

Land and agrarian reform in integrated development plans (IDPs)

Report prepared for GTZ in collaboration with the
Department of Provincial and Local Government

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and Munyaradzi Saruchera



Programme for Land
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Acronyms

Act 126	Provision of Land and Assistance Act 126 of 1993 (as amended)
CBM	cross-border municipality
CLRA	Communal Land Rights Act 11 of 2004
CMIG	Consolidated Municipal Infrastructure Grant
CPA	communal property association
CRLR	Commission on the Restitution of Land Rights
DAC	district assessment committee (<i>see also</i> DSC)
DALA	Department of Agriculture and Land Affairs (in Eastern Cape)
DFA	Development Facilitation Act 67 of 1995
DLA	Department of Land Affairs
DLRO	District Land Reform Office (of DLA)
DM	district municipality
DOH	Department of Housing
DPLG	Department of Provincial and Local Government
DSC	district screening committee (<i>see also</i> DAC)
ESTA	Extension of Security of Tenure Act 62 of 1997
GTZ	German Development Cooperation
IDP	integrated development plan
ISRDP	Integrated Sustainable Rural Development Programme
ISRDS	Integrated Sustainable Rural Development Strategy
LDO	land development objectives
LED	local economic development
LM	local municipality
LRAD	Land Redistribution for Agricultural Development
LTA	Land Reform (Labour Tenants) Act 3 of 1996
NGO	non-governmental organisation
PDOA	Provincial Department of Agriculture
PHP	People's Housing Process
PIMMS	Planning, Implementation and Management Support
PLAAS	Programme for Land and Agrarian Studies
PLRO	Provincial Land Reform Office (of DLA)
POLAR	Policy Options for Land and Agrarian Reform project
PTO	Permission to Occupy (certificate)
RDP	Reconstruction and Development Programme
RLCC	Regional Land Claims Commission
RSA	Republic of South Africa
SLAG	Settlement/Land Acquisition Grant

Preface

This research study were conducted in late 2004 and the findings presented to the Department of Provincial and Local Government (DPLG) and shared with the Department of Land Affairs (DLA) in 2005. Since then, some of its recommendations have been incorporated into new directions in land policy.

At the National Land Summit in July 2005, the government acknowledged that land reform is not on track and that ‘a new trajectory’ would be needed in order not only to improve the pace of land reform but also to move away from an *ad hoc* approach to land reform. The policy position paper tabled at the summit by the Ministry of Agriculture and Land Affairs drew directly on this PLAAS research study, endorsing its recommendations and calling for a review of the guidelines for integrated development plans (IDPs) and the piloting of new systems and procedures (MALA 2005a:90).



The summit called for further decentralisation so that land reform would be driven from the local level and co-ordinated with municipal functions. It resolved that local government must:

- *Play an active role in land and agrarian reform – identify local needs; release municipal land and assist to identify land to meet needs; and provide services and support to beneficiaries.*

- *Ensure land reform is included in every IDP and define it as LED [local economic development], i.e. part of the mandate of local government.*
- *[Establish] local land forums to identify land needs and include landless, municipalities, DLA, agriculture, landowners (MALA 2005b).*

Since the summit, the DLA has adopted a Proactive Land Acquisition Strategy, which emphasises area-based planning for land reform, in conjunction with local government (DLA 2006). An operational manual has been developed to guide this new approach, and implementation had commenced in some provinces as of mid-2006. ‘One-stop shops’ at a municipal level have been discussed as one way in which the services of Land Affairs, Agriculture, Housing and other line departments could be integrated, but these have not been established.

Will ‘proactive’ land reform lead to district-level land reform plans and improved co-ordination among state and other agencies? What role can and will local government play? Will this in turn expedite the redistribution of land? Will it make possible the acquisition of land in suitable parcels in areas of high demand? Will it ensure the provision of services and post-settlement support? These questions will form the focus for future PLAAS publications, as part of the Policy Options for Land and Agrarian Reform (POLAR) project.

Chapter 1: Introduction

The Department of Provincial and Local Government (DPLG), in collaboration with the departments of Housing, Land Affairs and Agriculture, is seeking to support the consolidation of local government.

With the support of the German Development Cooperation (GTZ), DPLG is ‘using a variety of information sets, delivery targets/challenges and development indices to weight and consult on the performance of various local governments. Among key matters that have arisen, particularly at the last Cabinet Legotla was the challenge of Land and Agrarian Reform as a factor of asset poverty’ (DPLG 2004a, concept note).

DPLG identified the need to examine what municipalities are doing to promote land and agrarian reform by evaluating IDPS, which all municipalities are required to develop to guide their activities and expenditure over five-year periods.

In response to this imperative, GTZ contracted PLAAS in the School of Government

at the University of the Western Cape to conduct an exploratory study to enquire into the following research questions:

1. To what extent are land reform, rural housing and agriculture evident in IDPs?
2. What challenges do municipalities face in integrated land reform, rural housing and agriculture within their planning processes?
3. What land reform projects have been established within the sample municipalities and what information is available on these?

This report presents the summarised findings of this study. More detailed information can be found in the report entitled *Land and agrarian reform in integrated development plans: Case studies from selected district and local municipalities* (Hall et al. 2004).



Chapter 2: Background to the evaluation

The appropriate role of local government in supporting land and agrarian reform must be defined by the parameters of the reformed system of local government, land reform legislation and policy, the guidelines for IDPs, and the Integrated Sustainable Rural Development Programme (ISRDP).

Local government

The post-apartheid state has enacted far-reaching reforms to the legal status, roles, powers and functions of local government.

Constitutional framework

In terms of the 1996 Constitution, municipalities are now an organ of state and part of public administration, whereas prior to 1994 they were parastatal institutions. They depended on the authority of provincial administrations to pass bylaws. Now they have their own limited legislative powers.

Section 152(1) of the Constitution defines the objectives of local government as follows:

- (a) *to provide democratic and accountable government for local communities;*
- (b) *to ensure the provision of services to communities in a sustainable manner;*
- (c) *to promote social and economic development;*
- (d) *to provide a safe and healthy environment; and*
- (e) *to encourage the involvement of communities and community organisations in the matters of local government.*

Unlike in the past, local government is given a developmental mandate. The Constitution also instructs municipalities to act in concert with other spheres of government. This mandate is described in Section 153:

A municipality must –

- (a) *structure and manage its administration, and budgeting and*

planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; and
(b) *participate in national and provincial development programmes.*

Likewise, in Section 154(1) of the Constitution, national and provincial governments have a duty to support local government to fulfil its role, including its developmental mandate:

The national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.

Legislative framework

The Local Government: Municipal Structures Act 117 of 1998 (Municipal Structures Act) defines the three categories of municipalities, namely district, local and metropolitan municipalities, and defines their respective powers and functions. The Local Government: Municipal Systems Act 32 of 2000 (Municipal Systems Act) operationalises Sections 152 and 153 of the Constitution by providing the framework for the functioning of developmental local government. It also requires each municipality to develop IDPs. Table 1 provides an overview of key pieces of legislation concerning local government.

Section 81 of the Municipal Structures Act delineates the different powers and functions



Table 1: Legal framework for local government

Law	Details
Constitution of the Republic of South Africa Act 108 of 1996	<ul style="list-style-type: none"> • Delineates the three spheres of government and stipulates a developmental mandate for local government and co-operative governance between the three spheres • Requires the state to enact a three-fold programme of land reform.
Local Government Municipal Demarcation Act 27 of 1998	<ul style="list-style-type: none"> • Provided the means by which municipal boundaries were defined by the Demarcation Board
Municipal Structures Act 117 of 1998	<ul style="list-style-type: none"> • Defines the powers and functions of district and local municipalities
Municipal Systems Act 32 of 2000	<ul style="list-style-type: none"> • Provides the framework for the modus operandi of developmental local government • Stipulates that each municipality must prepare and adopt an IDP for the area under its jurisdiction
Property Rates Act 6 of 2004	<ul style="list-style-type: none"> • Empowers local municipalities to levy rates on agricultural land, to introduce a land tax, to determine the level and to decide on exemptions and variations

of district and local municipalities. Both have political representatives who have legislative powers; they are not limited to bureaucratic duties. Districts are the larger unit of local government. Within each district there are several local municipalities. However, these are not organised in a hierarchical relationship to one another. Municipalities in metropolitan areas have a different status and are not addressed in this report, as they typically do not include rural areas.

Sections 83 and 84 of the Municipal Structures Act set out the functions and powers of both types of municipality. District municipalities must ensure the provision of bulk infrastructure like major roads and passenger transport, potable water, electricity, waste water and sewerage disposal, health services, fire fighting and tourism. District municipalities also have to ensure integrated development planning for the district as a whole. Beyond this, most functions devolve to local municipalities, including zoning and settlement planning.

The general tenor of the legislative framework governing local government is that:

- Municipalities must balance the divergent needs of the population within their service area in an equitable manner.
- Municipalities are obliged to make provision for the poor and previously dispossessed.

- Communities that have an interest in the decision-making process have a right to participate in that process.
- Development should occur within the context of an overall plan. Random and *ad hoc* decisions not underpinned by or directed towards the attainment of policy objectives are to be avoided (Pienaar 2004).

The current system of local government came into being on 5 December 2000.

Demarcation

As part of the reform of local government, new boundaries were needed to create a system of 'wall-to-wall' local government. A Municipal Demarcation Board was tasked with this job, ahead of the local government elections in 2000. The demarcation process led to the establishment of:

- six metropolitan areas (Category A)
- 231 local municipalities (LMs) (Category B)
- 47 district municipalities (DMs) (Category C).

This study deals only with categories B and C.

Cross-border municipalities

When boundaries of the nine provinces were drawn in 1993, these posed problems for local government, as in a few instances



they would split local communities. Where political tensions precluded amendments to the provincial boundaries, cross-border municipalities (CBMs) were created (Steytler 2000). Initially 19 cross-border municipalities were proposed, including district and local municipalities and, in the case of Pretoria and the East Rand, metropolitan areas. There are currently six cross-border district municipalities and eight cross-border local municipalities. This was expected to be fraught with difficulty but nevertheless preferable to dividing communities in ways that made no sense for local governance. CBMs have been described as a second-best option to amending provincial boundaries, since they require the joint authority of both provincial administrations, unless one province cedes some political and executive authority over the territory to facilitate easier administration.

Land reform

Dispossession of land rights among Africans was a central feature and means of colonial conquest and apartheid rule. The designation of all land on a racial basis was pursued through successive laws designed to control the movement of Africans. The creation of native reserves constrained a large portion of the population in overcrowded conditions in areas of limited economic potential, while providing migrant labour to mines and factories. In this way, land dispossession and influx control saw these reserves effectively subsidising capital accumulation in white-owned industry and farms.

Land reform was to address these past injustices and to create a basis for more equitable economic growth in the rural areas. It was also to remedy the racially skewed distribution of land. By 1994, approximately 13% of the country was within the former 'homelands' or 'Bantustans', while 87% of the country remained in the hands of approximately 60 000 white landowners (both individuals and corporate entities) as well as the state.

The Constitution places a positive obligation on the state to enact land reforms. Land reform was made a national competency, to be pursued by a national Department of Land Affairs. In 1994, the

Reconstruction and Development Programme (RDP) set a policy target of transferring 30% of commercial farming land to black South Africans in the first five years of the programme. However, approximately 1% was transferred during this period.

Table 2 on page 5 provides an overview of key pieces of legislation concerning land reform, some of which also impact on local government.

Land restitution

The Land Restitution Programme is to restore land or provide compensation to those unfairly dispossessed, within certain parameters. The framework legislation is the Restitution of Land Rights Act 22 of 1994, as amended. The mandate given to the Land Restitution Programme is provided in Section 25(7) of the Constitution:

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.

A Commission on the Restitution of Land Rights (CRLR) was established to solicit and investigate claims and prepare them for settlement, and a Land Claims Court was created to adjudicate claims and make awards of land or compensation to claimants. Of the 63 455 land restitution claims lodged by the deadline of 31 December 1998, more than 56 000 were settled by August 2004. About 10 000 remain outstanding. Of the claims that were lodged, 72% were urban claims. However, the 28% that were rural claims are assumed to account for the vast majority of the number of people claiming land, and substantial areas of land. It is to be expected that these claims will be more complex, costly and time-consuming to resolve. How many of the rural claims lodged have been settled is not known. It is also not possible to say how much land is still under claim and where this is. It appears that up to 70% of agricultural land is under claim in some regions. It seems that in the northern and eastern regions of the country, particularly in Limpopo and Mpumalanga, there are districts



Table 2: Legal framework for land reform

Law	Details
Provision of Land and Assistance Act 126 of 1993	<ul style="list-style-type: none"> Empowers the Minister of Land Affairs to disburse grants to individuals or to institutions to promote access to land
Restitution of Land Rights Act 22 of 1994	<ul style="list-style-type: none"> Entitles the dispossessed to restoration of their property or to equitable redress Establishes a commission and a court to oversee restitution
Development Facilitation Act 67 of 1995	<ul style="list-style-type: none"> Empowers local government to resolve land development conflicts and provides means to speed up land development while securing tenure, particularly in the context of informal settlements
Land Reform (Labour Tenants) Act 3 of 1996	<ul style="list-style-type: none"> Regulates and secures land rights of labour tenants and provides mechanisms to upgrade these rights to ownership
Extension of Security of Tenure Act 62 of 1997	<ul style="list-style-type: none"> Prohibits the eviction of farm dwellers without a court order and requires that a notice of eviction be served on the municipality and DLA prior to court proceedings commencing Requires that suitable alternative accommodation be provided for people facing eviction, through monies to be disbursed by the Minister of Land Affairs
Transformation of Certain Rural Areas Act 94 of 1998	<ul style="list-style-type: none"> Provides for the upgrading and securing of tenure rights in the former 'coloured' reserves
Traditional Leadership and Governance Framework Act 41 of 2003	<ul style="list-style-type: none"> Spells out a process of transformation of the institution of traditional leadership, to partially democratise tribal councils
Communal Land Rights Act 11 of 2004	<ul style="list-style-type: none"> Empowers the Minister of Land Affairs to transfer land from the state to communities in communal areas, to be held by land administration committees (or traditional councils where these exist)



that are subject to almost wall-to-wall claims, many of which are conflicting and overlapping. This is because it is mostly in this part of the country that Africans retained independent access to sizeable areas of land after 1913, while most had been dispossessed prior to that date across much of the rest of the country.

Land redistribution

To remedy the racially skewed distribution of land rights, and to ensure that black Africans gain access to land within the former white commercial farming areas, a wider programme of land redistribution was enacted. The Constitution requires such an initiative, as stated in Section 25(5):

The state must take reasonable legislative and other measures, within its available

resources, to foster conditions which enable citizens to gain access to land on an equitable basis.

In practice, this relies on the provision of discretionary grants by the state to eligible applicants, with which they may purchase land and invest in its improvement. The Provision of Land and Assistance Act 126 of 1993 empowers the minister to disburse funds to promote access to land. This was initially pursued through a Settlement/Land Acquisition Grant (SLAG) set at R16 000 and available only to households earning below R1 500 per month. A Land Redistribution for Agricultural Development (LRAD) Programme has now largely superseded SLAG. It now offers larger grants to any black South African above 18 years of age. The grants vary in size from R20 000

to R100 000, depending on the size of 'own contribution' applicants can supply. Both SLAG and LRAD have been used to purchase equity in farming ventures in which farm workers are often the beneficiaries, known as equity share schemes. In addition, municipalities may obtain funds with which to purchase and invest in the infrastructure of municipal commonages, to be made available to disadvantaged residents for grazing and other uses. Furthermore, state land disposal has been used as one avenue to provide access to land to black South Africans.

Land tenure reform

The third pillar of land reform is to secure the tenure rights of South Africans who, for reasons of past discrimination, have insecure rights to land. Section 25(6) of the Constitution requires that:

A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.



This includes the large number of farm workers, labour tenants and their dependents who live on the mostly white-owned farms, and the nearly 30% of all citizens who reside within the communal areas of the former homelands, mostly under tribal authorities. Residents of informal settlements, usually found in peri-urban settings, also experience problems of insecure tenure and have in the past been vulnerable to forcible eviction. While tenure laws have been passed, less progress has been made with securing land rights than with other aspects of land reform. Research shows that nearly a million people have been evicted from farms since 1994. In some regions of the country illegal evictions substantially outnumber those legally sanctioned through the courts. Parliament has passed legislation to provide for the transfer in ownership of communal land to communities residing there. Nevertheless, the problems besetting land administration of the communal areas are still to be addressed.

Land development objectives (LDOs)

LDOs were a mechanism introduced by the DLA to support local government to

do spatial planning and engage with land reform in a strategic manner. There were guidelines for developing LDOs, and the grants to municipalities to fund the process of developing LDOs were among the grants and services regularly provided by the DLA in terms of its Grants and Services policy document. LDOs were discontinued after the introduction of IDPs in 2001, following the promulgation of the Municipal Systems Act. IDPs were considered to supersede LDOs, as IDPs incorporate the function of performing budget-linked spatial planning (Seboka 2004, pers. comm.). A review has been conducted of the LDO process. However, the final report from this review is not yet available. Although LDOs have been discontinued, the DLA's Land and Planning Directorate continues to provide support to district and local municipalities to do land use planning (Seboka 2004, pers. comm.). Details of this support were not investigated in the course of this study but would constitute an important area for future enquiry.

District-based approaches to land reform delivery

DLA is implementing Project Mutingati, a policy initiative aimed at decentralising the delivery of land reform. Implementation of this initiative has entailed the establishment of district land reform offices (DLROs) of DLA. These offices report to the DLA's provincial land reform offices (PLROs). However, the DLROs are not part of district municipalities – they are offices of a national government department charged with implementing national policy. Questions about how this decentralisation of land reform implementation can be aligned with local development planning are central to this research.

DLA proposed a 'proactive land acquisition strategy' in 2002, to engage in district-level planning with local government on how to meet land needs in a proactive planned approach. Up to the Land Summit in July 2005, no policy had been concluded or published. Since the summit, in May 2006, the DLA adopted a Proactive Land Acquisition Strategy, which emphasises area-based planning for land reform, in conjunction with local government (DLA

2006). DLA has also proposed vacant land audits at a municipal level. Meanwhile, other actors have also started to develop approaches that seek to link land reform policy, which is a national policy, with implementation approaches that are driven from the local level. Some of these approaches are being piloted, but there is no forum as yet to pool experiences and lessons emerging from these. The World Bank has proposed a version of local integrated development that they term 'scaling up community driven development'. This involves decentralising decision making and empowering communities, especially through giving them more control over resources and local decision making. The World Bank and DLA are developing a pilot project in Mpumalanga to empower municipalities to play a stronger role in land reform. An initiative by Nkuzi Development Association with Makhado LM, to develop a holistic plan for land reform in its jurisdiction, is another pilot project with a more integrated approach to delivering land reform (Wegerif 2004, pers. comm.).

Integrated development planning

Guidelines have been developed to guide municipalities as they develop their IDPs. Local municipalities do not have to follow the frameworks of the district municipality. Rather, the district IDP must be informed by and reflect local IDPs. In this way, although there is a two-way interaction between the two, the primary initiative for development planning comes from the local municipality's IDP. The vision for development at district level must be in line with the IDPs of the local municipalities.

Local government, as the key sphere of government responsible for delivering development, is a crucial player in assisting DLA to realise the redistribution of land, to secure land rights, to extend housing to rural people and to support agriculture. The IDP guidelines cite land reform as one of the sectoral dimensions that must be integrated into IDP planning (DPLG undated:53–55). No separate IDP output or sector planning is required. However, according to the

guidelines, local government must *inter alia* address land reform by:

- supporting the land reform programme and its operations
- assisting in the land reform application process
- addressing the need for municipal services and land use planning within existing land reform projects.

According to the IDP guidelines, the IDP process must determine whether landlessness, inequitable access to land and a historical predisposition to land claims are priority issues. If these are priorities, then local government must:

- quantify and specify the nature of the local demand for land reform intervention within specific communities
- give input into national land affairs planning and budget allocation
- consider the merits and demerits of alternative approaches to accessing land.

The central thrust of the IDPs is that they will engender an integrated approach to land development. This approach is designed to break with past apartheid practices of sectoral-based approaches.

The current approach is geared to promote efficiency through sectoral integration and mixed land use practice. The new system also heralds a major shift away from an inflexible zoning approach to a budgetary linked developmental approach. It is geared towards integrated economic, spatial, transport, institutional, administrative, fiscal, environmental, and other strategies to attain the optimal allocation of scarce resources in a particular area.



Integrated Sustainable Rural Development Programme

The Integrated Sustainable Rural Development Strategy (ISRDS) was published in 2000 and implementation started with the identification of 13 nodes across the country. Some of the nodes are local municipalities while others cover entire districts. In 2001, the ISRDS was formalised into a programme of government as the Integrated Sustainable Rural Development Programme (ISRDP), which is the responsibility of DPLG.

The ISRDP envisages the co-ordination of line department functions and resources

around locally-driven development targets within these nodes. Other spheres of government are to prioritise these nodes, and additional capacity, including external consultants, is to be made available to municipalities to develop their own ISRDP strategies. Essentially, then, the ISRDP is an attempt at best practice for integrated rural development planning.

Several reviews of experiences with the ISRDP have been conducted. A strength of the ISRDP is that it exerts pressure on line departments in other spheres of government to co-ordinate their activities to support a development plan driven from the local level. It was expected that, even without additional external funding, this would lead to a ‘crowding-in effect’, with existing resources directed towards the nodes.

Nevertheless, there do appear to be shortcomings to the ISRDP. First, it

deals with the co-ordination of the efforts of various spheres of the state to effect development, rather than the provision of additional resources. The programme does not address the chronic shortage of funds for investment in rural development. Second, the focus on specific project-level interventions does not address the need for changes at a more systemic level. For instance, agricultural projects may be established in nodal areas, but this does not address the more general need for systems of agricultural support for disadvantaged producers in the communal areas and in land reform projects. Third, the programme focuses on infrastructure development and service delivery. It does not focus on asset poverty as a feature and cause of underdevelopment, and so does not address the redistribution of assets as a primary strategy for rural development.



Chapter 3: Methodology

To answer the key research questions outlined in Chapter 1, the research methods for this project focused on the desktop analysis of a small sample of local and district municipal IDPs. The methods were constrained by the time and budget limits of this exploratory study. The methodology was aimed at eliciting substantial and wide-ranging insights into a variety of topics from both documentary and interview sources.

Research design

By agreement with DPLG, PLAAS designed the research to comprise a number of distinct components. These are described below.

Desktop study of IDPs

First, the IDPs of the selected municipalities were analysed through a desktop study. This desktop study had both a quantitative and a qualitative element, as described in the section ‘Assessment framework’ on page 10. The researchers reviewed initial IDPs as well as IDP reviews and other subsequent and supporting documentation, such as spatial development plans, where these were available. The source for the documentation was the IDP Nerve Centre website.

Interviews with municipal officials

Second, PLAAS researchers interviewed at least one senior official from each selected municipality in the sample. Wherever possible, this was either the municipal manager or the IDP manager. In some instances, where municipal managers were interviewed, it was necessary to conduct follow-up interviews with the IDP managers as well, given that many of the research questions could not be answered by the municipal managers. In addition, for a couple of the municipalities, the municipal officials were insufficiently familiar with their own IDPs to respond to the research questions. In these instances, PLAAS researchers also interviewed consultants who had been contracted to write the IDPs. A list of interviewees is attached as Appendix 1.

Land reform project data alignment

Third, PLAAS conducted a data alignment exercise to identify which land reform projects had been established in each of the selected municipalities. Updated project lists from each PLRO for the provinces included in this study were analysed to answer this question and to provide insights into the variation in systems of data collection and management within the DLA’s redistribution and tenure reform programmes. For restitution, PLAAS reviewed the national database of settled claims obtained from the Commission. A summary of the findings is provided in Chapter 5, together with reflections on these institutions’ information management systems and the possibilities to align land reform project data with district and municipal boundaries. The findings themselves are presented in Appendix 3.

Municipal land data alignment

A fourth element of this research was to be conducted by the DPLG itself. This was to identify the municipal land owned by each municipality. It is not clear whether or not this exercise has been conducted.

Reflections on the methodology

A number of weaknesses may be identified in the above methodology. Due to the limited time period and budget available, there was little opportunity to verify the extent to which plans contained in IDPs had in fact been pursued or implemented, or to triangulate information provided by municipal officials. There was an incentive for the municipal



officials being interviewed to depict their municipality as being proactive in pursuing land and agrarian reform, while complaining that the relevant line departments were not contributing adequately, not providing them with information, not consulting with them and not providing opportunities for local government to engage in strategic planning for national and provincial programmes being implemented within their jurisdictions. Much of this may be true. However, it is equally possible that other spheres of government have attempted to include district and local municipalities in their planning processes and that the latter have been unwilling or unable to respond adequately. Within the parameters of this study, it is not possible to pass judgement conclusively on 'who is to blame' for the lack of communication and co-ordination between the different institutions. The study presents the views of municipal officials. Further work would need to be done to appreciate the challenges faced by officials in DLA and other line departments in their dealings with local government.



Sample selection

The sample for this study included both district and local municipalities. It was agreed that since this is an exploratory study, it would be important to choose a small sample of municipalities and to explore these in some detail. A sample of 18 was agreed upon by GTZ, DPLG and PLAAS.

It was further agreed that these should be drawn from four provinces in particular, in line with the identified priorities of DPLG. These would be provinces that have the largest poor rural populations and include former homeland areas. For this reason, the Eastern Cape, Free State, KwaZulu-Natal and Limpopo were selected.

According to the original proposal, for each of the four provinces mentioned, PLAAS was to investigate two district municipalities and two local municipalities, one in each of the respective districts (that is, two district municipalities and two local municipalities per province). The sampling was to be purposive rather than random, and based on the range of conditions prevailing within the respective provinces.

However, in discussion with DPLG, and after consideration of certain priority municipalities, the approach to sample selection was modified. Some of the criteria for inclusion in the sample that were considered in discussion with DPLG were:

- municipalities that have both commercial farming and communal areas
- municipalities that are considered best-practice examples of integrating land and agrarian issues
- municipalities that are especially weak institutionally and constrained financially
- a mix of those municipalities that are ISRDP nodes and those that are not
- municipalities that have been identified as priorities by DPLG.

After a few iterations, a sample was agreed upon with DPLG. The final sample consisted of a range of district and local municipalities – some of which were ISRDP nodes – in four provinces. The municipalities in the sample are listed in Table 3 on page 11.

The sample was not as systematic as was originally envisaged. While this precludes a strict analysis of variations along the dimensions of province, district/local and ISRDP node status, there is nevertheless scope in the study to comment on some key variations, subject to the caveats that the sample is both small and purposive and that research would be needed to provide conclusive findings on the causality of these variations. Small purposive samples, however, allow a relatively in-depth examination of a wide range of issues and are thus suited to an exploratory study aimed at identifying and guiding future research and action interventions.

Assessment framework

PLAAS developed an assessment framework of criteria against which the IDPs could be evaluated. To inform the framework, the researchers sought to determine what was asked of municipalities when they drew up their IDPs, and to identify any relevant guidelines or stipulations concerning the extent to which and ways in which land and agrarian issues should be present in IDPs. In this regard, see the section 'Land development objectives (LDOs)' on page 6

Table 3: Municipalities in the sample

Province	District municipality (DM)	Local municipality (LM)	ISRDP node: yes/no
Eastern Cape	Alfred Nzo DM	Umzimvubu LM	Yes
	Chris Hanani DM	Sakhisizwe LM	Yes
Free State	Thabo Mafutsanyane DM	Maluti-a-Phofung LM	Yes
	Lejwelephutswa DM	Matjhabeng LM	No
		Nala LM	No
KwaZulu-Natal	Ugu DM	N/A ¹	Yes
	Zululand DM	Abaqulusi LM	Yes
Limpopo	Bohlabela DM	Bushbuckridge LM	Yes
	Sekhukhune DM	Greater Tubatse LM	Yes
	Vhembe DM	Makhado LM	No

and the section ‘Integrated development planning’ on page 7.

The general guidelines for IDPs contain one short section on land. PLAAS researchers drew on this section to inform the framework study. It was apparent from telephonic conversations with officials at both DPLG and DLA that, since LDOs were discontinued in 2000, DPLG and DLA have not provided more detailed guidelines to municipalities regarding how they should integrate land-related issues in IDPs. The researchers therefore brainstormed land-related issues to identify key thematic areas and, within these, to specify certain indicators. The key sources that informed the assessment framework were the Municipal Systems Act, the IDP guidelines and land reform legislation and policy. The draft assessment framework was circulated to GTZ, DPLG and a small group of people with specialised skills in land law and in the practice of land reform implementation and local government. Feedback was obtained from:

- Hilton Toolo, DPLG
- Kobus Pienaar, Legal Resources Centre
- Henk Smith, Legal Resources Centre
- Ben Cousins, PLAAS
- Tom Lebert, consultant
- Marc Wegerif, Nkuzi Development Association
- Doreen Atkinson, consultant.

The assessment framework allows the reporting of qualitative information in a summarised quantitative format. It is attached to this report as Appendix 2.

Structure of this report

Each IDP studied was assessed against the assessment framework and the findings were summarised in tables. The findings appear under thematic subheadings in Chapter 5.

The qualitative analysis contained in the assessment framework and the interviews with senior municipal officials and others involved with developing IDPs were compiled into short case study reports on each of the municipalities. These are contained in the report entitled *Land and agrarian reform in integrated development plans: Case studies from selected district and local municipalities* (Hall et al. 2004).

Endnote

- 1 DPLG decided that it was not necessary to study any local municipality within the Ugu district. Ugu was selected because it is considered a best-practice example and it was this learning that the study was to explore. Instead, it was agreed that a comparative analysis should be conducted of two local municipalities in the Lejwelephutswa district that illustrate two very different causes of and responses to an urban influx and growth of informal settlements.



Chapter 4: Findings

The findings of the documentary analysis of the IDPs, supplemented by the interviews with municipal officials, are summarised in the discussions and tables presented thematically in this chapter.

Proactive measures by municipalities

Specific sections on land and agriculture

Ten out of the 18 municipalities included a specific section on land and/or agriculture in their IDPs. These IDPs addressed issues such as the need to support agriculture in communal areas and to establish new small-scale producers. They did not focus explicitly on land reform. Where land issues were mentioned, this was often among a series of themes within the situation analysis, or within the priority areas under the economic cluster. A typical example of the challenges identified in the IDPs comes from Chris Hani DM, which identified land and agriculture together as the district's top developmental priority:

The current arrangements with regards to access and ownership to agricultural and residential land in parts of the district require that a range of land reform initiatives be initiated, (including significant land restitution processes) for which the District Municipality will need to provide support and engage in partnerships with key funding and implementing agencies (Chris Hani District Municipality 2002:3–4).

Municipalities' own land reform plans

Five of the municipalities studied had gone as far as developing, or initiating the development of, their own land reform plans for the areas under their jurisdiction. The five municipalities were Sekhukhune DM and Makhado LM in Limpopo, Zululand DM and Ugu DM in KwaZulu-Natal, and Chris Hani DM in the Eastern Cape. In addition,

Lejwelephutswa DM said it was working towards the development of a communication policy on land issues. The municipality aimed to ensure that in future all local municipalities within the district have a land policy in place.

Makhado LM was in the process of developing its own land reform programme for its area, although this had not been mentioned in the IDP. One councillor in particular, with the support of a land-rights non-governmental organisation (NGO), Nkuzi Development Association, was spearheading the process and appeared to be the strategic thinker behind the initiative. The administrators in the municipality were not aware of the details of this embryonic plan. In the case of Sekhukhune, the district municipality was packaging its own land reform programme to fit with its LED objectives. This was mentioned in its IDP. The Integrated Land Reform Programme of Ugu DM is currently under development, and aims to promote awareness of land rights, identify local land needs, speed up resolution of land claims and identify suitable housing opportunities. Zululand DM's land reform plan featured in its IDP. Chris Hani DM intended to develop a Land Reform and Settlement Plan (LRSP), along the lines already pursued by its southern neighbour, Amatole DM (not included in this study). Work on this was under way and was being done by consultants.

We are currently engaged in developing a Land Reform and Settlement Plan – we appointed a service provider last week. We want to know which land is available for sale, what are the land uses. Land needs will be addressed (Agyemang 2004, pers. comm.).



It is interesting to note that while plans were under way in a number of municipalities, these plans were mentioned in only two IDPs. It appears that, subsequent to the IDP process, substantial changes had occurred within these municipalities, prompting them to take a more proactive stance in relation to land reform than is evident in their IDPs. Bohlabela DM proposed in its IDP that a land reform co-ordinating committee involving all its local municipalities as well as the relevant line departments be established. It is not clear whether this has happened.

Dedicated municipal officials and units

Ten of the municipalities have a dedicated section within their administrations that deals with land-related issues, although most of these are town planning units that focus on spatial development and do not necessarily incorporate an explicit focus on land reform. In other words, the mandate of these units is not necessarily informed by a transformatory vision for land rights and access to land.

Acknowledgement of land reform

Two-thirds of the IDPs in this study acknowledged the existence of land reform programmes within their areas. Most commonly, the aspects of land reform mentioned included tenure rights in a peri-urban context (where the Development Facilitation Act is invoked), and restitution, partly because the existence of claims was mentioned as a factor that could impede or affect the land development plans of municipalities. The other land challenge noted in a number of IDPs was the need to upgrade, clarify and secure tenure rights in communal areas. The existence of these rights were presented in the IDPs as an obstacle to investment and development. Less commonly, there was mention of land redistribution and the existence of the LRAD programme. In very few cases was tenure reform for farm dwellers mentioned.

In the few IDPs that did mention the government's official land reform programmes, these initiatives were misrepresented, signalling a misunderstanding of the policies. It is difficult to determine whether municipal officials or the consultants writing the documents are responsible for the failure to understand government policies. The research found that

only Chris Hani DM, Ugu DM and Abaqulusi LM cited a list of land reform projects in their jurisdictions in their IDPs. A candid view from Makhado LM sums up the sentiment expressed by many of the municipal officials interviewed during the course of the research:

When we wrote our IDP, we didn't properly understand [that we would have to deal with land reform]. It makes sense. To be honest, I think it was an oversight because we were still adapting to new systems as a newly elected council (Du Toit 2004, pers. comm.).

Land redistribution

Information on current applications for land redistribution was contained in only three IDPs – those of three of the five Free State municipalities. Land grant applications were not dealt with in any of the other IDPs. In fact, the redistribution of privately owned agricultural land was barely mentioned in most of the IDPs. This is consistent with the sentiment expressed by most of the municipal officials that where land is needed for agricultural or settlement purposes, public land would need to be found. Privately owned land was generally considered to be beyond the scope of municipalities and not potentially available to meet local land needs. When asked, most officials responded that they had never approached private landowners in areas where there is an urgent need to release land. Instead, they pursued the state land route, often waiting in frustration for some years for the land to be vested through Section 28 notices and then for it to be transferred. Section 28 notices verify which organ of state is the legal owner of a property.

Municipalities as implementing agents

It is largely in the Free State that the municipalities studied were acting as implementing agents for DLA or the Commission. In these instances, the municipalities received funds for disbursement to beneficiaries and service providers, and implemented project plans developed by DLA. In a number of other areas, the municipalities envisaged that this would become more the norm in the future. Some municipalities were waiting for approved projects or settled claims to be implemented.



In certain instances, for example, in the case of a cut-flower project in Alfred Nzo DM, the district took the lead in implementing certain projects that it classified as LED projects. These then sourced finance for land purchase from DLA.

The IDP manager in the Alfred Nzo DM argued that with better information from DLA, the district could play a role in assisting to implement land reform. However, the official also pointed out that some of the priority concerns of the district were not being dealt with in land reform policy:

What is necessary I think is to have some facilitation of these projects from within the municipality, because the communities may not be very much aware of the programmes and what is available for them. Continuous information dissemination in terms of land reform is needed. That is the job of Land Affairs, to contact all the ward councillors... [T]hey do that but it has to be done more and some of the information they disseminate does not apply to our situation – like we have communally-owned land, not [commercial] farms. Where are these sunrise packages that they could provide?... The only problem comes out of the nature of land ownership... The issue of communal land and LRAD also needs to be addressed (Mshumi 2004, pers. comm.).

A number of the municipalities, such as Zululand DM, are involved in implementing land reform projects, even though these projects were not reflected in their IDPs.

Land needs assessments

Very few municipalities – only three in this sample – conducted land needs assessments. Two of these municipalities mentioned land needs assessments in their IDPs, although one of them has not yet conducted an assessment. Quite a few municipalities expressed an intention to conduct land needs assessments. They see these as part of the IDP review process and hope that the assessment findings could be incorporated into refined IDP plans in the future. Most municipal officials interviewed did not feel that their administrations possessed the required skills

to conduct such an assessment. Instead, they hoped that both funding and skills could be sourced from elsewhere, with some indicating that DLA should provide the funds to secure the assistance of private service providers to conduct the assessments. Makhado LM, for instance, was waiting for the Land Use Management Act to be implemented, so that it could use this route to access finance for a needs assessment.

District Screening/Assessment Committees

Half of the 18 municipalities in the sample participate in District Screening Committees (DSCs) or District Assessment Committees (DACs), but these committees are not operational in all districts. The terminology varies across the provinces, but both are committees established by DLA to involve local stakeholders in determining which land grant applications should be approved. Typically, these committees involve DLA, the relevant provincial department of agriculture, and the relevant municipal officials or councillors. In some provinces, DLA has extended participation beyond state agencies to include civil society organisations, such as farmers' associations, farm worker trade unions and rural NGOs, church bodies and other civic groups. In KwaZulu-Natal, traditional leadership is also involved in the DSCs, although officials stress that this is on an informal and unofficial basis. The main reason given for the inclusion of traditional leaders is that it could help to build good relations with the *amakhosi*. However, officials indicated that the participation of the traditional leaders may need to be formalised for this to come about.

Few of the municipalities mentioned these structures in their IDPs. There appear to be two reasons for this. First, it is usually only district-level administrators or councillors who participate in DACs and DSCs. Local municipalities are often unaware of these structures, even when decisions on land reform projects in their jurisdictions are being made at the district level. Second, DSCs and DACs had not been established in all provinces at the time that IDPs were being written in the period 2001 to 2002. Some



were only established in 2003. It appeared that these structures were not entirely operational in some provinces, specifically Limpopo.

Targets, time frames, implementation and budgets

Only two of the 18 municipalities in this study specified time frames, implementation frameworks and budgets for land reform in their IDPs. Alfred Nzo DM, Umzimvubu LM, Chris Hani DM and Sakhisizwe LM in the Eastern Cape and Vhembe DM, Sekhukhune DM and Bohlabela DM in Limpopo included projects dealing specifically with support to small-scale farmers. Nala LM said it had been assisting the Commission with validating and verifying land restitution claims and Bohlabela DM indicated an intention to do so. Bohlabela DM was the only municipality that had set its own target for the redistribution of land within its jurisdiction. The target was to transfer 7% of agricultural land in the coming five years.

Conclusions on proactive measures by municipalities

There is a substantial disjuncture between what appeared in the IDPs and what municipalities were actually doing about promoting land reform. In a number of instances, ambitious projects to support smallholder agriculture were outlined but few have been implemented. Chris Hani DM is a case in point. The IDPs also undersell the municipalities. In the cases of Bohlabela DM and Makhado LM, the municipalities were engaged in a number of projects and land reform initiatives, but these did not appear in their IDPs. One reason for this is that some of the IDPs were relatively outdated. The revised versions should more accurately reflect the range of activities being undertaken.

Leadership in district municipalities seems to be an important factor in determining the coherence of local government approaches to land issues. Some district municipalities, for example, Lejwelephutswa DM, require that all local municipalities in their respective jurisdictions have their own land policies. The district municipality then attempts to work jointly with local municipalities on these issues at a district level. However,

districts may not have the authority to enforce such a cohesive vision, given the non-hierarchical arrangement of district and local municipalities.

A summary of the proactive measures taken by the 18 municipalities in the sample is shown in Table 4, on page 16.

Farm dwellers

Background

It is estimated that there are approximately 800 000 farm workers in South Africa, and that these workers support 3 million dependents. The problem of farm dwellers having insecure tenure rights was recognised in the White Paper on South African Land Policy, which affirmed the commitment to securing tenure rights on farms (DLA 1997). Legally secure tenure is a human right.

Farm dwellers have poor access to services. One reason for this is that the government is not willing to invest in fixed capital improvements on private land. Whereas in the past the state funded the construction of farm worker housing through the Rural Foundation, and the government also built farm schools, now the government's position is that it cannot invest public funds in adding value to private property. Similarly, local government, which is responsible for extending bulk infrastructure to citizens for the purposes of water reticulation, sewerage disposal and electrification, is not willing to do so on private property. This perspective is confirmed in the Public Finance Management Act 1 of 1999. While, in general, municipalities can take services up to the boundary of a property, in agricultural areas this is not the norm; the unit cost per person is substantially higher than in urban areas, given the more scattered settlement patterns and lower population densities.

There is also anecdotal evidence that goods and services previously provided to farm workers by landowners/employers have been withdrawn. This trend has been cited as a direct response to the introduction of labour regulation in the sector and the introduction of tenure rights. While farm workers and farm dwellers have benefited by having rights confirmed in law, in practice many of these



Table 4: Proactive measures by municipalities

	Indicator	Eastern Cape municipalities				Free State municipalities					KwaZulu-Natal municipalities			Limpopo municipalities				
		Alfred Nzo DM	Umtzinyabu LM	Chris Hani DM	Sakhisizwe LM	Thabo Mafutsanyane DM	Maluti-a-Phofung LM	Lejwelephutswa DM	Matjhabeng LM	Nala LM	Ugu DM	Zululand DM	Abaqulusi LM	Bohlabela DM	Bushbuckridge LM	Vhembe DM	Makhado LM	Sekhukhune DM
1	There is a separate section of the IDP on land and agriculture	y	y	y		y			y	y	y		y		y		y	
2	The municipality has developed its own land reform programme			y						y	y					y	y	
3	Land reform and spatial planning are institutionalised within the municipality		y			y	y	y	y		y		y			y		y
4	The municipality acts as an agent for DLA					y	y	y	y	y	y							y
5	The IDP acknowledges government's land reform programmes and projects			y		y	y	y	y	y	y		y		y	y	y	y
6	The IDP acknowledges or contains information on outstanding redistribution applications					y	y		y									
7	The municipality supports land reform projects	y				y	y	y	y	y	y		y					
8	The municipality has conducted a land needs assessment							y	y									
9	Land needs identified in consultation are reflected in the final IDP						y											
10	District Screening/ Assessment Committee of DLA is mentioned					y	y			y	y							
11	Municipality participates in the DSC/DAC	y	y	y		y	y	y	y	y	y							
12	There are targets for the redistribution of land												y					

Indicator	Eastern Cape municipalities				Free State municipalities				KwaZulu-Natal municipalities			Limpopo municipalities						
	Alfred Nzo DM	Umzimvubu LM	Chris Hani DM	Sakhisizwe LM	Thabo Mafutsanyane DM	Maluti-a-Phofung LM	Leywelephutswa DM	Matlhabeng LM	Nala LM	Ugu DM	Zululand DM	Abaqulusi LM	Bohabebe DM	Bushbuckridge LM	Vhembe DM	Makhado LM	Sekhukhune DM	Greater Tlokoeng LM
13	There are time frames and implementation frameworks for these targets																	
14	Targets are linked to budgets																	

rights have remained unfulfilled and the state has not been sufficiently present to give content to these rights or to enable workers to enforce these rights.

Information on farm dwellers

All the municipalities studied in the Free State identified farm dwellers in their IDPs as a constituency requiring the intervention of the municipality. Even though all the municipalities in the study include regions under commercial farming, the only other municipalities that mentioned farm dwellers in their IDPs were Chris Hani DM in the Eastern Cape and Zululand DM in KwaZulu-Natal. Almost all of the IDPs studied lacked information about farm dwellers – how many there are in the municipality’s jurisdiction, where they are, the distribution and ownership of private farms, and so on. When probed on this issue, most municipal officials said that their municipalities had little or no information of this kind.

Umzimvubu LM and Ugu DM are two municipalities that claim not to have farm workers or farm dwellers in their jurisdictions. This could not be independently verified within the parameters of this project. However, it is unlikely to be the case, as both incorporate some commercial farms which probably employ hired labour.

Evictions and responses

The White Paper on South African Land Policy acknowledges that insecure tenure and evictions of farm dwellers is a major problem:

A major cause of instability in rural areas are the millions of people who live in insecure arrangements on land belonging to other people. They had and have simply no alternative place to live and no alternative means of survival. The evicted have nowhere else to go and suffer terrible hardships. The victims swell the ranks of the absolute landless and the destitute. They find themselves at the mercy of other landowners for refuge. If no mercy is shown, land invasion is an unavoidable outcome (DLA 1997:33).

This constitutes the rationale for legal and policy interventions to secure tenure and to regulate evictions, including ensuring that alternative accommodation can be provided for those who have been forcibly evicted.

Six, or a third, of the municipalities in this study acknowledged in their IDPs that farm dwellers were being evicted in their areas. Only one has a system in place to respond to threatened evictions.

The Extension of Security of Tenure Act 62 of 1997 (ESTA) requires that a landowner



who intends to apply to the court for an order to evict farm dwellers (ESTA occupiers) must first serve a notice of intent on DLA and the local municipality. These notices, as stipulated in Section 9(2)(d), must provide two months' calendar notice of the intention to seek an eviction order. Although the Act was promulgated prior to the local government reforms, this clause is understood to apply to local rather than district municipalities. The Act does not specify the obligations of a municipality to take action on receipt of these notices. However, the municipalities are meant to be notified in order to assess the availability of alternative accommodation.

In KwaZulu-Natal, the municipalities do not get involved with farm dwellers or eviction issues. Officials there say this is the role of local councillors – of political representatives rather than administrators – and the municipality will only get involved if DLA gives them an official notice requesting intervention. This sentiment seems fairly widely shared. Only Thabo Mafutsanyane DM and Nala LM have a system in place to respond to Section 9(2)(d) notices. Makhado LM received one such notice but was unclear what action was required of it, and so took no action:

Some time ago we received one [Section 9(2)(d) notice], regarding one family on a farm. That was prior to 2000. We were actually not part of the court case. He [the landowner] informed us I think because the Act [ESTA] said he must inform us. We were not approached by any other party to assist them (Du Toit 2004, pers. comm.).

There appears to be a gap in the law and in policy when it comes to guiding municipalities on their role in securing tenure rights for ESTA occupiers, responding to threatened or actual evictions, and monitoring the forced movement of people off farms. None of the municipalities reported receiving such information or guidance from the provincial or district offices of DLA. Consideration should be given to the respective roles of DLA and municipalities in this regard.

Emergency shelter and housing

In the case of the *Government of South Africa v Grootboom and others* (Constitutional

Court 2000), the court ruled that 'the state's measures regarding housing fell short of the constitutional requirement of reasonableness as they failed to cater for those in desperate need' (Lahiff and Rugege 2002:9). This case dealt with the right to shelter and the right of access to housing and ruled that the government must develop a reasonable plan to provide shelter for those in desperate need. In the context of farm evictions and other movements of people that result in people being in desperate need, municipalities have a role to play, in conjunction with other spheres of the state, in providing emergency shelter and housing.

This study found that two of the 18 municipalities have systems in place to provide farm dwellers evicted from their homes with emergency shelter or housing. However, both municipalities pointed out that these systems formed part of their disaster management systems and were not dedicated to farm dwellers. Some municipal officials expressed doubt about whether such a system was adequate. They also expressed uncertainty as to whether evicted farm dwellers with no place to go would constitute a disaster and thus qualify for access to these facilities. An official from Chris Hani DM expressed this view:

We have disaster management, but I am not sure whether this would be classified as a disaster. I do not know whether there are facilities in each of the local municipalities. They are not ready for the farm workers, though (Viedge 2004, pers. comm.).

An official from Makhado LM reported that emergency provisions could be invoked to provide temporary shelter for evicted farm workers in the local sports stadium, but indicated that this had not happened to date, and that it could only be a short-term measure. Bohlabela DM said it had seen farm workers being evicted, but argued that most were absorbed into extended family networks in the communal areas, and so did not end up in situations of distress in informal settlements.

The officials in these two municipalities attributed their low level of preparedness to respond to evictees' need for shelter to the fact that they had not encountered the



problem of evicted farm dwellers having nowhere to go. In both instances, though, there are disputes about the extent – scale and frequency – of evictions.

Settlement planning for farm dwellers

ESTA requires that occupiers evicted in terms of its provisions must be provided with suitable alternative accommodation. Section 4 requires the Minister of Land Affairs to make available funds for this purpose. According to Section 4(4) of ESTA, municipalities may facilitate or implement appropriate on-site or off-site developments for farm dwellers and, where they do so, may access the funds made available by the minister. This does not place positive obligations on municipalities. Instead, the state has certain obligations, and DLA and other spheres of the state must respond in a spirit of co-operative governance.

Three of the 18 municipalities studied had considered long-term plans to provide settlement options for farm dwellers. In most instances, farm dwellers are considered in this light once they are already evicted and are resident in informal settlements in the farming areas or on the edges of towns. Former farm dwellers constitute one category of people considered to be responsible for the growing pressure on peri-urban land, leading to a rising demand for settlement developments. However, municipal officials said that they did not consider this general demand for settlement to be part of farm tenure reform processes and that former farm dwellers were not identified as a specific target group. Consequently, they have also not sought DLA funds to address this issue.

Thabo Mafutsanyane DM was the only municipality to report that farm dwellers in its jurisdiction had acquired settlement grants from DLA. It is highly possible though that farm dwellers in other jurisdictions had also received settlement grants. Possible reasons for municipalities not having this information could be that municipal officials are unaware of such events and that DLA data systems do not sufficiently specify ESTA projects within the broader spectrum of redistribution and tenure reform programmes. Thabo Mafutsanyane DM and Nala LM in the Free State and Zululand DM

in KwaZulu-Natal have started to develop plans for securing farm dwellers' rights on-farm and for providing options for farm dwellers to move off farms. Here, the focus is on access to both housing and land. Some of the municipalities were prepared to provide settlement support to farm dwellers who are not urbanised. Thabo Mafutsanyane DM also has an active programme to inform farm dwellers about their tenure rights. In some of the other municipalities in the study, officials considered this to be beyond their scope of responsibility, saying it was the responsibility of DLA.

Service delivery to farm dwellers

Only the IDP of Thabo Mafutsanyane DM mentioned the conditions of housing and services among farm dwellers. None of the others addressed the topic. It is also only in Thabo Mafutsanyane DM that farm dwellers have, to the knowledge of the municipality, acquired full ownership rights of land through land reform. Only the IDPs of the Free State municipalities in the study acknowledged that municipalities had a role to play in providing services to farm workers.

The overwhelming response from municipal officials when questioned on this issue was that municipalities could not play any role in this regard, as they could not service privately owned land. When questioned about whether it would be possible to provide service infrastructure up to the boundaries of farms, some officials suggested that, while this may be desirable and may advance local government's service delivery and development mandate, it would not be feasible. The unit cost per household of delivering such infrastructure would be exorbitant and not justifiable, given the low population densities on commercial farms. Alfred Nzo DM has however acknowledged that local government must respond to service needs among farm dwellers, but had not taken any steps to do this.

I think we might have a role to play, because some people in Umzimkhulu, they needed a residential settlement, so the role to play for the municipality is always there for farm residents. They may be needing the same services that are on offer to other people. If



we could get some time to have some meetings and dialogue with them, we could find out what is it that they need (Mshumi 2004, pers. comm.).

Labour tenants

Labour tenancy is the practice whereby tenants living on commercial farms sell their labour in return for access to land. In most cases, labour tenants receive a small cash wage. However, where the value of access to land is estimated to be greater than this cash wage, the farm worker is deemed to be a labour tenant. The Land Reform (Labour Tenants) Act 3 of 1996 (LTA) goes further than ESTA in restricting eviction. It also gives labour tenants the right to claim stronger rights, including ownership, to land that they already use for cultivation or grazing. The LTA sets out a specific process whereby labour tenants could apply to the DLA to upgrade their tenure rights.

By the final deadline in 2001, DLA received approximately 20 000 labour tenant applications. Although labour tenants have lodged applications for land in large portions of KwaZulu-Natal, Limpopo, Mpumalanga and the Free State, these were mentioned explicitly in only two IDPs, those of Maluti-a-Phofung LM and Sekhukhune DM. None of the municipalities has defined roles in assisting to settle these applications.

Conclusions on farm dwellers

Farm dwellers are largely invisible in IDPs. Municipal officials have expressed hesitance regarding the extent to which they should play a role in supporting farm dwellers' tenure rights. Officials have questioned whether this area of land reform does not fall outside the competency of municipalities. They appear to be unaware of the provisions of ESTA, specifically the obligations and roles allocated to municipalities. Awareness may well not be the only obstacle. The municipalities appear to consider privately owned land as being beyond their reach.

Although the demarcation of wall-to-wall local government has brought agricultural land under the authority of municipalities, communal land is considered a priority while commercial farms are often ignored in IDPs. One IDP manager, from Sakhisizwe LM in the Eastern Cape, stated this explicitly,

echoing the complaints of NGOs that have difficulty in gaining access to farms and thus to farm workers:

We don't have access to the farms. The workers themselves don't want interference; that baasskap thing is still there. We don't have information about conditions on the farms and what is going on there. But when you see them on the back of the bakkies you can see that things have not changed (Mlungwana 2004, pers. comm.).

However, it is equally apparent that municipalities have responded quite differently to the challenges of farm dwellers. Although generalisation should be treated with caution on the basis of so small a sample, and one which was not randomly drawn, it does appear that the municipalities in the Free State are addressing farm dweller issues more proactively than those studied elsewhere. The findings on farm dwellers are summarised in Table 5 on pages 21 and 22.

Restitution

Background

There remains an undisclosed number of unsettled restitution claims on both state and private land, many of which are in the rural areas. Communal land, nominally state-owned, is also under claim, as are some of the protected areas, such as national and provincial parks. While restitution is a means of redistributing ownership of land, including agricultural land, and therefore could be considered a contribution to poverty alleviation, economic transformation and development, some municipalities see restitution as complicating their work. Some officials said they had discovered that there are claims on land now being used for LED projects. The unpredictability and uncertainty brought about by the dearth of information on outstanding restitution claims was a common concern raised by officials.

Outstanding claims in jurisdiction

Seven of the 18 IDPs under study mentioned outstanding restitution claims in their respective municipalities. Some municipalities are subject to extensive and numerous claims, spreading over large portions of their jurisdictions. Ugu DM, for



Table 5: Farm dwellers

	Indicator	Eastern Cape municipalities				Free State municipalities				KwaZulu-Natal municipalities		Limpopo municipalities							
		Alfred Nzo DM	Umtzinyubu LM	Chris Hani DM	Sakhisizwe LM	Thabo Mafutsanyane DM	Matluti-a-Phofung LM	Lejwelephutswa DM	Matjhabeng LM	Nala LM	Ugu DM	Zululand DM	Abaqulusi LM	Bohloboela DM	Bushbuckridge LM	Vhembe DM	Makhado LM	Sekhukhune DM	Greater Tlokweng LM
1	Farm dwellers are identified as a constituency			y		y	y	y	y		y								
2	Number of farm dwellers in jurisdiction is cited																		
3	Trends in farm labour (e.g. job shedding) are acknowledged			y		y	y	y	y		y								
4	Current levels of housing and services for farm dwellers are cited					y													
5	Number, location, land use and ownership of farms in jurisdiction are cited										y								
6	Acknowledges evictions/movement off farms			y	y	y		y	y		y								
7	There is a system to respond to threatened evictions					y			y										
8	There is a system to deal with Section 9(2)(d) notices (eviction notices in terms of ESTA)					y													
9	There is a system to provide emergency shelter/housing for evictees				y			y											

	Indicator	Eastern Cape municipalities				Free State municipalities				KwaZulu-Natal municipalities			Limpopo municipalities						
		Alfred Nzo DM	Umtata DM	Chris Hanu DM	Sakhisizwe LM	Thabo Mafutsanyane DM	Maluti-a-Phofung LM	Leywerophutswa DM	Matjhabeng LM	Nala LM	Ugu DM	Zululand DM	Abaqulusi LM	Bohlabela DM	Bushbuckridge LM	Vhembe DM	Makhado LM	Sekhukhune DM	Greater Tlokweng DM
10	The municipality has obtained or sought funds from the Minister of Land Affairs for the above in terms of Section 4(4) of ESTA					Y													
11	There is settlement planning for farm dwellers in the long-term (e.g. off-farm options)					Y			Y		Y								
12	Acknowledges the role of public sector in service delivery to farm dwellers					Y	Y		Y	Y									
13	There is provision for on-farm service delivery (to boundary)					Y	Y												
14	The IDP acknowledges or contains information on outstanding labour tenant claims within its jurisdiction						Y											Y	
15	Where there are labour tenant claims, the municipality has a defined role in helping to settle the claims																		
16	Where labour tenant claims are successful, the municipality has a defined role in providing ongoing support					Y	Y				Y								

instance, estimates that 90% of its land area is under claim, and similarly high estimates have been mooted in some of the Limpopo and cross-border municipalities. However, many more municipalities have outstanding claims, although they did not mention these in their IDPs. Where the claims were mentioned, few of the municipalities studied had any lists of claims in their areas. It is therefore not possible for restitution to be factored into broader LED or spatial development planning at local government level. The most detailed information on outstanding claims could be found in some of the Limpopo IDPs, such as Vhembe DM, in which statistics on gazetted claims were presented for each local municipality within its jurisdiction. However, even given this level of detail, the information is very incomplete.

Within Alfred Nzo DM, some land on which there are new housing developments has turned out to be under claim, and the municipality has had to halt some LED projects, and negotiate with claimants to join in existing projects. It is not clear whether the municipality is liaising with the Commission regarding these negotiations, nor what their legal status might be. For instance, it seems that the interim deals being struck now will affect the options available to claimants in the future as to how the claims can be settled.

We are implementing [housing] projects on some land that is claimed; we have to bring on board the claimants as well... We negotiated with the claimants and there are other people as well who are part of the project... Claimants and non-claimants are both part of this... The project does not just belong to the claimants, but to the whole ward. They have not signed settlement agreements with the Commission. We negotiated with the claimants that we can go ahead with the projects, even though it is under claim. The type of agreements in the long-term will depend on the validation of the claim and the settlements. But we requested that we should not delay the projects while we wait for the claims to be settled. We asked the Commission to speed up the memorandums of

understanding; meanwhile, planning aspects have started: rezoning, subdivision and surveys (Mshumi 2004, pers. comm.).

Municipality party to settlement agreements

Although half of the municipalities studied interact with the Commission regarding the settlement of claims within their areas, three of the 18 have been party to settlement agreements. This information should be treated with some caution, as it was not possible to verify this independently, and it appears that there are variable understandings of what constitutes 'being a party to the claim settlement'. The researchers designed this question to mean that the municipality is a signatory to the Section 42D settlement agreement, along with the claimants and the Commission, and thus is legally bound to play a specified role in the implementation of the settlement agreement. It is not clear whether the municipal officials being interviewed understood this in a uniform manner. It could be that they used a looser definition than was intended in this very precise definition.

According to Bushbuckridge LM, the Commission is working in parallel to the municipality by doing its core business of trying to settle land claims. This sentiment was echoed by municipal officials elsewhere. While Bushbuckridge LM officials implied that the Commission was at fault, it is not apparent that the municipality has taken any proactive steps to try to play a stronger role in the pre-settlement phase:

No, we don't know where all the claims are. They [the Commission] just come to our office and request a hall in our municipality but not inviting us and not taking us on board.

We do have a lot of people who are doing that [lodging claims], and as a result as a municipality, we need to be workshopped, so that we know this process. They [the Commission] only interview the people who are concerned, putting the municipality outside (Chavane 2004, pers. comm.).

In few cases did the municipality advise on how the claims could be settled. Municipal officials at Ugu DM argued that state land



disposal and land claims need to be resolved as a priority. They said that the district municipality should play a role in issues of tenure rights and boundary disputes, especially at Ngabene and Franklands, where these issues are explosive. The district municipality's lack of authority in formulating and implementing land reform, together with the 'willing buyer willing seller' approach, are considered impediments to the municipality taking a more proactive position.

Provision of services on restored land

Two key challenges are evident regarding the municipalities' role in providing services on restored land. The first is the perceived last-minute approach by the Commission to involving municipalities. This makes planning and budgeting for the provision of services difficult at best, in the view of the municipalities. This sentiment was repeated across a number of the interviews. In Makhado LM, for instance, the municipality perceived the Commission as having an attitude along these lines:

'Right, these guys are going to move in; how are you going to service them?' We become involved once they have appointed a planner to look at the practical resettlement. It is quite late in the process. We have a blanket provision in our IDP that we set aside funds in case a project is implemented. But it takes very long. We started with Gertrudsberg prior to 2000, but it has not moved an inch so we can't get to the point of laying a pipeline. There have been complicating issues there. It makes it difficult to say in which financial year we will spend. The PFMA [Public Finance Management Act] requires us to be very specific, not to have 'slush funds'. It must be project-linked. That means one has to get more into time frames and time limits (Du Toit 2004, pers. comm.).

The second challenge is to provide services and to invest in infrastructure for successful restitution claimants when, by definition, the land restored to them is private land. This means that the process must wait not only for the transfer to go through, but also for

the process of township establishment to take place, so that the municipality can take ownership of the remainder, once individual plots have been excised. Two different approaches to township establishment on restored land are evident among the municipalities. Some, like Sekhukune DM, consider this process as being core to their business. According to them the municipality should drive the process of drawing up a general plan and establishing the township. Others, like Makhado LM, argue that it is up to the new owners themselves to engage the services of a town planner to do this work and that the municipality's involvement begins only once this is complete and the township is ready for registration.

They (the community) will have to appoint their town planner and lay out their settlement. That is where the delay is happening, for instance in Gertrudsberg. They can't just go and live on one piece of property; they have to establish a township. They have to organise themselves into a more formal type of settlement (Du Toit 2004, pers. comm.).

Support to communal property institutions

None of the IDPs mentioned communal property institutions, and most of the municipal officials interviewed by the researchers were unfamiliar with the term 'communal property associations' (CPAs). Nevertheless, once the term was explained, it appeared that there had been some contact between four of the municipalities in the study and CPAs established through either restitution claims or redistribution projects within their areas. The relations between municipalities and CPAs seem ambiguous: on the one hand, CPAs are private landowners; on the other, they are groups of poor people in need of services and support, and thus should rank on the developmental agenda of municipalities. In Bohlabela DM, in the case of the high-profile Makuleke land claim settled some years ago, the district municipality has taken an active role and has engaged with the CPA to determine its needs, although no concrete plans have emerged as yet. However, as was found to be typical, this



type of supportive role was not mentioned in the IDP itself. The provision of post-transfer support to land reform projects is something that is poorly reflected in IDPs. It is a sphere of activity in which some municipalities are doing substantially more than has been evident from the IDP documents themselves.

We had a meeting with the Makuleke group. They submitted some plans that they have for their area. That is the only claim that has been solved. We had a lot of bilateral talks with them and their management committee; we are aligning their plans with the district plans. I even have the constitution of the CPA. We can use the experience we are gaining from the Makuleke CPA to address some of the claims that might arise (Seoke 2004, pers. comm.).

Conclusions on restitution

The communication gaps between the Commission and municipalities have led to restitution being left out or sidelined in LED strategies and IDPs. In the view of some of the officials interviewed, a dearth of information and the tardy involvement of municipalities in restitution, often at a late stage in the process of settling claims, are two central problems that have made it difficult, even impossible, to plan support for restitution. A key challenge is to find ways to strengthen communication and collaboration between the regional offices of the Commission, on the one hand, and district and local municipalities, on the other.

The findings on restitution are summarised in Table 6 on page 26.

Municipal commonage

Background

Municipal commonage land is mostly found in those parts of the country that formed part of the old Cape Colony. Towns were allocated land by the Crown for commonage purposes as part of their establishment in what are now the Western Cape, Eastern Cape and Northern Cape. The other area where commonage is also fairly widespread is the Free State, which has also taken advantage of DLA's Municipal Commonage

Programme to access land reform funds to acquire additional commonage land.

Ownership of municipal commonage

A number of municipalities claim to have a register of their commonage land. Matjhabeng DM and Thabo Mafutsanyane DM in the Free State, Sakhisizwe LM and Umzivubu LM in the Eastern Cape and Greater Tubatse LM in Limpopo own commonage. Beyond this, it was not possible to determine with any confidence which municipalities own commonage, as municipal officials, particularly those in Limpopo and KwaZulu-Natal, were unclear on what constitutes commonage land. In KwaZulu-Natal, in particular, the distinction between municipal commonage and tribal commonage (that is, grazing land in communal areas) was not clear to municipal officials. Some were unaware of the existence of such a category of land and of the existence of the DLA programme to provide finance to municipalities to purchase commonage. In the process of conducting interviews, a couple of municipal officials indicated that they would want to pursue applications for commonage.

Some of the questions on commonage asked in this study were inapplicable to district municipalities, since it is largely the local municipalities that own their own land. Given the division of functions between the two, district municipalities have not inherited commonage land from previous local authorities. For this reason, the findings perhaps underestimate the significance of commonage.

Information on municipal commonage

Commonage was mentioned in the IDPs of only three of the five Free State municipalities, despite it being a prominent feature in these areas. It also featured in the IDP of only one other municipality, that of Abaqulusi LM in KwaZulu-Natal. This indicates that, even where municipalities own commonage, it is not always considered a strategic resource that can be used to respond to land needs. Thus, it does not feature in the development plans for municipalities. Matjhabeng LM and Umzimvubu LM have received DLA grants to acquire additional commonage to make available for the grazing



Table 6: Restitution																			
	Indicator	Eastern Cape municipalities				Free State municipalities				KwaZulu-Natal municipalities			Limpopo municipalities						
		Allfred Nzo DM	Umzimvubu LM	Chris Hani DM	Sakhisizwe LM	Thabo Mafutsanyane DM	Maluti-a-Phofung LM	Lejwelephutswa DM	Matibabeng LM	Nala LM	Ugu DM	Zululand DM	Abaqulusi LM	Bohlabela DM	Bushbuckridge LM	Vhembe DM	Makhado LM	Sekhukhune DM	Greater Tlosetse LM
1	Acknowledges or contains information on outstanding land claims			Y		Y	Y			Y				Y		Y	Y		
2	The municipality interacts with the Commission about claims settlement					Y	Y	Y		Y		Y				Y	Y	Y	Y
3	The municipality is party to the restitution settlement agreements (Section 42D)							Y		Y									Y
4	The municipality delivers services and/or is involved in settlement planning and infrastructure on restored land					Y	Y	Y		Y									Y
5	The municipality is aware of and provides housing and/or other support to CPAs					Y	Y						Y						Y

needs of residents who own livestock.

In Umzimvubu LM, though, it has become evident that much of this new commonage is under restitution claim.

The district municipality, Lejwelephutswa DM, has a target of providing each resident with access to 200 square metres of land for crop production, though it is unclear whether this target is for commonage land or in the communal areas. In some instances, it is not clear how much land is owned by the municipality, or whether or how much of this is commonage. Some IDPs emphasise the need for an audit of municipal assets, which is expected to clarify this issue. Such an audit would need to distinguish between municipal

land in general and that which is earmarked as commonage. It appears that in the cases of Umzimvubu LM and Makhado LM, such a distinction was not made, and thus the respective municipalities remain unclear about what commonage they own.

Current use of municipal commonage

The current use of commonage land was described in only three of the IDPs, all in the Free State. Here, commonage is depicted as a key resource to provide development opportunities and a social safety net in the face of declining livelihoods, resulting from the closure of mines and consequent unemployment.

Future plans for municipal commonage

More municipalities are pursuing efforts to acquire new commonage land than are addressing how existing commonage land should be used. This is not only because many do not already own commonage. Instead, several municipalities appear to be pursuing contradictory paths – although this is understandable in the circumstances. For example, in the absence of access to other land for urban expansion, some municipalities, such as Umzimvubu LM, are rezoning and converting existing commonage into residential areas, as well as applying for additional commonage for agricultural purposes. An Umzimvubu municipal official was candid about the municipality's intentions: it would attempt to get more commonage land in order to establish residential settlements rather than reserve it as a public resource for disadvantaged residents. In the absence of a viable rapid land release programme, this appeared to be the most feasible way of meeting the urgent need for residential land. The lack of available and suitable land (close to urban settlements) was found to be a hindrance to further commonage development.

Matjhabeng LM appeared to be the most proactive municipality in this study on the issue of commonage. Whilst the commonage programme provides safety nets for most poor people, its sustainability is threatened by a lack of the kind of infrastructure – fencing, access to roads, electricity, water, storage – that is central to the viability of the projects being undertaken. The potential of commonage has led to more demand for land, but identified land is often located too far from intended beneficiaries.

Land rights administration

In a couple of cases in the Free State, user committees have been established and have been supported by the municipality. Matjhabeng LM, for example, hosts an agricultural forum, and the interests of commonage users and other stakeholders are represented at this forum. In Limpopo, Makhado LM makes use of individual leases when making commonage available to semi-commercial farmers. For projects involving

poorer groups, including a youth group, it has established user associations. It deals with users via their representatives on these structures. The municipality does not play a role in the internal operations of the groups. The internal management of these groups appears not to have presented a problem thus far, according to the municipality.

Investment in infrastructure

Despite the emphasis on commonage evident in the Free State, none of the Free State municipalities in the study appears to have invested in infrastructure on the commonage. The key forms of infrastructure requirement, where the land use is restricted to grazing, are fencing and water supply. Makhado LM in Limpopo invests in fencing by providing materials, but requires that the user committees maintain the fencing and take responsibility for fixing it.

Protection from encroachment

The conversion of commonage land into non-agricultural land was a key finding of the research. This is prevalent where municipalities are experiencing rapid urban growth and there is an increase in informal squatting and occupations of both private and public land. In some instances in the Alfred Nzo district, informal settlements have emerged on the commonage. Elsewhere, informal settlements have grown on tribal communal land, where they are more likely to spark land disputes. In instances of land disputes, municipalities present the provision of commonage land for settlement as a conflict aversion strategy – by making available one resource at its disposal, the municipality addresses an urgent need and quells conflicts between established land users and newcomers. It is not clear how much of this encroachment is on municipal land in general, or on commonage land in particular.

Conclusions on municipal commonage

Where commonage land is being made publicly available, the two priority issues would appear to be improving investments in land rights administration – to prevent problems of open access and to preserve the value of the resource – and making investments in infrastructure. Neither of



these appears to be prioritised at present. However, if municipal commonage is to constitute an LED resource targeting the poor, the key challenge is to make it available and to protect it from encroachment or conversion into other uses.

Few municipalities in this study drew a clear distinction between land owned by the municipality and municipal commonage land. It appears that many of the municipalities do not own commonage land *per se*, that is, land that is earmarked for public use in terms of a title deed restriction. Most of the traditional commonage land has such restrictions. However, it may be that this land is being used by municipalities without due consideration of its public purpose. Confronted with a growing pressure on peri-urban land and the need for additional land for residential settlement as towns and cities expand, many municipalities have taken to rezoning their own commonage land for residential use. This is a particularly attractive option in the face of the enormous difficulties in acquiring state land, which, in the experience of some officials interviewed, is a complex and lengthy process that can take anything up to one decade. Another reason for rezoning commonage land for residential settlement is the reluctance within municipalities to look into acquiring privately owned land, which is compounded by the confusion among officials regarding how they might go about pursuing this option.

The study found little evidence of municipalities taking seriously their role in providing agricultural land to support livelihoods or alleviate poverty. There is little investment and little support for farmer organisations that could be delegated responsibility for managing use of the commonage. Commonage is also potentially a source of revenue, as was clear in the case of Makhado LM. Most significantly, this study found that commonage land is considered a 'soft option' for municipalities in need of land. This is unfortunate but also understandable in view of the obstacles they face in securing land from other sources.

The conclusions on municipal commonage are summarised in table 7 on page 29.



Housing and settlement

Background

There is a high demand for housing and related services in communal areas.¹ The lack of clarity on land rights and the absence of land administration systems in many regions complicate the process of providing housing and settlement support, including services, in communal areas.

Rural constituency

All the IDPs studied identified the rural population as a constituency in need of housing. This is the only indicator used in this study that was found in every IDP studied. This is a most remarkable finding, given the tendency for municipalities to be equivocal on their role in infrastructure and service provision in rural areas on land over which they have no direct authority. Nevertheless, the sample was skewed towards municipalities that include large rural populations and particularly those that include communal areas. This finding would be less likely if municipalities that had only commercial farming land in their jurisdictions were included. Actual rural housing programmes are implemented largely by local municipalities, and thus are generally less evident in district IDPs.

Rural housing subsidy

The Department of Housing's (DOH) Housing Subsidy Programme requires that applicants have secure tenure to the land on which the top structure is to be built. In general, this is interpreted as having full ownership of the land. However, DOH has introduced a rural housing subsidy for use in the context of communal areas, which requires only 'functional security of tenure'. In other words, applicants may be eligible for a subsidy providing that they can demonstrate that they have secure tenure. In practice, this requires the co-operation of traditional authorities or other authorities playing a role in land administration. Permission to Occupy (PTO) certificates are considered sufficient evidence of secure tenure. In the absence of PTOs, some form of certification from a traditional leader is usually needed.

Many of the municipal officials interviewed were unfamiliar with the rural

Table 7: Municipal commonage

	Indicator	Eastern Cape municipalities				Free State municipalities				KwaZulu-Natal municipalities			Limpopo municipalities						
		Alfred Nzo DM	Umkhumbi LM	Chris Hani DM	Sakhisizwe LM	Thabo Mafutsanyane DM	Maluti-a-Phofung LM	Leywerlephutswa DM	Matihabeng LM	Nala LM	Ugu DM	Zululand DM	Abaqulusi LM	Bohlabela DM	Bushbuckridge LM	Vhembe DM	Makhado LM	Sekukhune DM	Greater Tlokoeng LM
1	The municipality knows what commonage land it owns	Y			Y	Y		Y											Y
2	If so, municipal commonage is dealt with in the IDP					Y	Y	Y				Y							
3	Current use of municipal commonage is described					Y		Y											
4	There are plans for future use of municipal commonage					Y	Y	Y	Y			Y							
5	There is an effort to acquire additional (new) municipal commonage through land reform	Y			Y		Y	Y				Y							
6	There is an effort to convert traditional (old) commonage back to land use for poor							Y	Y								Y		
7	There is investment in land rights administration on municipal commonage					Y		Y											
8	There is investment in infrastructure development on municipal commonage			Y								Y							
9	Municipal commonage is protected as a public resource from encroachment/ privatisation of use/ conversion into land for settlement					Y	Y	Y	Y										
10	The municipality has a strategic plan for municipal land					Y		Y	Y										

housing subsidy and its provisions, and were thus unaware of whether it had been used or not. In these cases, it was assumed that the subsidy had not been used. A further data alignment exercise with DOH's housing subsidy list may be useful in the future to determine whether in fact such subsidies have been accessed.

A further challenge in delivering rural housing is what has been described as the stand-off between government and traditional authorities regarding their respective roles, powers and functions in communal areas. Local government officials expressed frustration with this lack of clarity and their inability to enforce their planning in the communal areas.

Delivering housing on land reform projects

A specific category of rural housing is where housing forms part of the development plans of land reform projects, whether restitution, redistribution or tenure reform. In these cases, the key challenge faced by the municipalities is the unpredictability of the process, since their involvement in township establishment and the delivery of housing and related services is contingent on the completion of the land transfer process by DLA and the town planning functions required for a general plan to be finalised. The difficulty of determining in which financial year the municipality will need to start delivering has impeded budgeting for rural housing, according to officials in Makhado LM and Ugu DM, among others.

Housing and land-based livelihoods

Some municipalities have changed their approach to rural housing provision, after observing that the take-up of formal RDP houses in established townships in the communal areas has been low. This has been understood to reflect the need among residents to improve their housing where they are, *in situ*, and also the need for housing to be approached in a developmental fashion. In KwaZulu-Natal and Limpopo particularly, rural people have indicated that they do not want to resettle in township-style housing. Instead, they want to be based close the source of their livelihoods. Thus, the

Makhado and Sekhukhune municipalities are now proposing that housing developments focus on improving the quality of traditional dwellings and, where formal housing is to be pursued, that this should be on a grid that differs from the standard urban format.

Larger plots are being provided in Alfred Nzo DM and Bushbuckridge LM to allow residents to engage in vegetable gardening – largely, it is presumed, for own consumption – as well as to keep a small number of livestock, although in large part the provision of tribal commonage is still needed to make this possible. The People's Housing Process (PHP) is being invoked in both these municipalities. Apart from these exceptional cases, other municipalities seem to be pursuing a more conventional model of establishing dense residential settlements in deep rural areas, since these conform to the low-cost housing standards and enable the municipality to minimise the unit cost of providing bulk infrastructure. The experience of Bushbuckridge LM illustrates how experience has led to a shift from the conventional approach to one that is more innovative:

We used to build RDP houses by acquiring land from the chiefs, and we demarcate that and we build houses. But because of culture, people are not willing to go there and live in those houses. Now we have changed strategy, so we are building houses where people are. We are addressing the housing backlog... All those beautiful houses we built became a white elephant, became a hiding place for those criminals, so now we are concentrating on building houses for people where they are. We develop it to become a location, a township, to formalise existing settlements (Chavane 2004, pers. comm.).

Similarly, in Bohlabela DM:

We have been doing housing projects in our communal areas, run by our local municipalities. We first establish a settlement in terms of the DFA [Development Facilitation Act] so that we can formalise ownership of land. But not many people are moving into



Table 8: Housing and settlement

	Indicator	Eastern Cape municipalities				Free State municipalities				KwaZulu-Natal municipalities			Limpopo municipalities						
		Alfred Nzo DM	Umtzimvubu LM	Chris Hani DM	Sakhsizwe LM	Thabo Mafutsanyane DM	Maluti-a-Phofung LM	Lejwelephutswa DM	Matjhabeng LM	Nala LM	Ugu DM	Zululand DM	Abaqulusi LM	Bohlabela DM	Bushbuckridge LM	Vhembe DM	Makhado LM	Sekhukhune DM	Greater Tlokweng LM
1	Rural constituency is included in target groups for housing	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2	Rural housing subsidy has been accessed					Y	Y				Y								Y
3	Nature and location of settlements and size of plots allows for land-based livelihoods		Y			Y	Y	Y	Y	Y	Y			Y					

those houses. Now our focus is to build them houses in the places where they are. The house should be delivered to that person where he is (Seoke 2004, pers. comm.).

Conclusions on housing and settlement

The functions of district and local municipalities regarding housing and settlement are distinct. District municipalities are in charge of providing bulk infrastructure, including water and sanitation, electrification, and road infrastructure, while local municipalities are responsible for the actual housing developments and planning for associated social infrastructure like schools, clinics and recreational facilities. One therefore should expect variation in the responses between these two tiers of local government. In Thabo Mafutsanyane DM, the district is taking the lead in discussions between farm workers and farm owners

to address settlement options in the long-term and the issue of ownership, while the local municipalities focus on housing developments. Whether, or in what manner, the two strategies intersect is not entirely clear. Nevertheless, this kind of strategic intervention at district level to address a common priority could be considered a best-practice example.

The findings on housing and settlement are summarised in Table 8 above.

Spatial development planning

Background

A section on spatial development is standard within the IDPs. However, most municipalities have sought to develop a spatial planning framework that builds further on what is contained in the IDP. The research showed that a number of municipalities were in the process of developing this framework,

while others were awaiting financial support to enable them to contract private service providers to collect relevant spatial information and write this document.

Land reform in spatial planning

A critical tension faced by many of the municipalities in their spatial development planning is whether to create more formal settlements through township establishment or to support informal settlement patterns by focusing on creating or upgrading rural housing and related infrastructure.

Spatial development is normally equated with urban expansion and urban nodes for service delivery within rural areas. While spatial development strategies often involve reconfiguring land uses and in this way transforming the rural areas, land reform is seldom cited as a specific means by which this spatial development might be achieved. There are some exceptions though. Land reform was cited as a strategy for spatial development in the IDP of Thabo Mafutsanyane DM.

Many of the municipalities studied include former Bantustan areas, for example, parts of Gazankulu, Lebowa and Venda in Limpopo, QwaQwa in the Free State, KwaZulu in KwaZulu-Natal and Transkei and Ciskei in the Eastern Cape. These former homeland regions are characterised by scattered settlements that have many rural features but display high population densities. Municipalities have taken different approaches to responding to this situation.

The prevailing perspective among the municipal officials interviewed is that there is a need to further densify settlements and to formalise these in order to make feasible the development of infrastructure and delivery of services. However, a few of the municipalities have changed their strategies, in recognition that the livelihoods of rural people are dependent on access to land and are not easily transplantable to an urban context. This has informed major changes in approaches to housing delivery and spatial development in Bushbuckridge LM and Ugu DM.

State land

The municipalities' high level of dependence on private service providers to conduct

research and to provide information on state land must be a cause for concern. This exercise may have to be repeatedly outsourced in the future. Makhado LM, for instance, indicated that information of this kind had been compiled for a portion of its jurisdiction, but that this was outdated. Thus, the municipality again faces a dearth of information on land ownership, as it waits for funds to become available for consultants to conduct another audit.

Rapid land release

The delivery of housing has to be separated from the need to release land to cope with influx into urban areas (Pienaar 2004). Without mechanisms for rapid land release, this influx results directly in peri-urban 'land invasions' (see the section 'Urban expansion' below). The obligations of the state in this regard were considered in the Modderklip case before the Constitutional Court (Constitutional Court 2005).

This study found that few municipal officials were familiar with the concept of rapid land release. Some requested further information or said that they would try to find out how this could be applied in their areas. Almost all expressed the need for this to happen, particularly to enable municipalities to acquire state land in their jurisdictions for residential development. In their experience, this process has been anything but rapid. Rapid land release in an urban context was mentioned in four IDPs, and in a rural context was mentioned in only two. Chris Hani DM has used this process to provide bulk infrastructure – water and sewerage – rather than provide residents with access to land. As far as could be determined, the concept is unknown among the studied municipalities in Limpopo.

Urban expansion

Most of the municipalities envisage a hierarchy of settlements, ranging in size and population density, from major urban centres to small towns to villages. In most instances, for example, in the case of Vhembe DM and its local municipality, Makhado LM, this entails supporting the formalisation and expansion of smaller settlements at the bottom end of this scale. Where municipalities' jurisdictions consist mostly



of communal areas characterised by highly dispersed settlement patterns, there are few, if any, urban centres. Here, urban expansion involves a densification of the larger existing settlements. Greater Tubatse LM and Sakhisizwe LM are two examples. Within the Sekhukhune district as a whole, this is the approach being taken, as explained by the Planning, Implementation and Management Support (PIMMS) manager:

We don't want a dispersed settlement pattern, we want to concentrate housing and services in a cost-effective manner. It must be cost-effective to provide infrastructure, targeting areas where there is already infrastructure, but we also can't ignore those people who are staying in those outlying areas. We must focus the movable assets in the rural areas (social grants, education and training) because people must be mobile. We must encourage people to move to the centres, where they are looking for jobs, but this threatens us with a chaotic situation of land invasions (Molefe 2004, pers. comm.).

Land invasions

Land invasions on state land, particularly in peri-urban contexts, were common to many of the municipalities studied. The terminology used in this study, however, caused some confusion. Municipal officials sometimes said there were no land grabs in their areas, yet acknowledged that unauthorised and unplanned settlement on land and unauthorised land use were rife. In general, the term 'land invasions' is associated with large-scale intrusion on privately owned land. However, on reflection, most municipal officials conceded that land invasions were in fact very much part of the ongoing land use practices in their respective jurisdictions. So-called 'land invaders' may have no available remedy other than to invade and settle on vacant land. Very few officials indicated that this constituted a crisis for their municipalities. Rather, the challenge it raised was how to provide greater certainty, release more land for development, and create mechanisms to resolve disputes where land occupations resulted in conflicts between different groups of land users.

Encroachment and unauthorised settlement and land use on communal land under tribal authority was also noted as a challenge, although municipalities seldom intervene in this context. In KwaZulu-Natal, the issue is considered too political for the municipality itself to address, and officials consider this the domain of elected politicians. Illegal occupation of privately owned land was not cited as a problem, although officials were not specifically asked about this. Widespread illegal occupation of state farms was noted in the Bushbuckridge area.

Property rates

The Property Rates Act 6 of 2004 empowers local municipalities to levy rates on agricultural land. Of those studied, only Matjhabeng LM in the Free State has been levying rates on agricultural land. Most of the rest said they were still considering how to use their new powers, and at what level to set the rates. In most instances, there was no discernible intervention at the district level to get the local municipalities together to discuss a strategic approach to rates. As well as providing a source of additional revenue for local government, property rates are potentially significant as a tool for land reform, as they can raise the opportunity cost to landowners of retaining ownership of underutilised land and thus, especially when coupled with lowered transaction costs for subdivision, can bring more land onto the market. Land reform beneficiaries have been exempted from paying property rates for a period of ten years after taking ownership of land. However, the fact that rates may be levied on commercial farms may be the opening required for local government to provide services to farm dwellers.

Officials noted that systems to improve land valuation rolls will be needed ahead of the implementation of property rates on agricultural land. In addition, some queried whether other spheres of the state owning land will be liable to pay these rates, and whether the municipalities will be able to extract payment from them. In particular, there were queries as to whether DLA would be paying rates for communal land nominally owned by the Minister of Land Affairs.



Conclusions on spatial development planning

Many of the municipalities studied had not yet completed their spatial development plans. Some were still in the early stages of developing them. However, this analysis has been based on the vision for spatial development planning contained in the IDPs, supplemented with information obtained from municipal officials. This research has found that municipalities facing a legacy of uneven development have responded in different ways: some have focused on urban expansion and densification, others have decided to support rural settlement options, creating and investing in a hierarchy of settlements and upgrading infrastructure and services to people *in situ*. This variation may be warranted. However, it does seem that the different approaches are *ad hoc* and not informed by national policy or policy debate on strategic responses to rural underdevelopment and urbanisation. Such policy debate and guidance would assist municipalities to hone their approaches to spatial development. A dearth of information regarding land ownership is impeding spatial development planning by municipalities. Rather than relying on periodic research by consultants, municipalities need systems to record, manage and extract information on land ownership – both public and private.

The findings on spatial development planning are summarised in Table 9 on page 35.

Communal tenure

Background

Traditional leaders have long played a central role in allocating and administering land rights. Restricted to the Bantustans, but also formally recognised by the Bantu Authorities Act 68 of 1951, tribal authorities have effectively been representatives of the state in the communal areas under their jurisdiction. Until the 1990s, these tribal authorities worked with local magistrates and the agricultural authorities of the Bantustans to record and register the allocation of land rights, to intervene in and resolve disputes, and to manage land uses.

Subsequently, there has been a lack of clarity on, and failure to invest in, systems

of land administration in communal areas. After the dismantling of apartheid and homeland land administration systems in the 1990s, some communal land records were transferred to provincial departments of agriculture, while others went to transitional local authorities, and others appear to have been lost, according to DLA officials. The legal and institutional vacuum for securing land rights in the communal areas has resulted in a chaotic state of affairs and has made possible abuses. The KwaZulu-Natal Ingonyama Trust Land Act 3 of 1994 places communal land in that province under the Ingonyama Trust, which may issue tenure rights. The Interim Protection of Informal Land Rights Act 31 of 1996 is one law that provides a degree of protection for land rights holders from being dispossessed of their rights in communal areas. The Act requires that certain procedures be followed if land users are to be dispossessed, and that compensation be provided.

The Traditional Leadership and Governance Framework Act 41 of 2003 spells out a process of transformation of the institution of traditional leadership, to partially democratise tribal councils. Over time, a proportion of elected members and women are to be included, and these structures are to become known as ‘traditional councils’. Mechanisms to remove traditional leaders from office have been introduced.

Role in communal land administration

Four of the 18 municipalities in this study, in the Free State and Limpopo, indicated that they had taken over land administration powers and functions from disestablished homeland authorities. Three said that they played a role in administering communal land rights in these areas. They indicated that they registered PTOs, or acted as intermediaries between chiefs and provincial authorities, to register PTOs. These are Makhado LM, Ugu DM and Bohlabela DM.

Bohlabela DM plays a role through its Land Use Committee, which makes recommendations on PTOs. Here, the chiefs reportedly approve the PTOs after maps have been sketched and the community and ward councillors have made recommendations.



Table 9: Spatial development planning																		
	Indicators	Eastern Cape municipalities				Free State municipalities				KwaZulu-Natal municipalities			Limpopo municipalities					
		Allfred Nzo DM	Umzimvubu LM	Chris Hani DM	Sakhisizwe LM	Thabo Mafutsanyane DM	Maluti-a-Phofung LM	Leywebephuswa DM	Matlabeng LM	Nala LM	Ugu DM	Zululand DM	Abaqulusi LM	Bohlabela DM	Bushbuckridge LM	Vhembe DM	Makhado LM	Sekukhune DM
1	Provides baseline information on state land within its jurisdiction					Y	Y	Y	Y		Y							
2	Deals with rapid land release in an urban context	Y		Y				Y		Y								
3	Deals with rapid land release in a rural context			Y						Y								
4	The municipality uses proactive planning methods for land acquisition							Y										
5	Extension of urban space is happening within a spatial planning framework				Y		Y	Y	Y	Y	Y		Y			Y	Y	Y
6	Peri-urban development is planned for and includes a hierarchy of settlements			Y	Y	Y	Y		Y	Y	Y	Y	Y		Y	Y	Y	Y
7	Acknowledges land invasions as outcome of pressure on land		Y	Y		Y	Y	Y	Y	Y	Y	Y			Y			
8	Property Rates Act is being implemented							Y										

Once the chief has made a recommendation, it goes to the municipality and the Land Use Committee will go out to the land in question and make an on-site inspection, for instance, health and environmental inspectors may go

out if it is a business PTO, and agricultural officials may go out if the land is to be used for cultivation or grazing. Then the Land Use Committee makes a recommendation to the District Council, which must then

be approved by the MEC. Ultimately, the PTO is issued by the Department of Local Government.

Makhado LM is one of very few municipalities to confront the issue of land rights administration directly in its IDP. In the view of the municipal official interviewed at Makhado LM, the communal areas are not directly subject to the powers of the municipality, though this relates only to the land itself. Nevertheless, given the institutional vacuum in the area of land rights administration, the municipality has taken to issuing PTO certificates, even though this should properly be the function of the Department of Local Government and Traditional Affairs.

The chief is still the custodian. We have 28 chiefs in our area. We can't take it over. Administration functions still vest in the traditional council office. In some areas, we are doing the Permission to Occupy [certificates]. We are issuing those permits, but in strict consultation with the chief, only if he has authorised it in his administration, if he sends us a letter... We wanted to establish ourselves as a good service agent and provide clarity to people. That is why we took this on. In terms of the Systems Act, you can be a partner in service, and we are a partner in this sense (Du Toit 2004, pers. comm.).

The municipality maintains records of communal land rights, including PTOs. It also holds and manages records of PTOs that it inherited from previous authorities. It has these files in its system and also records their business licenses, where applicable, since PTOs are not only for residential land uses. The municipality is not merely maintaining records, but is also an active agent of land rights administration. It includes building and health inspectors and technical assistants in the process.

We also have on-site inspections before issuing the PTOs – we do the demarcation although it is very informal. We show him the stand that he may occupy (Du Toit 2004, pers. comm.).



However, the municipality's work on communal land rights is an unfunded mandate. This may explain how unusual it is that municipalities are taking on such a direct role in supporting communal land rights.

But if we don't do it no-one will do it, and then people will be confused. But it takes us into financial problems. We have to formalise this area of work (Du Toit 2004, pers. comm.).

There thus appears to be a lack of clarity on land administration roles at a policy level, resulting in inconsistency in local government's approach to securing communal land rights. There is also no clear division of labour between the two spheres of local government in this regard.

Intervention in land conflicts

Some IDPs referred to the problems of insecure tenure, saying these inhibited outside investment. Disputes over inheritance, boundaries and the general problem of insecure tenure were not focused on. A third of the municipalities studied said that they played a role in intervening in land-related conflicts in communal areas within their jurisdiction. Although it may be premature to make any firm judgements on the matter, it appears that the emphasis of such interventions is on boundary disputes between communities or between chiefs, rather than between households. In most areas, then, the municipalities consider themselves to be outsiders and are hesitant to intervene in areas which they consider to be the proper function of traditional leaders.

In some municipalities, for example in the Free State, there are *ad hoc* mechanisms to deal with disputes, though these are not restricted to communal land conflicts. In most cases, there were no known or formally recorded communal land rights conflicts and yet the municipalities said they would respond on a case-by-case basis, depending on the situation. The response would be largely of a mediation or facilitation nature and would be aimed at resolving the issues informing the conflict.

Where municipal officials were aware of the Communal Land Rights Act 11 of 2004 (CLRA), they proposed that DLA should support municipalities and traditional leaders to inform people in the communal areas about

Table 10: Communal tenure																		
	Indicator	Eastern Cape municipalities				Free State municipalities				KwaZulu-Natal municipalities			Limpopo municipalities					
		Allfred Nzo DM	Umkhanyakulu LM	Chris Hani DM	Sakhisizwe LM	Thabo Mafutsanyane DM	Maluti-a-Phofung LM	Leywebophutswa DM	Matjhabeng LM	Nala LM	Ugu DM	Zululand DM	Abaqulusi LM	Bohlabela DM	Bushbuckridge LM	Vhembe DM	Makhado LM	Sekhukhune DM
1	The municipality has taken over rural land administration powers and functions					Y	Y		Y					Y			Y	
2	The municipality plays a role in administering communal land rights									Y			Y			Y		
3	Where problems arise regarding communal land rights, the municipality responds						Y	Y	Y	Y			Y					Y
4	Where there are tribal authorities within a jurisdiction, the municipality has working relations with them			Y		Y	Y			Y	Y		Y		Y			

this legislation. There was also an expressed need for clarity on what would be expected of municipalities in the implementation of the CLRA. Only in Bohlabela DM and Sekhukhune DM was it apparent that DLA was already working with districts to facilitate discussions on the Act.

Relations with traditional leaders

Traditional leaders hold ex-officio positions on many municipal councils. In some municipalities, for example, Vhembe DM

and Bushbuckridge LM in Limpopo, officials complained that the traditional leaders did not use these opportunities to participate in matters of local government. In only one instance did an official consider that this was for political reasons; the rest simply implied that chiefs have other matters to attend to and are insufficiently diligent. However, the IDP manager of Bushbuckridge LM argued that the failure of chiefs to participate was political and was related to fears that their authority over communal land would be

eroded if they recognised the authority of local government:

There is a view [among traditional leaders] that if you attend municipal meetings, they [the municipality] are going to take your land, you will no longer be in control of your own land, the municipality will take it away from you (Chavane 2004, pers. comm.).

Similarly, at the district level, in Bohlabela DM:

Some of them want to work exclusively from the municipality. You call them to a workshop but they will not participate in the council proceedings (Seoke 2004, pers. comm.).

A substantial form of interaction and collaboration between local government and traditional leaders appears to happen at the ward level rather than in the municipal councils. In Makhado LM, for example, ward councillors and traditional leaders hold periodic visits or *imbizos* with communities. While this could be a collaborative form of governance, it may also be that constituents are constrained in what messages they are able to convey, such as dissatisfaction with leadership, since both elected and traditional authorities are consulting them simultaneously at these events.



Conclusions on communal tenure

Questions regarding the respective roles of local government and traditional leaders in

administering communal land rights were answered poorly. Two problems were noted in the course of conducting interviews: first, there was a conceptual confusion over what constitutes administering communal land rights, and second, it is possible that the questions being posed suggested ‘correct’ answers.

It is imperative that municipalities are able to provide infrastructure and deliver services on tribal land. However, the political stand-off between elected government and traditional leaders in some parts of the country makes this difficult. Municipalities are dependent on maintaining good relations with tribal authorities and individual chiefs in order to carry out their mandate in the communal areas. If good relations cannot be sustained, obtaining PTOs or providing basic services can be more difficult. Party political differences between elected local government and traditional leaders are a complicating factor in this relationship, as is competition as sources of patronage.

The findings on communal tenure are summarised in Table 10 on page 37.

Endnote

1. Here, rural housing refers only to communal areas or other state land, as housing on commercial farms is dealt with under the section ‘Farm dwellers’ on page 15.

Chapter 5: Land reform project data alignment

A data alignment exercise was conducted to determine what land reform projects had been established within the jurisdictions of the municipalities in the sample. Project lists obtained from each of the DLA's provincial land reform offices were analysed and project data for the relevant municipalities were extracted.

The full findings of the data alignment exercise are attached as Appendix 3. The findings are summarised in Table 11 on page 40¹.

This exercise has revealed that the data management systems adopted by PLROs and by the regional offices of the Commission are not designed in a manner that facilitates extraction of information for the purposes of local government planning. The following may be concluded:

- In general, DLA does not align land reform project data on municipal lines.
- Where land reform project data are included in PLRO lists of redistribution and tenure reform projects, some provinces maintain information on the local municipality in which the project is located while others record the district municipality in which the project is located. As a result, the data cannot be

calibrated into a single list at the local municipality level.

- It is possible to build a more complete picture of land reform projects at a district level from the PLRO data.
- The Eastern Cape PLRO maintains information according to the closest town, based on old registration divisions, and not according to the new demarcated district and local municipality boundaries. However, a calibration of old and new boundaries, possibly including project-by-project investigations, would be required to synchronise this project data with current local municipality boundaries.
- In the Commission's national project data, some of the land claims that have been settled are categorised into either district or local municipalities. Some are only identifiable by province.



Table 1 1: Municipal alignment of land reform project data

Province	Municipal jurisdiction	Land redistribution and tenure reform projects	Land restitution projects
Eastern Cape	Alfred Nzo DM	Not possible to say	At least 6 rural claims settled
	Umzimvubu LM	Not possible to say	At least 6 rural claims settled
	Chris Hani DM	Not possible to say	At least 1 rural claim settled
	Sakhisizwe LM	Not possible to say	At least 1 rural claim settled
Free State	Thabo Mafutsanyane DM	153 projects approved; 71 transferred	Not possible to say
	Maluti-a-Phofung LM	Not possible to say	Not possible to say
	Lejwelephutswa DM	38 projects approved; 12 transferred	1 rural claim settled
	Matjhabeng LM	Not possible to say	Not possible to say
	Nala LM	Not possible to say	Not possible to say
KwaZulu-Natal	Ugu DM	10 projects approved; 9 transferred	
	Zululand DM	67 projects approved; 64 transferred	At least 2 rural claims settled
	Abaqulusi LM	Not possible to say	At least 1 rural claim settled
Limpopo	Bohlabela DM	Not possible to say	At least 1 rural claim settled
	Bushbuckridge LM	Not possible to say	Not possible to say
	Sekhukhune DM	Not possible to say	At least 6 rural claims settled
	Greater Tubatse LM	Not possible to say	At least 1 rural claim settled
	Vhembe DM	At least 15 LRAD projects approved; not possible to say how many transferred; not possible to say what other projects approved or transferred	3 rural claims settled
	Makhado LM	Not possible to say	Not possible to say



Endnote

1. In this table, 'not possible to say' indicates that the data available are not defined according to these municipal boundaries. Where the number of projects or claims in a municipality is cited as 'at least', this is because not all projects or claims in the province are described as being within a municipality – and some of these 'mystery' projects or claims might be in the municipalities under study.

Chapter 6: Conclusions

This report is the outcome of an exploratory study intended to identify how 18 district and local municipalities are contributing towards land and agrarian reform and how this is reflected in their IDPs. These conclusions should not be read as representative of IDPs in general. The study is also intended to guide future research that may investigate in greater depth the challenges faced by local government in supporting land and agrarian reform.

Land reform in IDPs

Land and agriculture as priorities

This research has found highly variable ways in which IDPs deal with land and agrarian reform in these rural-dominated regions. In general, land and agriculture ranked relatively high among the economic sectors, often being the most important sector within the local economy, sometimes alongside mining and tourism. However, there are disjunctures and discontinuities between:

- the situation analysis and identified priorities
- identified priorities and development strategies
- development strategies and LED projects.

The 'tailing-off' phenomenon

An observed pattern among the municipalities studied is that land and agriculture feature most prominently in the situation analyses, less so in identified priorities, and are much less in evidence in the development strategies and LED projects specified in the IDPs. There thus seems to be a 'tailing-off' phenomenon, as land and agriculture fall off the agenda as IDPs move to greater levels of operational specificity.

Activities not in IDPs

Ugu DM does not identify land or agriculture as priorities, and yet has one of the more developed strategies to advance land

reform. However, here, the category of land, agriculture and housing is a cross-cutting theme that is prioritised. In Nala LM's IDP, land reform is not an identified priority, and yet features as a strategy to respond to poverty and unemployment. There are some instances where the IDPs under-represent what municipalities are actually doing (according to their officials), but there are also cases where some of the plans of IDPs have not been implemented or are far behind schedule. It is therefore difficult to draw definitive conclusions about what is actually happening, based solely on the IDPs.

Non-implementation of IDP plans

Interviews with officials showed a mismatch between some IDPs and what is actually happening. IDPs need to be ambitious and visionary, but also grounded in what is feasible. That there is frequently a gap between the vision of the IDPs and the actual capacities and resources available for their implementation is not surprising. The IDP review process is intended as a reality check, through which local government can refine and prioritise its plans. However, this research has found that some priorities of IDPs remain unrealisable, even after they are reviewed. Municipal officials make decisions and trade-offs, and it is at this level that what is considered non-core business, such as land reform, is likely to 'fall off the table'.



The roles of district and local municipalities

Asymmetrical alignment

This research found that municipal officials feel that there is a lack of clarity on the respective roles of district and local municipalities. District municipalities appear to have closer relations with DLA. Local municipalities are of the view that DLA is co-ordinating with the wrong tier of local government on land reform projects, and that the greatest need for co-ordination of such projects and their alignment with local development planning is at the level of local municipalities. Yet DLA liaises with districts through district assessment and district screening committees. This could be a labour-saving measure on the part of line departments, since it is easier to co-ordinate with a district municipality than separately with all its local municipalities. However, it is not necessarily an effective approach. District municipalities may be conduits for line departments, but the extent to which information from line departments filters down to the local municipality level is patchy and contingent on their relations with the district.



Decentralisation and integration

The decentralisation programme of DLA – Project Mutingati – has taken land reform delivery down to the district level in many parts of the country, but from this small sample it is not clear that this decentralisation has resulted in more integration of land reform implementation with local government functions. DLA's relations with municipalities may have improved, but it is clear from this study that there remains a problem of DLA and local municipalities in particular working in parallel. Officials complained that DLA decides on projects without consulting local government and then expects municipalities to provide the basic services for this land. In the view of some officials, this amounts to DLA making decisions on LED, which is the proper domain of local government. The best-practice example found here was where project officers in a DLA district office were designated to work within specific local municipality boundaries. This makes

co-ordination with municipalities much easier, and provides a more accessible point of reference within DLA for municipal officials. In the one case where this was found – in the Chris Hani district – the IDP manager of Sakhisizwe LM knew the name of the relevant project officer who deals exclusively with land reform projects in the local municipality's jurisdiction. This was the strongest evidence of close working relations found in the study. It also happens that this is also the district in which the highest proportion of land has been redistributed through land reform in the country.

Core business

Many officials questioned whether land reform falls within the mandate of local government, and to what extent. This cannot be resolved in isolation from the spatial spread of local government powers and responsibilities. Some officials consider that their functions are marginal in communal areas, as these areas are under the jurisdiction of chiefs, and virtually non-existent in commercial farming areas, where provision of road infrastructure is a function of the districts. In practice, the minimalist interpretation of local government functions restricts them to urban and peri-urban areas. However, there are some variations, with the more proactive municipalities acknowledging the need to step outside of traditional methods of working and their own established *modus operandi*.

While spatial development and settlement are clearly part of the core business of local government, some of the IDPs and some municipal officials indicate that land reform is not part of the municipality's core business.

Land reform as LED

Many of the identified priorities and some of the LED strategies being pursued by local government relate to the need for access to land, secure tenure, and support for agricultural production. It thus appears that, at times, an artificial distinction is drawn between LED and land reform. In reality, all land reform should constitute LED, in that land reform is about improving access to productive resources, especially among less resourced and previously disadvantaged people, and about securing their rights to use and invest in land and reap the rewards from

their endeavours. Land reform should also deal with supporting agricultural production and other land uses that would result in a net increase in economic activity, the benefits of which should accrue disproportionately to the disadvantaged. The links, both conceptual and practical, between land reform and LED need to be further explored, tested, reiterated and debated within local government and elsewhere.

Unfunded mandates and institutional vacuums

Municipal officials complained about unfunded mandates and noted that there was a tendency for local government to step in to fill institutional vacuums. The primary example of this is the role that some municipalities are playing in addressing communal land administration. This suggests that local government's role needs to be acknowledged, formalised and funded, or that this vacuum needs to be addressed in some other way.

Not accessing DLA funds

Municipalities are not drawing on the DLA funds that are potentially available, particularly those for municipal commonage. The main reason presented was that officials were unaware of these grant products being available. In addition, the tendency by DLA to exhaust budgets and put projects on hold may also make DLA funds less attractive to the already cash-strapped municipalities.

IDP processes

Vocal interests

The idea of the new demarcation is to assist with deracialisation and integration of different spatial areas. Cross-subsidisation, both along racial lines and between urban and rural areas, is a means of doing this. However, this presents municipalities with difficult trade-offs. Their revenue is largely urban – and urban business interests are often the most vocal in IDP consultations and other processes. Municipalities have to contend with political pressure around where resources will be directed. Stronger and clearer mandates regarding their responsibilities in rural areas will assist

municipalities in counteracting the urban bias that results from the IDP process.

Sequencing district and local IDPs

Local municipality IDPs should inform, and precede, district IDPs. Sequencing is important to build alignment of IDPs between the two levels, though this has not always been possible. For example, the PIMMS manager from Lejwelephutswa DM attended the entire IDP review of Nala LM. A degree of alignment was effected in this way.

However, in the same district, Matjhabeng LM invited the district municipality to the IDP process but, other than one official attending one meeting, it did not participate. The district had very limited interaction in this process and Matjhabeng LM did not obtain the district's IDP until after its own IDP was written. It then attempted to align its IDP with the district's IDP.

Aligned processes and building institutional relations

Although consultants may be skilled at technical alignment, the short-term nature of a consultant-driven IDP process can result in the loss of this crucial opportunity for stronger institutional relationships to be forged between local and district municipalities. Nala LM in the Free State is considered a 'success' within the district and is perceived to work more closely with, and elicit more support from, the district municipality than other local municipalities. For instance, it was the only local municipality that obtained a Consolidated Municipal Infrastructure Grant (CMIG), via the district, while other local municipalities were unaware of this facility. Officials at Matjhabeng LM, therefore, consider Nala LM to be 'favoured' by the district. Forging strong working relations between district and local levels can be a positive outcome of aligned IDP processes. It is therefore important to focus on the alignment of the processes rather than only on the product.



Institutional challenges

Staff turnover and institutional memory

High staff turnover, particularly among senior municipal officials, creates problems

of institutional memory loss and underscores the importance of institutionalising areas of work like land reform. Staff turnover in line departments with whom municipalities must liaise exacerbates this challenge. A degree of formalisation will assist to counteract the problems brought about by staff turnover, while district-level forums can contribute to continuity in planning and relations between local government and other institutions.

Managing and retrieving information

The problems associated with staff turnover were particularly evident in the unavailability of records or information, including information about land ownership (both private land and land owned by the municipality). In a few instances, municipal officials were unaware of whether certain information was available, or said that they did not have this, only to be contradicted by their colleagues or former colleagues. Being able to manage and retrieve information in ways that do not rely on the memories of individual staff members is as important as obtaining the information.

Consultation and participation

Local government's interactions with constituencies are also challenging. The limited capacity of especially poorer and rural communities to interact with IDP processes and the technical jargon sometimes employed require additional effort from the municipalities to achieve meaningful participation and to pursue their development mandate. If meaningful participation is to be achieved among rural constituents, this may require a paradigm shift in how IDP processes are conducted. In particular, the reliance on formal representation certainly excludes people who are not part of established organisations. It may also exclude poorer rural constituents. A few officials argued that farm workers, for instance, would need to organise themselves first before the municipality could engage with them. While it seems unacceptable to exclude constituencies on this basis, participatory processes will require a degree of resourcing. Low-cost options could be further explored in this regard. Where municipal officials prioritised consultation with rural communities, this has sometimes necessitated unbudgeted expenditure.



Outsourcing and substitutionism

Highly variable staff capacity and skill levels have led to a practice of substitutionism, where municipalities rely extensively on consultants to do routine planning that should properly be driven from within the municipality. Although defining what should remain in-house and what can be outsourced is a moot point, a number of officials pointed out that consultants' plans are more likely to be ambitious and remain unimplemented than those developed by municipal officials themselves. There may be less local ownership of plans produced by consultants or it may be that officials already familiar with the constraints imposed by the context may be more circumspect in developing ambitious plans.

Cross-border complexities

Cross-border municipalities face particularly complex institutional challenges, as they need to build co-operative governance with two provincial administrations. This has resulted in processes being duplicated and has stymied spatial development, including land reform, in some of the Limpopo/Mpumalanga districts. Here, confusion and delays have resulted from land matters that span both provinces (for example, where the location of origin is in one province and the land to be made available is in another).

Alignment with land reform implementation

Information on land claims

This research found, with great uniformity across the sample, that municipalities have very little information on settled and outstanding restitution claims. This plays havoc with spatial planning, as restitution remains an unaccounted factor that will influence future settlement and land use. This is acutely important in the Limpopo (and cross-border with Mpumalanga) municipalities, where a high proportion of all land is under claim.

Redistribution and transformation

Land redistribution receives very little focus in the IDPs. This is surprising, given the prominence of the LRAD programme in particular. Instead, promoting access to land

is evident in IDPs largely in the form of ‘community vegetable gardens’ or market gardens – initiatives that support small-scale farming at a micro-scale. Providing the disadvantaged with access to land in the large commercial farming areas is not mentioned in most IDPs. IDPs deal in more detail with land needed for residential development than for livelihoods. In this respect, spatial planning appears to be understood as being about settlement and zoning – dealing with the rural-urban divide – rather than the transformation of the rural sector.

Commonage not being promoted

It appears from this study that DLA is not promoting its Municipal Commonage Programme. A high proportion of officials interviewed were unaware of the programme. Matjhabeng LM in the Free State had the most active commonage programme in the sample and stands out as a ‘best-practice’ example of a municipality using this resource to support the livelihoods of residents. However, it is striking that even here, the municipality appeared to be unaware of the availability of a counterpart grant from DLA: the Municipal Commonage Infrastructure Grant. The municipalities studied in the Free State tend to have a more proactive perspective on the issues of farm dwellers and municipal commonage than municipalities in other provinces. Its approach to municipal commonage issues is partly informed by historical factors.

Ambivalence towards farm workers

Within this study, farm workers appear to be the constituency least served by local government. The fact that farm dwellers reside on privately owned land has informed municipalities’ ambivalence, or outright refusal, to consider them as a constituency in need of support. Land tenure legislation, specifically ESTA, places obligations on municipalities that are not being fulfilled. A remarkable finding is that none of the municipalities surveyed has systems in place to respond to threatened evictions or to Section 9(2)(d) notices, as the legislation requires.

Communal areas and traditional leaders

The role of municipalities in the communal areas remains ambivalent. On land-related

issues, in particular, municipalities expressed their caution about not intruding on the turf of chiefs. Even so, delivering services is the key role they play. Delivering housing is more complex, and requires close engagement with traditional leaders. Some have stepped in to play a role in administering land rights and issuing PTOs, but this is an unfunded mandate. The impending implementation of the Communal Land Rights Act is an unknown quantity to these municipalities, some of which are being asked by traditional leaders to assist in exploring how to implement this legislation in areas under their common jurisdiction.

Spatial planning

Densification or a hierarchy of settlements

This research found that municipalities face two opposing imperatives, and that they are struggling to find ways to reconcile these in their different contexts. The first is to provide services in a cost-effective manner. The second is to support settlement that will make sense in terms of people’s livelihoods and which will be socially and economically sustainable. While the first imperative drives settlement planning towards conventional denser formal settlements, it also entails uprooting people from their established homes and livelihoods. In some instances, municipal officials acknowledged that people had voluntarily left their newly allocated homes to return to traditional homesteads, which offered better access to land and suited their lifestyles and kinship systems.



Information on land ownership

A key finding is that district and local municipalities hold limited information on the ownership and uses of land in their jurisdictions. The top priority identified was to gain clarity on ownership. Municipalities see this as a prerequisite for spatial planning and for a more strategic and proactive approach to land and agrarian reform.

A hierarchy within municipal jurisdiction

The demarcation of new boundaries that brought rural areas within the jurisdiction of municipalities has also brought about substantial new challenges for local

government. This research has found unevenness, though, in how municipalities respond to their respective jurisdictions. The emphasis remains on urban and peri-urban areas. Officials expressed caution regarding what municipalities could and should do in communal areas, given that they considered communal areas to be the jurisdiction of traditional leaders. The research has found that privately owned commercial farming areas received least attention from local government. It thus appears that these three distinct spatial zones, which feature in most of the municipalities studied, are arranged in a predictable hierarchical pattern in local government's list of priorities.

Obtaining state land

In response to pressure for land for settlement, municipalities either develop their own land, including their commonages, where these exist, or seek access to additional land. The main source of land for development, however, is state land belonging to other spheres of government. Acquiring state land for development can be a lengthy and complex process, given the lack of clarity on who owns what, and



the need to vest state land prior to disposal. Nevertheless, this is widely viewed as preferable to attempting to acquire private land for development. Where public land is available and suited to meeting urgent land needs, the process of transferring this to municipalities appears to be immensely complex and characterised by lengthy delays, often taking many years to complete. The starkest example in this study is Makhado LM. This municipality has been trying to secure transfer of a specific piece of urban land for the past ten years. Officials there and elsewhere called for the processes of vesting state land and issuing Section 28 certificates to be prioritised, clarified and speeded up.

Private land not being touched

It could be easier for municipalities to acquire private land than state land, yet municipalities appear reluctant to look to privately owned land to meet their land needs. It is apparent from the study that municipalities do not consider that private land is potentially available to meet the identified land needs of their residents, for either settlement or agricultural and mixed land use purposes.

Chapter 7: Recommendations

This exploratory study has surfaced a number of concerns and possibilities regarding how IDPs address land and agrarian reform. The following are recommendations that focus on processes to support and guide municipalities to better incorporate, account for and respond to the challenges of land and agrarian reforms in their integrated development planning and in implementing their IDPs. The recommendations emerging from this research may be clustered into four broad categories, discussed below.

Improved information and communication

Municipalities need to be not just provided with information. They need to be able to establish improved lines of communication with relevant line departments and other agencies. Some specific suggestions in this area are:

- DLA should communicate directly with local municipalities, and not only work via district municipalities. DLA should also work with local municipalities to ensure their representation on district screening committees and assessment committees.
- The Commission should prioritise providing municipalities with information regarding the land claims in their respective jurisdictions, clarify to municipalities the process through which it is addressing these claims, and include municipalities in negotiations with claimants where settlement options and their implications are discussed.
- DLA should assist local municipalities to identify the state land in their jurisdictions as well as to clarify ownership of private agricultural land. Cost-sharing on mapping should be explored. DLA should assist with surveying and registering land and transferring land administration

capabilities to municipalities. It should also identify ways to speed up the issuing of Section 28 notices and transfers of state land.

- DLA should invest in marketing its grant products to municipalities, to inform them, for instance, of the municipal commonage grants, and to promote applications for these.
- DLA should work with municipalities to improve systems for municipal land administration.
- DLA should launch a programme to inform municipalities, traditional leaders and residents of communal areas about the Communal Land Rights Act and its implications, and to clarify the roles of these institutions in implementing the Act.
- DLA should explain its legislation, specifically ESTA and the LTA, to municipalities, and should clarify the roles required of municipalities in securing land rights in commercial farming areas and the implications of this for their development mandate.
- Municipalities should provide DLA district offices and provincial departments of agriculture with their IDPs. They should also promote the participation of these line departments in their IDP planning and review processes.



Improved institutional co-ordination

In addition to improving communication, there is a need to clarify roles and relationships between institutions, and to create forums to facilitate co-ordination in the spheres of land and agrarian reform, and local government. Some suggestions in this regard are:

- Cross-boundary municipalities' difficulties in liaising with different provincial administrations must be acknowledged, and new systems should be developed to ensure co-ordination, particularly between the Commission in Limpopo and Mpumalanga, and the DLA offices in these provinces.
- National government should clarify the roles of traditional leaders and communicate this to local government, indicating how their respective powers and functions relate and overlap. This should include a specific focus on the roles of local government in communal land rights administration and in service delivery in communal areas, as well as the role of traditional leaders in supporting local government in these roles.
- DLA should identify those specific project officers who work on establishing land reform projects within a given municipality's jurisdiction, and promote direct liaison between these project officers and the relevant municipal, IDP and PIMMS managers in local municipalities. It should also explore stationing staff members within municipal offices.
- District-level forums should be established and supported to plan strategic approaches to land and agrarian reform. These would incorporate different line functions and different spheres of government.



Improved guidelines for IDPs

The IDP guidelines provide very little guidance on what IDPs should address in terms of land reform. The questions that must inform the guidelines are: Is land reform

something that can be invoked as part of an LED strategy in a discretionary fashion, or are there positive obligations on local government to promote land reform. If so, what are they?

This research, and the review of relevant legislation, suggests that there are some positive obligations on local government, but these are poorly spelt out or poorly understood. A specific framework for addressing land and agrarian issues within IDPs may be too prescriptive, but some of the elements that should be evident in IDPs, and which municipal officials themselves say are needed, are:

- identification of public and private land
- land needs assessments – who needs land and of what kind and for what purpose
- available information on any rights-based claims or existing tenure rights other than full ownership, for example, restitution claims, farm dwellers with ESTA rights, labour tenants with LTA rights, and labour tenants that have lodged LTA applications
- redistribution targets, for example, how much land and to whom (categories of people or particular communities).

If municipalities are to play a stronger role in land and agrarian reform, then the cost implications will need to be investigated. While this may not involve capital costs for the purchase of land – which may be outside the core competency of local government – the operational costs of officials' time and the investment in relevant skills cannot be ignored.

A process towards revised IDP guidelines, with a stronger and clearer focus on land and agrarian issues, should be initiated by the DPLG, in tandem with the Department of Agriculture and DLA. The exact content of these new guidelines should form the focus of a multi-stakeholder working group, which will interact with municipalities and relevant departments, as well as commission further research.

Further research

Further research is needed to determine in greater depth and with greater representativeness the practices, experiences,

challenges and lessons from local government in its attempts and its failures to deal with land and agrarian reform. It is proposed that this research take place over a period of at least one year and be integrated into a wider programme of consultations and meetings with municipal representatives and representatives of other relevant institutions within the state and civil society sectors. A multi-stakeholder working group, including independent experts on local government and on land reform, should commission, oversee and interrogate this research, as well as conduct the consultations. This working group should determine the specific focus of

the research, but some of the features of this research should include:

- fieldwork-based research across all provinces
- interviews and focus groups with municipal officials and councillors
- interviews and focus groups with representatives of line departments
- clarification of best practices and reasons for best practices emerging
- clarification of legal, policy and resource limitations on local government roles in land reform
- clarification of the resource implications of a more significant role for local government in land reform.



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- Amos Mlungwana, IDP manager, Sakhisizwe LM, 2004.
- Bongani Molefe, PIMMS manager, Sekhukhune DM, 2004.
- Nandi Mshumi, IDP manager, Alfred Nzo DM, 2004.
- Tumi Seboka, Policy Development Directorate, Department of Land Affairs, Pretoria, 2004.
- Theetsang Seoke, IDP manager, Bohlabela DM, 2004.
- Bronwyn Viedge, PIMMS manager, Chris Hani DM, Eastern Cape, 2004.
- Marc Wegerif, Nkuzi Development Association, Pretoria, 2004.



Appendix 1: List of interviewees

Topic/municipality	Person	Institution
National legal and policy framework	Doreen Atkinson	Consultant
	Ben Cousins	Director, PLAAS, University of the Western Cape, Bellville
	Tom Lebert	Consultant
	Kobus Pienaar	Attorney, Legal Resources Centre, Cape Town
	Tumi Seboka	Policy Development Directorate, Department of Land Affairs, Pretoria
	Henk Smith	Attorney, Legal Resources Centre, Cape Town
	Hilton Toolo	Director, Donor Relations, DPLG, Pretoria
	Marc Wegerif	Nkuzi Development Association, Pretoria
Abaqulusi LM	Mr Engelbrecht	IDP manager
	Mr Ndwande	Municipal manager
Alfred Nzo DM	Nandi Mshumi	IDP manager
Bohlabela DM	Theetsang Seoke	IDP manager
Bushbuckridge LM	Tinyiku Dennis Chavane	IDP manager
Greater Tubatse LM	Mike Mabunda	Acting municipal manager
	Steve Molala	Former municipal manager
Chris Hani DM	Danso Agyemang	IDP manager
	Bronwyn Viedge	PIMMS manager
Lejwelephutswa DM	Mr Sabata	Acting municipal manager
	Mr Siloni	Junior municipal official
Makhado LM	Susan du Toit	Municipal secretariat manager, seconded to the municipal manager's office
Maluti-a-Phofung LM	Steve Molala	Municipal manager
	Thabo Manyoni	[no designation recorded]



Topic/municipality	Person	Institution
Matjhabeng LM	Buitemelo Alec	Agriculture officer, Commonage/Municipal Land Programme
	Moses Lemeesa	Consultant
	Archie Jonasi	IDP manager
	Reuben Skosana	PIMMS manager
Nala LM	Thabo Mahasane	IDP manager
	Sfezile Swaartbooi	Internal auditor
Sakhisizwe LM	Amos Mlungwana	IDP manager
Sekhukhune DM	Bongani Molefe	PIMMS manager
Thabo Mafutsanyane DM	Lekgetho Mokgathle	IDP manager
	Sylvia de Bruin	Urban Dynamics
Ugu DM	Ms Ndonga	IDP manager
	Mr Mphugose	Municipal manager
Umzimvubu LM	Nyameka Mangesi	IDP manager
Vhembe DM	Midas Mudau	IDP manager
Zululand DM	Mr Landman	IDP manager
	Mr De Klerk	Municipal manager



Appendix 2: Assessment framework

Land and agrarian reform research project: desktop review of integrated development plans assessment framework 8 November 2004				
Assessment criterion	#	Indicator	Quantitative measure	Qualitative discussion (processes, approaches, challenges, thinking)
A. Local government is a proactive agent of land reform	1	There is a separate section of the IDP on land and agriculture		
	2	The municipality has developed its own land reform programme		
	3	Land reform and spatial planning is institutionalised within municipality (there a separate section or specified officials)		
	4	The municipality acts as an agent for DLA (e.g. holding funds and implementing development plans)		
	5	The IDP acknowledges government's land reform programmes and projects within its jurisdiction		
	6	The IDP acknowledges or contains information on outstanding redistribution applications within its jurisdiction		
	7	Municipality supports land reform projects – what kind of support; why; on whose authority; whose budget?		
	8	Municipality has conducted a land needs assessment (Land for what? How was it done? What is the upshot or outcome?) or in another way identified land-related problems and needs		
	9	Land needs identified in consultation are reflected in final IDP (if there is a separate report on IDP consultation)		
	10	District Screening/Assessment Committee of DLA is mentioned		
	11	Municipality participates in the DSC/DAC		
	12	There are targets for the redistribution of land		
	13	There are timeframes and implementation frameworks for these targets (what is role of municipality?)		
	14	Targets are budget-linked (What percentage? To fund what?)		

Assessment criterion	#	Indicator	Quantitative measure	Qualitative discussion (processes, approaches, challenges, thinking)
B. Land and tenure security needs of farm workers and dwellers, including labour tenants, are addressed	1	Farm dwellers are identified as a constituency		
	2	Number of farm dwellers in jurisdiction is cited		
	3	Trends in farm labour (e.g. job shedding) are acknowledged		
	4	Current levels of housing and services to farm dwellers are cited		
	5	Number, location, land use and ownership of farms in jurisdiction are cited		
	6	Acknowledges evictions/movement off farms and challenge this presents		
	7	There is a system to respond to threatened evictions		
	8	There is a system to deal with Section 9(2)(d) notices (eviction notices in terms of ESTA)		
	9	There is a system to provide emergency shelter/housing for evictees		
	10	Municipality has obtained or sought funds from Minister of Land Affairs for above in terms of Section 4(4) of ESTA		
	11	There is settlement planning for farm dwellers in long-term (e.g. off-farm options) including peri-urban spatial planning and integrated service delivery for smallholders (roads, transport, storage, markets, irrigation water, electricity)		
	12	Acknowledges role of public sector in service delivery to farm dwellers		
	13	There is provision for on-farm service delivery (up to boundary)		
	14	The IDP acknowledges or contains information on outstanding labour tenant claims within its jurisdiction		
	15	Where there are labour tenant claims, the municipality has a defined role in helping to settle the claims (district-based approach to batching claims)		
	16	Where labour tenant claims are successful, the municipality has a defined role in ongoing support		

Assessment criterion	#	Indicator	Quantitative measure	Qualitative discussion (processes, approaches, challenges, thinking)
C. Restitution claims are known and supported	1	The IDP acknowledges or contains information on outstanding restitution claims within its jurisdiction		
	2	Municipality interacts with the Commission regarding claims settlement		
	3	The municipality is party to the restitution settlement agreements (Section 42D) within its jurisdiction		
	4	Municipality delivers services and/or is involved in settlement planning and infrastructure on restored land		
D. Municipality uses its commonage as a means to improve access and secure tenure to land for its residents on an equitable basis		Municipality is aware of and provides housing and/or other support services to communal property associations (CPAs) in its jurisdiction (could be restitution or redistribution)		
	1	Municipality knows what commonage land it owns		
	2	If so, municipal commonage is dealt with in the IDP		
	3	Current use of municipal commonage is described, including user target groups (poor or emerging commercial?), fees, legal agreements with users (e.g. leases or grazing permits), use of revenue from fees		
	4	There are plans for future use of municipal commonage, including agricultural support services from the Department of Agriculture		
	5	There is an effort to acquire additional (new) municipal commonage through land reform		
	6	There is an effort to convert traditional (old) commonage back to land use for poor		
	7	There is investment in land rights administration on municipal commonage (user committees or formal service level agreement)		
	8	There is investment in infrastructure development on municipal commonage and clarity on roles and funding for operations and maintenance		
	9	Municipal commonage is protected as a public resource from encroachment/privatisation of use/conversion into land for settlement		
10	Municipality has a strategic plan for municipal land			

Assessment criterion	#	Indicator	Quantitative measure	Qualitative discussion (processes, approaches, challenges, thinking)
E. Rural housing and settlement planning is taken place	1	Rural constituency included in target groups for housing		
	2	Rural housing subsidy has been accessed		
	3	Nature and location of settlements and size of plots allows for land-based livelihoods		
F. Spatial development planning is taking place within a land reform framework	1	Provides baseline information on state land within its jurisdiction		
	2	Deals with rapid land release in an urban context		
	3	Deals with rapid land release in a rural context		
	4	Municipality uses proactive planning methods for land acquisition		
	5	Extension of urban space is happening within a spatial planning framework (Where? Why? Whose land is affected?)		
	6	Peri-urban development is planned for, including a hierarchy of settlements (e.g. small villages, not just increased urban sprawl)		
	7	Acknowledges land invasions as outcome of pressure on land (if they are happening)		
G. Communal land rights are supported by the municipality	8	Property Rates Act being implemented in a way that supports land reform (Where is process? What is thinking?)		
	1	Municipality has taken over rural/agricultural land administration powers and functions from disestablished black local authorities (or tribal authorities)		
	2	Municipality plays a role in administering communal land rights (e.g. registering PTOs)		
	3	Where problems arise regarding communal land rights, municipality responds (How? Have effective mechanisms evolved?)		
	4	Where tribal authorities exist within jurisdiction, municipality has working relations with them (details)		

Appendix 3: Municipal alignment of land reform project data framework

Eastern Cape: PLRO

(land redistribution and tenure reform)

It is not possible to say what land redistribution and tenure reform projects have been approved or transferred in the municipalities of the Eastern Cape. The project data for LRAD projects is listed by the closest town, according to the old registration divisions. A further exercise would be needed to determine under which municipal jurisdiction each town falls. The PLRO in the province does not maintain a list of which towns fall under each municipal jurisdiction.



Eastern Cape: RLCC

(land restitution)

Alfred Nzo district

There are 6 rural restitution claims that have been settled in the Alfred Nzo district, all of which fall within the Umzimvubu LM. Further claims may have been settled in the province, but due to gaps and inconsistencies in the Commission's records, it is not possible to determine which these might be. Those claims settled in Umzimvubu are:

- Luswazi claim, involving 7 households obtaining 626 hectares at a total cost of R365 000
- Mankanku claim, involving 6 households obtaining 571 hectares at a total cost of R480 000
- Bantom family claim, involving 6 households obtaining 667 hectares at a total cost of R827 000
- Maka family claim, involving 7 households obtaining 158 hectares at a total cost of R126 000
- Mhlakaza claim, involving 22 households obtaining 179 hectares at a total cost of R208 000

- Luswazi family claim, involving ten households obtaining 119 hectares at a total cost of R116 000.

Chris Hani district

One rural restitution claim has been settled in Chris Hani district, and this is in Sakhisizwe LM. It is the Ndunge claim, involving 25 households obtaining 522 hectares at a total cost of R675 000.

Free State: PLRO

(land redistribution and tenure reform)

Lejwelephutswa district

DLA has approved 38 projects in the Lejwelephutswa district, of which 12 had been transferred by September 2004. A total of 2 340 hectares have been transferred to 86 people.

Of all the projects on DLA's books (including those not yet transferred):

- ESTA: Two of these are ESTA projects for farm dwellers, involving either 20 or 27 adults (the data is inconsistent). The names of the projects are Wesselbron Trust and Mokoena Family Trust.
- State land: Two of these involved the transfer of state land. The names of the projects are Phiri & Sons and Sandvet Vegetable Growers.
- Commonage: One of these is a commonage project. This is the Bultfontein Commonage.
- Land Bank: One is an LRAD project that involves a Land Bank loan component and was processed via the Land Bank. The name of the project is Multilayers Trading.
- Redistribution: Thirty-two of these are redistribution projects involving private land. It is not possible to say whether

these are SLAG projects (old grant of R16 000 per household) or LRAD projects (new grant on sliding scale of R20 000 to R100 000 per individual).

It is not possible to disaggregate the DLA data by local municipality.

Thabo Mafutsanyane district

DLA has approved 153 projects in the Thabo Mafutsanyane district, of which 71 had been transferred by September 2004. A total of 18 162 hectares have been transferred to 392 people.

Of all the projects on DLA's books (including those not yet transferred):

- **ESTA:** One of these are ESTA projects for farm dwellers, involving 6 adults. The name of the project is Molakeng.
- **State land:** Sixty-three of these involved the transfer of state land, of which 37 were transferred.
- **Commonage:** Five are commonage projects, of which 1 has been transferred.
- **Land Bank:** Twelve are LRAD projects that involve a Land Bank loan component and were processed via the Land Bank, of which 10 were transferred.
- **Redistribution:** Seventy-two these are redistribution projects involving private land of which 22 were transferred. It is not possible to say whether these are SLAG projects (old grant of R16 000 per household) or LRAD projects (new grant on sliding scale of R20 000 to R100 000 per individual).

It is not possible to disaggregate the DLA data by local municipality.

Free State: RLCC

(land restitution)

Lejwelephutswa district

The only rural land restitution claim that is cited as settled within the Letjwelephutswa district is the Blesbokfontein–Wittes claim. This involves 459 households and the restoration of 2 326 hectares at a total cost of R5.1 million (including land cost and grants). It is not clear whether the land has been transferred yet. However, given gaps in the Commission's database, it is possible that there are further restitution projects within its jurisdiction.

Thabo Mafutsanyane district

No rural restitution claims are cited as settled within the Thabo Mafutsanyane district.

However, given gaps in the Commission's database, it is possible that there are restitution projects within its jurisdiction.

Kwazulu-Natal: PLRO

(land redistribution and tenure reform)

Ugu district

DLA has approved 10 projects in the Ugu district, of which 9 had been transferred by September 2004. A total of 3 621 hectares have been transferred to 485 households.

Of the projects on the DLA's books (including that not yet transferred):

- **ESTA:** There are no ESTA projects for farm dwellers.
- **LTA:** There are no LTA projects for labour tenants.
- **State land:** One involves state land, but this project was not transferred.
- **Commonage:** One is a commonage project.
- **Redistribution:** Of the 8 redistribution projects, 7 are LRAD projects and the other is presumably a SLAG project (old grant of R16 000 per household). All were transferred. Of the 7 LRAD projects, 6 involve a Land Bank loan component and were processed via the Land Bank.

It is not possible to disaggregate the DLA data by local municipality.

Zululand district

DLA has approved 67 projects in the Zululand district, of which 64 had been transferred by September 2004. A total of 40 095 hectares have been transferred to 3 636 households.

Of the projects on the DLA's books (including that not yet transferred):

- **ESTA:** There are no ESTA projects for farm dwellers.
- **LTA:** Twenty-seven are LTA projects for labour tenants, involving 940 households obtaining 12 939 hectares.
- **State land:** There are no state land projects.
- **Commonage:** There are no commonage projects.



- **Redistribution:** Of the 40 redistribution projects, 13 are LRAD projects and the other 27 are presumably SLAG projects (old grant of R16 000 per household).
- **LRAD:** Of the 13 LRAD projects, 11 have been transferred, involving 395 households (though since grants are given to individuals rather than households, this probably involves 395 individual adults) obtaining 8 389 hectares. Six of the LRAD projects involve a Land Bank loan component and were processed via the Land Bank.
- **SLAG:** Of the 27 SLAG projects, all but 1 have been transferred. These involve 2 301 households obtaining 18 767 hectares.

It is not possible to disaggregate the DLA data by local municipality.

Kwazulu-Natal: RLCC

(land restitution)

Ugu district

Two rural land restitution claims have been settled in the Ugu district. However, given gaps in the Commission's database, it is possible that there are further restitution projects within its jurisdiction.



The Ndelu community claim is in Umzube LM. It involves 150 households and the restoration of 1 489 hectares at a total cost of R5.2 million (including land cost and grants). It is not clear whether the land has been transferred yet; it probably has not, as the claim was only settled in April 2004.

The Elim Mission claim is in Hibiscus Coast LM. It involves 53 households. It is not clear whether the settlement involves the restoration of land or not – no hectares are cited but the total cost of R3.5 million includes R3.3 million for the cost of land.

Zululand district

One rural land restitution claim has been settled in Abaqulusi LM. This is the Empangisweni community claim. It involves 342 households and the restoration of 6 026 hectares at a total cost of R17 million (including land cost and grants). It is not clear whether the land has been transferred yet.

It is possible that another rural claim has been settled in Abaqulusi. Mbatha

community claim is cited as being in Ebaqulusini LM. It is not clear whether or not this refers to Abaqulusi LM in Zululand district. If so, the claim involves 291 households in this area and the restoration of 13 037 hectares at a total cost of R16.5 million (including land cost and grants). It is not clear whether the land has been transferred yet; it probably has not, as the claim was only settled in May 2004.

The only other rural land restitution claim that is cited as settled within the Zululand district is the Esibongweni claim. It is not clear in which local municipality the project falls. This involves 31 households and the restoration of 2 094 hectares at a total cost of R1.8 million (including land cost and grants). It is not clear whether the land has been transferred yet. However, given gaps in the Commission's database, it is possible that there are further restitution projects within its jurisdiction.

Limpopo: PLRO

(land redistribution and tenure reform)

The PLRO project data for Limpopo are fairly scarce and imprecise. From an analysis of available project data on three different spreadsheets, the following conclusions can be drawn:

- **ESTA:** It appears that no ESTA projects have been implemented in Limpopo.
- **LTA:** It appears that no labour tenant projects have been implemented in Limpopo.
- **Commonage:** It appears that no commonage projects have been implemented in Limpopo.
- **State land:** It appears that no state land projects have been implemented in Limpopo. However, a number of the LRAD projects, including in Vhembe district, are in fact tenure upgrades on state land.
- **SLAG:** A number of SLAG projects have been implemented in Limpopo. However, it is not possible to say whether or not there are SLAG projects in any of the districts, since these are categorised according to region (rather than district), for example, Southern, Central, Western, Lowveld.

Bohlabela district

- LRAD: There are no LRAD projects in Bohlabela district.

Sekhukhune district

- LRAD: There are no LRAD projects in Sekhukhune district.

Vhembe district

- LRAD: There are 15 LRAD projects approved in Vhembe district. It is not clear whether or not these have been transferred. They account for 17 people (all but two are single-person projects) and 4 718 hectares. All but three were approved in December 2001. One was approved in 2002 and two in 2003.

Limpopo: RLCC

(land restitution)

Bohlabela district

One rural restitution claim has been settled in Bohlabela district. It is the Dwarsloop community claim, involving 350 households obtaining R8.95 million in compensation. It appears that no land is to be restored.

Sekhukhune district

There are 6 rural restitution claims that have been settled in Sekhukhune district.

The Phashaskraal claim involves 1 household obtaining R174 000 in compensation. It appears that no land is to be restored. It is not clear under which local municipality this falls.

There are 4 rural restitution claims settled in the Groblersdal LM. These are:

- Maleoskop claim involving 110 households obtaining 4 634 hectares at a

total cost of R2.4 million

- Masakaneng/Klipbank claim involving 500 households obtaining 129 hectares at a total cost of R3 million
- Ndebele Ndzundza claim involving 400 households obtaining 2 321 hectares at a total cost of R4.3 million
- Bakgaga-ba-Kopa claim involving 2 640 households obtaining 4 074 hectares at a total cost of R86.5 million.

One rural restitution claim has been settled in Greater Tubatse LM. It is the Buffelshoek, involving 209 households obtaining 3 042 hectares at a total cost of R2.1 million (including land cost and grants).

Vhembe district

There are 3 rural restitution claims that have been settled in the Vhembe district.

The Mtiti community claim involves 420 households obtaining an unspecified amount of land at a total cost of R12 million (including land cost and grants). It is not clear whether or not the land has been transferred yet. It is not clear under which local municipality this falls.

The Nthlaveni-Kutama/Sinthumule claim involves 530 households obtaining a settlement to the value of R12.4 million. It is not clear in what form this is to be disbursed. The Commission's database does not indicate whether or not the claim is to be settled with land (no hectares or land cost are cited) or with cash compensation (no cash compensation is cited). It is not clear under which local municipality this falls.

The Dzwerani claim in Thulamela LM involves 230 households obtaining 2 358 hectares at a total cost of R5.75 million (including land cost and grants).

