, SOPs, guidelines, and internal control systems to ensure that the Commission's governance position is not compromised, and processes are standardized across provinces.

All outstanding policies that had not yet been established were developed through Project Kuyasa. Following extensive training for all Commission officials between May and June 2022, all SOPs and policies were implemented on 1 July 2022. Aside from that, from August 31 to October 25, 2022, a second round of training sessions called "Refresher Training" was held. All provincial offices confirmed that their readiness to implement Policies and SOPs. It is worth noting that the Financial Compensation Policy and Verification Policy are still being reviewed.

\* In keeping with the above, the six settlement models (Agriculture, Forestry, Sugar Cane, Mining, Tourism / Conservation, and Urban / Mixed Developments) have been updated and are awaiting the Director General's approval to begin final stakeholder engagements. These settlement models are aimed at expediting the settlement of land claims.



## 6. LEGAL REPORT

### SECTION 14 REFERRALS

During 2022/2023 financial year, the Commission had targeted 65 claims to be referred to the Land Claims Court for adjudication as provided for by s14 of the Restitution Act. Thus far a total of 10 cases have been issued at the Land Claims Court with the balance of 55 matter that are outstanding, and provinces have provided reasons for variance and budding recovery plans. See the table below for the breakdown of the targets in quarters:

**Table 1 – Annual target for land claims to be referred to LCC**

Performance indicator	Current litigation cases	Annual Target	Quarter 1 Target	Achieved	Quarter 2 Target	Achieved	Quarter 3 Target	Achieved	Quarter 4 Target	Achieved	Performance against Annual Targets
Section 14 Referrals as per LAMOSA 2 judgement	65	14	0	22	4	17	2	12			-59

During the years 2021/ 2022 the Land Claims Court through Judge Meer gave several directives regarding incorrectly issued referrals. The following issues were raised in most of the matters brought to court:

1. No clear dispute between the parties.
2. There was no compliance with Directive 15 of the Land Claims Court in that the claimants were not well represented. The Commission was informed to ensure claimants are represented before claims are filed for issuing at the LCC.



3. Poor research which did not outline strong merits for the land claim which justified the publication of the claims. Further research required for matters to be trial ready

The Provincial breakdown is captured in the Table below:

**PROGRESS ON PROVINCIAL REFERRAL TARGETS FOR FINANCIAL YEAR 2022/2023**

*Table 2 – Progress on referrals*

Performance Indicator		Annual Target	Quarter 1 Target	Quarter 1 Achieved	Quarter 2 Target	Quarter 2 Achieved	Quarter 3 Target	Quarter 3 Achieved	Quarter 4 Target	Quarter 4 Achieved
Section 14 Referrals as per LAMOSAM 2 judgement	EC	2	-	0	-	-	-	0	2	-
	FS	2	-	0	-	-	-	0	-	-
	GT	5	1	0	2	-	1	0	1	-
	KZN	19	4	0	5	1	6	0	4	-
	LIM	8	2	5	2	-	2	0	2	-
	MPU	18	5	0	5	1	4	2	4	-
	NW	34	0	0	2	-	1	0	0	-
	NC	1	-	0	-	-	1	0	-	-
WC	12	2	0	6	2	2	0	2	-	

It is regretted that the Commission might not be able to refer all the targeted number of claims due to the following reasons:

- Since Legal Aid has taken over the LRMF the Commission has been slow with the appointment of legal representatives for claimants.



- limited capacity due to resignations and skills in the legal unit.
- Capacity constraints within the offices of the State Attorney and the Sheriff, e.g. currently the Pretoria State Attorney is allocated to support Gauteng, Limpopo, Mpumalanga, and North West Provinces cases.
- The Free State Province State Attorney's office also has serious capacity challenges which have been evident for the last three years. This has had a direct impact on how quickly we can draft and prepare referrals in line with the LCC guidelines to the LCC as anticipated, we continue to engage with the office of the state Attorney to deal with these challenges.
- Regarding the Sheriffs' office, they have reported that they sometimes cannot locate landowners to effect service. This has contributed to the cases not proceeding as expected at court. The Commission has intervened by using its own officials to affect the service on the landowners however this continues to have a negative impact on the process and in ensuring that all cases issued are trial ready;
- State Attorney delays in the appointment of Counsel to draft Notice of referrals.
- Operations Unit abdicating complex claims to settlement by the Land Claims Court especial those that need further research or have numerous conflicting land claims.
- Parties unwilling to go for mediation for the Commission to certify that all attempts at negotiations have failed.

#### LEGAL AID BOARD VS LRMF

Regarding the provision of legal representation at state expense, we advise that previously the Commission had a facility known as the Land Rights Management Facility (LRMF). This facility and function have since been transferred to the Legal Aid





South Africa. The Legal Aid South Africa formally accepted this function from the 1<sup>st</sup> April 2022.

Paragraph 4.5 of the Memorandum of Understanding signed by the Director General: Department of Justice and Constitutional Development on 29 April 2022, Director General: DALRRD on 4 May 2022, and the Chief Executive Officer: Legal Aid South Africa on 19 May 2022 states that: the DALRRD and Legal Aid SA must work in collaboration to ensure that the constitutional rights of farm occupiers, labour tenants and restitution claimants are realized

Due to the obligations placed by legislations (Extension of Security of Tenure Act No. 62 Of 1997, The Land Reform (Labour Tenants Act No. 3 Of 1996 And Restitution of Land Rights Act No. 22 Of 1994) on DALRRD and the Commission, the bulk of the referrals to the Legal Aid Board will come from DALRRD and the Commission.

#### CHALLENGES WITH LEGAL AID BOARD

- There is a confusion on who is supposed to authorise the appointment of the panellists to assist claimants.
- Slow pace in the allocation of legal representatives to the claimants especially on newly referred matters in line with the court directives;
- Legal Aid Board has struggled to outline clear Standard Operation procedure with the Commission.
- The Legal Aid Board has not reported or conducted reviews of panellists of the LRMF with some of the Regional Land Claims Offices in order to assist all parties to track the progress of matters in court. Matter have remained stagnant in court. No reviews have been conducted in over 13 Months.



- The legal aid Board has been paying Panellists without the RLCC offices ensuring that deliverables have indeed be satisfied. The previous LRMF did not pay panellists until the Commissioners approve the invoices. The RLCC offices are completely in the dark regarding the progress of litigation.

### STATUS OF DISMISSAL/DEFERRALS

The Commission is currently working on finalising the draft court application which will be brought before the LCC to seek an order declaring all the untraceable claims finalised for statistical purposes. As part of dealing with the untraceable claims, the office embarked in the process of tracing the claimants through independent tracing agents. The said tracing agents provided the office with the reports which upon thorough scrutiny proved to be insufficient in addressing all the problems. Even with these reports at hand, the office has fallen short of sufficient evidence to take the claims forward. It must be noted that these processes including the court application were already ongoing since the previous financial year and the office has not been able to see it through due to the following challenges:

- Limited access to crucial information or records which are required to confirm or conclude death or life status of some of the untraceable claimants;
- Lack of information or records which may lead to the office being able to trace next of kin or other relatives of the claimants;
- Lack of cooperation by key government stakeholders who are the custodian of some of the required information or records;
- Insufficient information emanating from the tracing reports provided by the tracing agents which resulted in the office facing difficulties in using the report for court purposes; and



  
\_\_\_\_\_

- Lack of internal capacity and resources to conduct tracing inhouse.





## 7. OUTSTANDING CLAIMS

### 7.1. CUMULATIVE SETTLED CLAIMS SINCE INCEPTION TO 30 SEPTEMBER 2022

The table below indicates all claims settled since inception up to 30 September 2022, which totals over 82 000 claims and more than 450 000 households. In terms of awards to claimants, which is either financial or land compensation, the ratio is more or less 50:50 between Financial Compensation (totalling R20 billion) and Land compensation (totalling R24 billion) indicating that the Restitution programme has and is still meeting its objectives. Land compensation further equates to 3,86 million hectares that have been restored.

*Table 3 - Cumulative statistics*

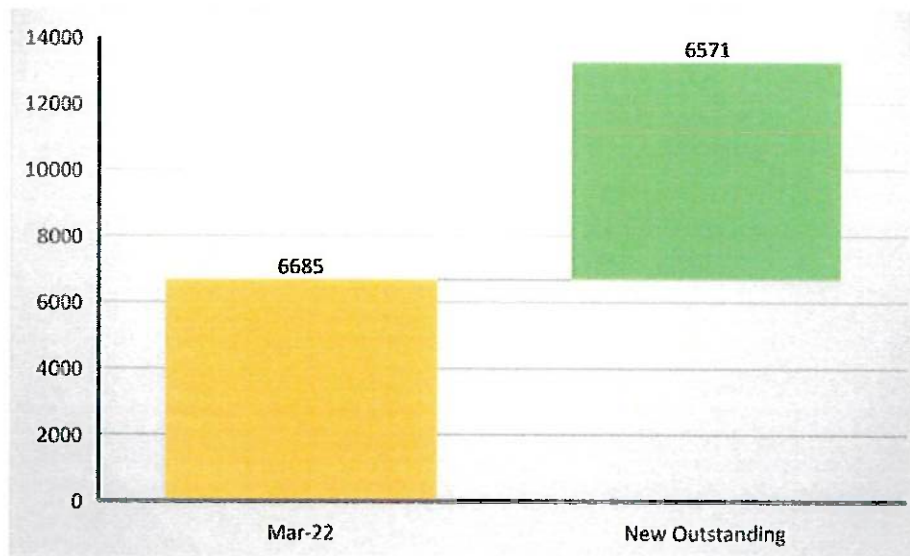
PROVINCE	CLAIMS	HHs	BEN	FHHs	PEOPLE LIVING WITH DISABILITIES	HECTAR ES SETTLE D	LAND COST	FIN COMP	GRANTS	TOTALAWARD
E CAPE	17106	90761	423294	34585	0	142528	131 659 350 29	6 143 147 612 69	548 882 545 36	6 823 689 508 34
F STATE	2871	8721	52659	3221	10	60387	93 522 832 05	449 679 893 22	55 460 224 71	598 662 949 98
GAUTENG	13429	21706	83745	9713	16	23970	101 419 933 57	1 094 775 217 00	65 659 966 38	1 281 856 138 95
KZN	15981	97304	551768	33082	580	868526	8 315 771 186 38	4 671 512 632 24	977 217 059 28	13 970 875 877 90
LIMPOPO	4701	66557	320096	27381	0	761091	4 566 936 110 04	3 156 524 897 75	1 026 328 679 86	8 749 789 887 65
MPLANGA	3358	61087	315312	20967	58	555495	6 489 061 233 07	1 434 619 053 24	730 948 246 77	8 654 679 033 02
N CAPE	4060	25915	139705	10453	158	848516	919 595 821 23	1 208 704 566 73	281 386 952 81	2 409 687 160 77
N WEST	3977	45464	226083	19657	37	583280	4 076 473 814 67	775 863 573 47	762 228 677 26	5 614 566 265 40
W CAPE	17405	33791	152673	14848	378	11212	305 049 750 52	1 672 218 849 10	859 217 909 02	2 836 527 508 64
<b>TOTAL</b>	<b>82688</b>	<b>451606</b>	<b>2265335</b>	<b>173907</b>	<b>1239</b>	<b>3855976</b>	<b>24 999 489 831 76</b>	<b>20 607 046 315 44</b>	<b>5 327 330 691 45</b>	<b>50 940 288 328 65</b>

## 7.2. GENERAL PERFORMANCE

In the sixth LAMOSA report, the Commission indicated that a total of 6685 claims constituted the total outstanding claims.

In this report, the Commission is reporting a total number of 6571 claims that constitute the total number of outstanding claims from 1 April 2022 to 30 November 2022.

During this period, the Commission settled 114 claims, from 6685 claims settled end of March 2022 to 6571 claims settled in the last 6 months. This is an indication that the Commission is increasing the pace of settling land claims.



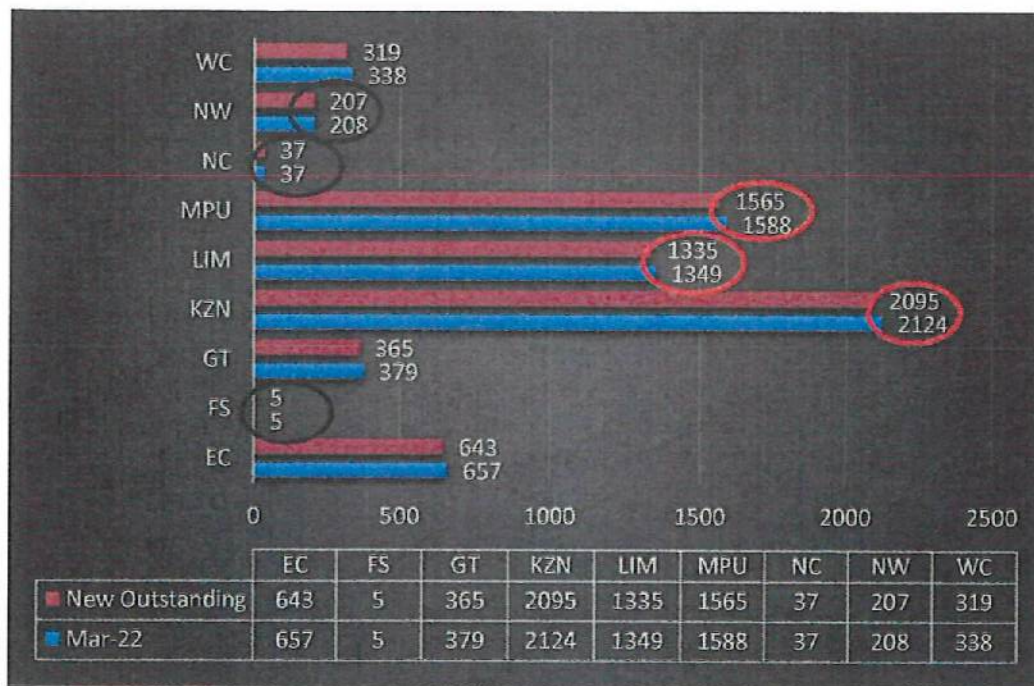
**Figure 4 - Claims outstanding November 2022**

The Diagram below indicates the movement of outstanding claims settled per provincial breakdown for the 3 Quarters from June 2022 to December 2022 while the chart shows the overall movement of claims per province from 1 April 2022 to end of November 2022.

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**Table 4 - Settled outstanding land claims movement per province**

Output Indicator	PROVINCES	March 2022 KUYASA	APP June	APP Sept	APP Nov	APP TOTAL	New Outstanding
Number of outstanding land claims	EC	657	3	9	2	14	643
	FS	5	0	0	0	0	5
	GT	379	0	14	0	14	365
	KZN	2124	15	8	6	29	2095
	LIM	1349	2	10	2	14	1335
	MPU	1588	5	16	2	23	1565
	NC	37	0	0	0	0	37
	NW	208	1	0	0	1	207
	WC	338	9	10	0	19	319
	<b>TOTAL:</b>		<b>6685</b>	<b>35</b>	<b>67</b>	<b>12</b>	<b>114</b>



**Figure 5 - Settled vs outstanding claims per province**

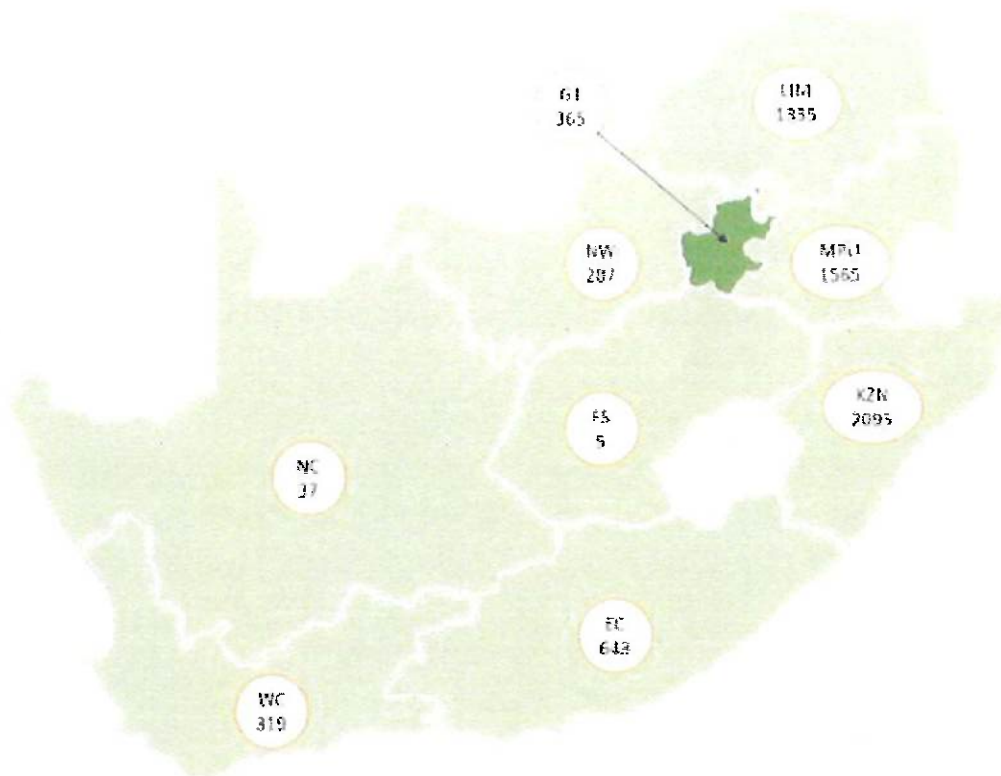


Submitted by:

*[Signature]*  
 CLCC: Ms N Ntloko

Date: 24/01/2023

The total outstanding Claims per province as at 30 November 2022 are as follows:



*Figure 6 - Outstanding claims per province*

- KwaZulu Natal (KZN), Limpopo and Mpumalanga still have the highest number of outstanding claims. KZN has the largest number at 2095 followed by Mpumalanga with 1565 and Limpopo with 1335. These claims are mostly rural in nature and large claims comprising of many property parcels and large number of claimants.
- Eastern Cape has a high number of financial compensation claims which have historic backlog payments which are outstanding but are receiving attention.
- Western Cape has several outstanding Registered rights and Urban Tenancy Claims mostly located in the City of Cape Town.
- Free State has 5 claims outstanding and of those 3 are in the Land Claims Court.



- Gauteng has outstanding rural Labour Tenancy Claims as well as large Urban Claims that were partially settled e.g. Alexandra.
- North West has few outstanding claims but each of these outstanding claims has large extend of hectares under claim which has resulted in the Province settling the claim in phases.
- Northern Cape has a few rural claims to settle but must deal with some complexity of overlapping and or competing claims.
- The settlement of claims does not consider the issue of finalisation of some of these claims including the provision of Post Settlement Support.

In terms of the breakdown between urban and rural claims, the bulk of the outstanding claims are rural, with a few claims still to be determined. This was reported in previous reports and the picture remains the same. These claims are clustered in provinces that have a large rural sector (i.e. KZN, Limpopo and Mpumalanga) and economy and correlates positively with the degree of complexity.

**RURAL – 5075 – 75%**

**URBAN-1720 – 25%**

The number of outstanding portions per province is also quite significant in terms of the complexity of claims and the delay in settling of claims. KZN and Limpopo have the highest number of outstanding claims and this correlates quite well with the number of land portions affected by these claims as per the below chart. North West, on the other hand, with a relatively low number of outstanding claims (207) has a skewed apportioned number of land parcels (3204) that are linked to these 207 outstanding claims.



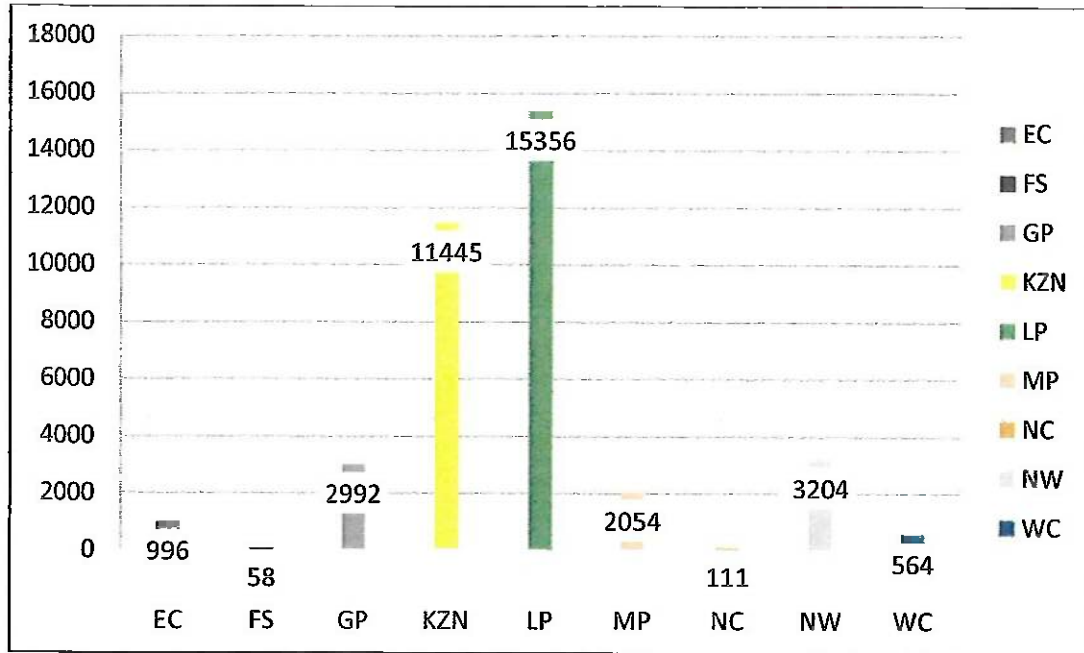


Figure 7 - Outstanding Land Portions per province

### 7.3. LAND USE LINKED TO SETTLEMENT MODELS

As reported in section 5, the Settlement models developed per sector are aimed at expediting the settlement of land claims. This makes it necessary to also breakdown outstanding land claims per land use. This will assist with engaging sector players in attempting to fast track settlement of outstanding claims and to ensure that the economic activities are not interrupted per se.

From the chart below, the indication is that most claims are characterised by mixed land use and residential. Although sectors such as Conservation, Sugarcane and Forestry are in the lower percentiles, these claims are complex and affect the swiftness at which these claims are settled.

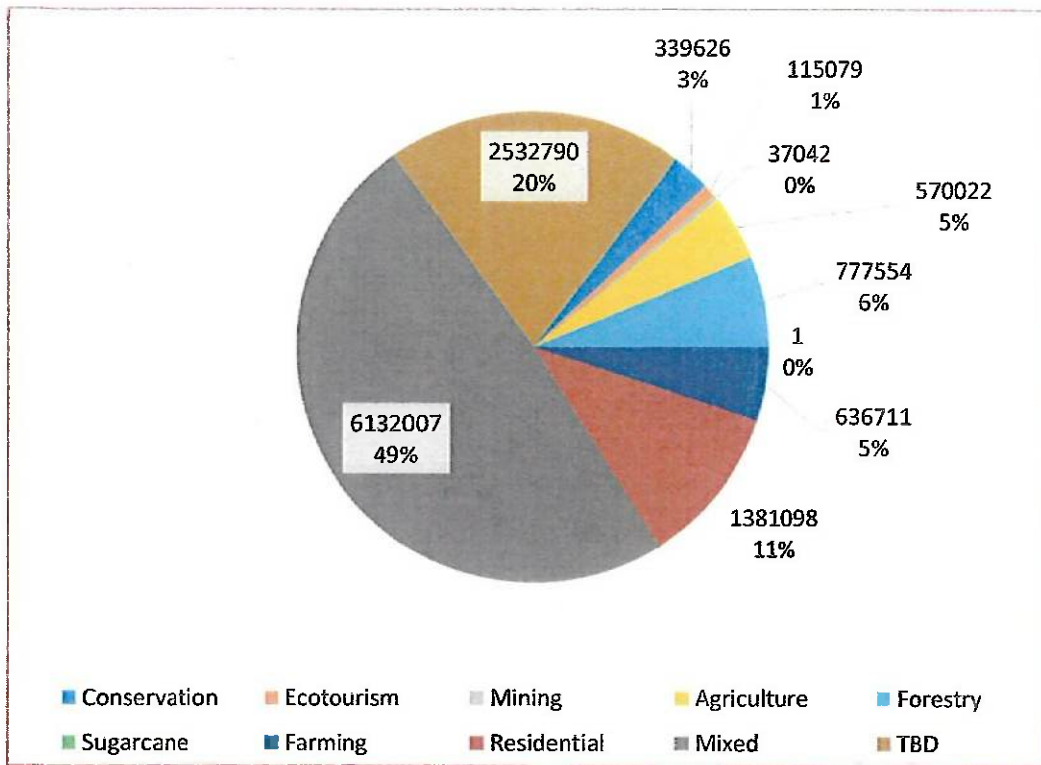


Figure 8 - Land Use per Settlement models (Ha; %)

**7.4. PROGRESS AND PERFORMANCE AGAINST APP TARGETS FOR 2022/2023 AND MTEF ALLOCATION**

The Commission has set itself a target of settling a total of 336 claims and finalising a total of 372 claims in this financial year (2022/23). This is directly linked to the available budget and staff compliment. All indication is that the targets set for this year will be achieved. As indicated in the graph below, the performance is on par for the period under reporting.



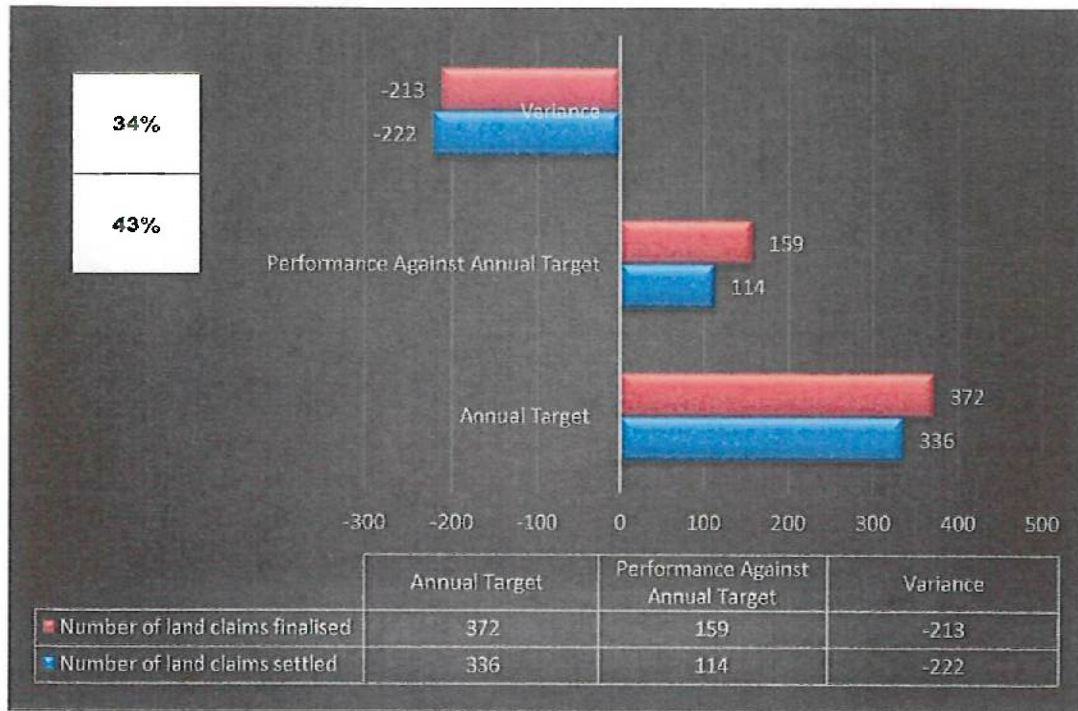


Figure 9 - Progress against APP Targets

Based on the current MTEF allocations the Commission intends to settle some of the outstanding claims as follows:



Submitted by:

*[Signature]*  
 CLCC: Ms N Ntloko

Date: 24/01/2023

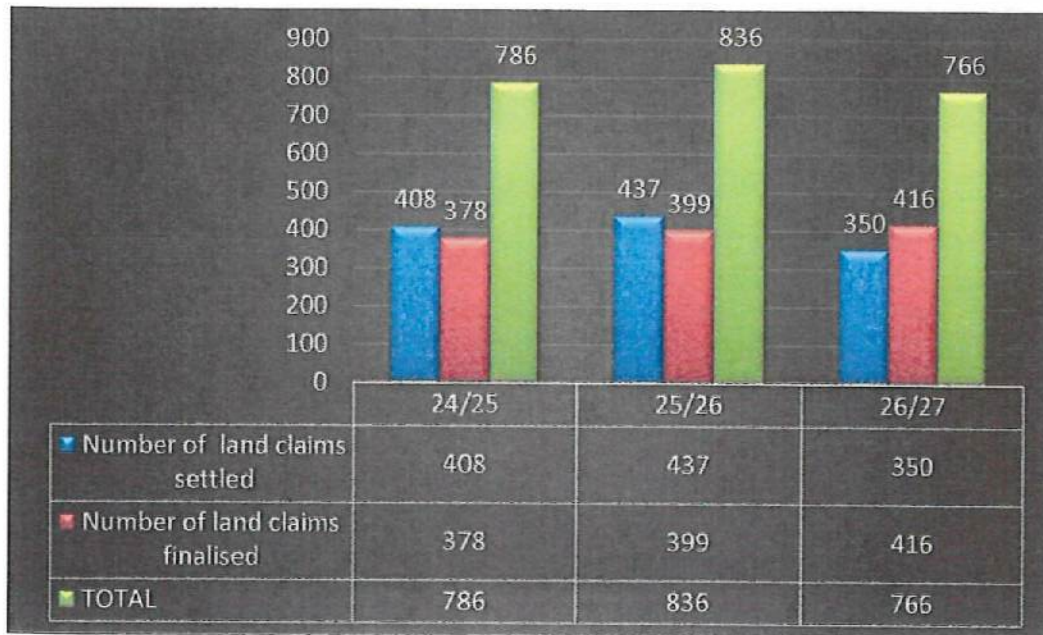


Figure 10 - MTEF Baselines

The challenge remains that the budget allocation does not match the outstanding claims to be settled and a considerable increase in MTEF budget allocation would be required to settle and finalise the old order claims. Refer to section 8.1- Financial Implications.



## 8. CONSTRAINTS, CHALLENGES, INTERVENTIONS AND SOLUTIONS

### 8.1. INTERNAL CHALLENGES AND CONSTRAINTS

The Commission has identified the following seven (7) challenges and constraints that they need to address to ensure that targets are met. In the 6<sup>th</sup> Lamosa report, these were discussed in detail. This report will provide a summary of progress made.

OUTSTANDING CLAIMS	RESEARCH	VALUATION	State land Claims	Court	Skills and Capacity	Business Process
<ul style="list-style-type: none"> <li>• Physical claim audit</li> <li>• verification</li> </ul>	<ul style="list-style-type: none"> <li>• Quality of research Reports</li> <li>• Further Research</li> <li>• Capacity</li> </ul>	<ul style="list-style-type: none"> <li>• Property Valuation Act</li> <li>• Rejection of offers</li> <li>• Just and Equitable Compensation</li> </ul>	<ul style="list-style-type: none"> <li>• Transfer</li> <li>• Surveying</li> <li>• Time</li> </ul>	<ul style="list-style-type: none"> <li>• Competing claims</li> <li>• Overlapping rights</li> <li>• Validity</li> <li>• Appeals</li> </ul>	<ul style="list-style-type: none"> <li>• Human Capital</li> <li>• Structure not fit for purpose</li> <li>• Appropriate skill</li> <li>• Limited staff</li> </ul>	<ul style="list-style-type: none"> <li>• Turn around time</li> <li>• Multiple sign-offs</li> <li>• Segregation of Duties</li> </ul>

*Figure 11 - Internal challenges*

In section 4.5, as part of the risks associated with the settlement of outstanding land claims, mention was made to the possible impact of audit findings on the **number of claims outstanding**. The Commission will report on the audit findings in the next financial year, when updated verification of data has been finalised, with reasons for possible fluctuation in baselines and upwards or downwards adjustments of data.

As part of the **Accelerated Research Strategy**, Preliminary research as per Rule 3 of the Restitution Rules is targeted to be finalised at the end of 2022/23 financial year. Challenge remain for KZN, Eastern Cape and Mpumalanga to finalise this research by end of 2022/23. Interventions have been put in place to assist these provinces to finalise the research. Eastern Cape has set up an extend research panel with credited







researchers and institutions. KZN is in the process of appointing Section 9 researchers. Mpumalanga has allocated dedicated staff to research. To counter poor quality of research, the Commission has developed standardised formats for all reports that will be used across all provinces. These formats include in-depth checklists that ensure that all criteria as per the Rules have been met. Further research as per Rule 5 of the Restitution Rules remains a challenge.

**Valuations** remain a challenge for the Commission. Rejected offers is a serious challenge with approximately R85 million on offer rejected by landowners and R16m on offer referred to the LCC. There are also many withdrawals by landowners due to delays by Office of the Valuer General (OVG). The slow pace of the OVG in assisting the Commission with dissatisfaction by landowners/sellers impacts negatively on the achievement of the APP targets. The Commission will request the OVG to physically engage landowners during representation process.

Historical valuations Certificates are also subjected to the 50 days turnaround times even though there are no representations required and the 50 days turnaround is also not always adhered to by the OVG. The Commission will engage the OVG to allow for Historical Valuations to be separated from Current Valuations and not be subjected to 50 days turnaround time.

The Commission is in constant discussions with the OVG to rectify these challenges, but it impacts negatively on the timely settlement of claims.

There are also valuation certificates from the previous financial year that are yet to be processed. The Commission will draft guidelines to regulate the request and processing of valuation certificates into offers and to settlement submissions.

Just and equitable compensation remains an issue. The DALRRD was tasked with developing a policy on Just and equitable compensation and the Commission is providing informed inputs but is not the driver of the process which impedes on the matter.

**Transfer of State land claims** and surveying of the land are very slow, but the Commission is in negotiations with the DALRRD's Property Management section to find a way to expedite transfers.

As per the previous Lamosa report, the Commission through the Kuyasa project strives to shorten claim processing time through improved **business processes**. The Commission has developed SOPs that are now being implemented which should result in improved processing time of claims, reducing turn around times. An added challenge is that the duties of staff are not segregated, the Commission is now working on this through the interim structure and the roll-out of the SOPs.

**Human Implications (Skills and capacity)**

The table below indicates the current staff compliment and vacancy rate in the Commission.

**Table 5 - Staff compliment**

Office	Number of funded posts	Number of posts filled	Number of posts vacant	Percentage vacancy rate	Head count
National Office	82	65	17	25%	65
Eastern Cape	68	59	08	10%	59
Free State	30	27	03	13%	27
Gauteng	65	58	07	14%	58
KwaZulu-Natal	112	102	11	8%	102
Limpopo	98	92	06	7%	92
Mpumalanga	113	105	08	7%	105
Northern Cape	35	29	06	28%	29
North West	72	65	07	9%	65
Western Cape	68	61	07	13%	61
<b>Total</b>	<b>743</b>	<b>663</b>	<b>80</b>	<b>11%</b>	<b>663</b>



Although the vacancy rate is not high, the challenge is that the current structure is not fit for the purpose of the Commission. This has been highlighted and discussed in section 4.

**Financial Implications**

Available budget, or rather the lack of sufficient budget continues to have an impact on the goal to accelerate settling of outstanding old land claims. An estimate R68 billion is needed for the next period of five years. The current budget allocation is not enough to finalise all outstanding claims. At the current settlement rate, the Commission will need approximately 30 years to settle claims at a cost of R172 billion.

Financial implications



**AS-IS, "do nothing" scenario costs for land and financial compensation and operations cost over 5, 10, 20 and 30 years**

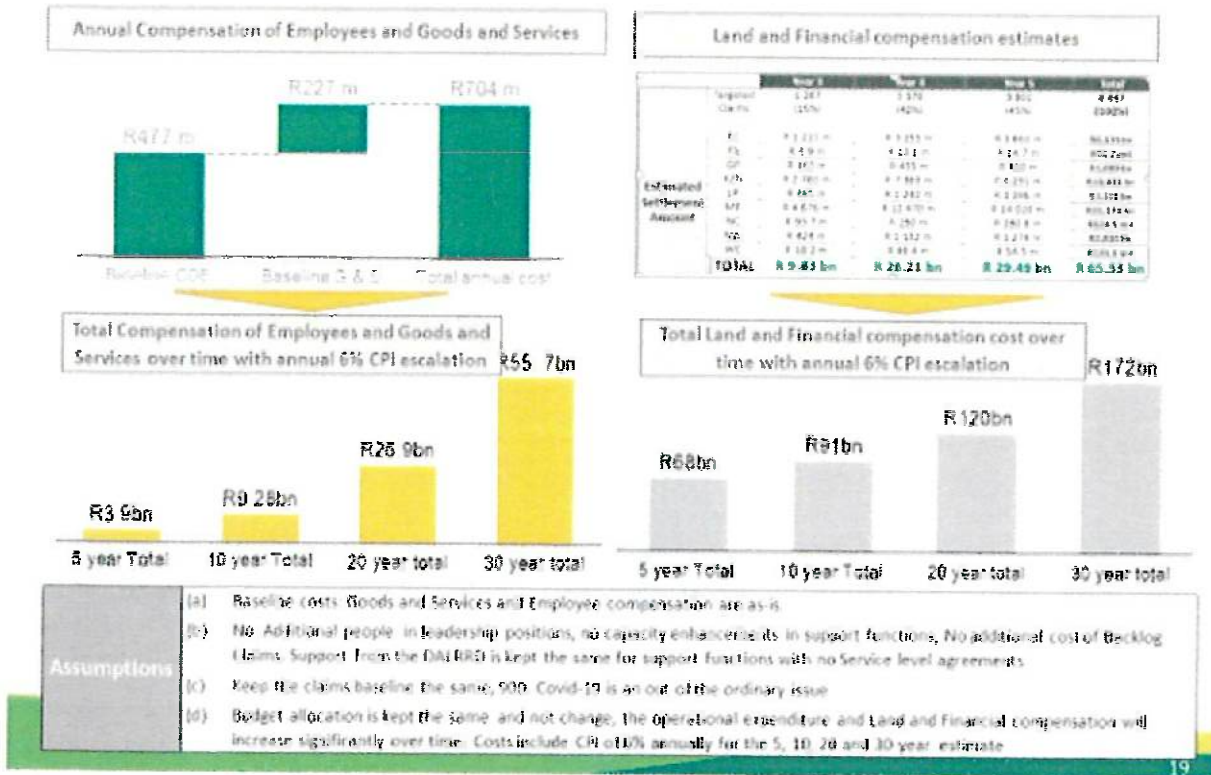


Figure 12- Financial Implications



## 8.2. EXTERNAL CHALLENGES

To highlight some of the constraints, the below lifts out these challenges that the Commission experience and which impact on the work and settlement of claims:

- Multiple overlapping rights, complex claims, competing claims and untraceable claimants.
- Claims that are in court
- Landowners challenging validity of claims
- Disagreements between the claimants on settlement options or entities to hold the land and how financial compensation is distributed
- Claimants changed options during the final stage of the claim.
- Conflict between beneficiaries
- Failure to comply with the CPA Act/TRUST Act
- Land Invasions
- Mandate of Commission vs the DALRRD
- Post Settlement Support





## 9. CONCLUSION

This 7<sup>th</sup> Lamosa report has shown that the Commission is making steady progress in settling of land claims. The current performance indicates that the Commission is committed to finalising and settling land claims as a priority.

The performance under review further demonstrates that the Kuyasa project has made huge strides in streamlining the business of the Commission with the view of finalising land claims in as short as possible period.

However, as discussed under constraints and challenges, the shortage of allocation of funding by Treasury remains a challenge as the predicted budget needed to settle and finalise outstanding claims will not be sufficient. The delay in approval and go-ahead to transition the Commission to autonomy also affects the business of the Commission. External challenges also hamper the settling and finalisation of claims and these external factors such as land invasions and multiple overlapping right and competing claims need to be taken into consideration before claims can be settled and finalised.

Despite these challenges, the Commission is on track to settle and finalise 336 and 372 claims respectively by the end of March 2023.

This Seventh Lamosa report is hereby submitted to the Land Claims Court as per the Constitutional Court Order of 2019.

### SUBMITTED BY:



**MS NOMFUNDO NTLOKO**  
**CHIEF LAND CLAIMS COMMISSIONER**

**DATE: 24/01/2023**