



## **rural development & land reform**

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Department:  
Rural Development & Land Reform  
**REPUBLIC OF SOUTH AFRICA**

### **FRAMEWORK FOR THE PROACTIVE LAND ACQUISITION STRATEGY (PLAS)**

**Version 3  
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## List of Acronyms

<b>APR:</b>	Agricultural Potential Report
<b>CASP:</b>	Comprehensive Agricultural Support Programme
<b>CD: PSSC:</b>	Chief Director: Provincial Shared Service Centre
<b>CDP:</b>	Credible Development Plan
<b>CDRP:</b>	Comprehensive Rural Development Programme
<b>DAFF:</b>	Department of Agriculture, Forestry & Fisheries
<b>DHS:</b>	Department of Human Settlements
<b>DLD:</b>	District Level Delivery
<b>DOA:</b>	Department of Agriculture
<b>DSC:</b>	District Screening Committee
<b>DRDLR:</b>	Department of Rural Development & Land Reform
<b>DRDLRO:</b>	District Rural Development & Land Reform Office
<b>ESTA:</b>	Extension of Security of Tenure Act, Act 62 of 1997
<b>IDP:</b>	Integrated Development Plan
<b>LTA:</b>	Labour Tenants Act, Act 3 of 1996
<b>MOU:</b>	Memorandum of Understanding
<b>NARYSEC:</b>	National Rural Youth Services Corps
<b>NLACC:</b>	National Land Allocation Control Committee
<b>PDAFF:</b>	Provincial Department of Agriculture, Forestry & Fisheries
<b>PGC:</b>	Provincial Grants Committee
<b>PLAS:</b>	Proactive Land Acquisition Strategy
<b>PLSC:</b>	Provincial Lessee Selection Committee
<b>PSSC:</b>	Provincial Shared Service Centre
<b>PTC:</b>	Provincial Technical Committee
<b>RADP:</b>	Recapitalisation and Development Programme
<b>RDLRP:</b>	Rural Development and Land Reform Plans
<b>RLCC:</b>	Regional Land Claims Commission
<b>SP:</b>	Strategic Partner
<b>STRIF:</b>	Social, Technical, Rural Livelihoods and Institutional Facilitation

# INTRODUCTION

The Proactive Land Acquisition Strategy is a **strategic land reform intervention** that involves the acquisition of land and other property (movable and immovable) that is then held by the state for the use by lessees of the programme. They will then enter into a long term lease with the Department – the length of the lease will depend on the land use, the commodity and the intention of the lessee, among other things.

The document outlines the overall framework and the procedures that are necessary to acquire, manage and lease assets acquired through the Proactive Land Acquisition Strategy (PLAS). The PLAS is governed by the terms of the Land Reform: Provision of Land and Assistant Act 126 of 1993.

Under certain circumstances, land for Restitution purposes will also be acquired using PLAS as governed by the Restitution of Land Rights Act, No. 22 of 1994 as amended. For example, when settling a restitution claim, the price of the land has been negotiated and agreed upon but there is a threat of losing the land due to disputes amongst claimants, that land can be acquired through PLAS and warehoused and disposed to the claimants at a later stage. It could also be using PLAS when the Land Claims Commission has run out of funds at a vital stage of settling a restitution claim, the land could be bought through PLAS and later on transferred to the claimants.

It details the aim and approach in using PLAS - the legislation; financial mechanisms; systems and procedures; and institutional arrangements; communications, skills development and monitoring and evaluation as well as environmental planning strategies required to effectively implement the PLAS.

PLAS occurs within the ambit of a Rural Development mandate of the Department and is therefore aligned with the **Comprehensive Rural Development Plan** which has been introduced by the Department.

It is therefore, as discussed in the strategy below, not just an isolated mechanism for acquiring land but is a central mechanism in addressing the livelihood strategies, and economic and social development of individuals and communities in rural areas to create vibrant, equitable and sustainable rural communities. The acquisition of land through the PLAS will be in terms of a plan, prepared in line with the CRDP processes. The land will be developed through the Recapitalisation and Development programme (RADP).

Using PLAS as a strategic intervention allows the Department to take advantage of strategic opportunities and address the broader rural development needs in an area but with tighter mechanisms (i.e. lease agreements and management of land) in place.

### **The status of the framework in relation to key legislation and policy documents**

This version of the framework addresses changes in the implementation procedures and the requirements that are necessary as a result of amendments to Act 126 of 1993 at the end of 2008 through Act 58 of 2008 and is further aligned with the necessary requirements of the Public Finance Management Act, Act 1 of 1999 read with Treasury Regulations dated March 2005. It must be read and implemented in conjunction with the approved PLAS Delegations. The framework has been aligned with the Comprehensive Rural Development Programme.

**APPROVED BY:**

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**NKWINTI, GE (MP)**

**MINISTER: DEPARTMENT OF RURAL DEVELOPMENT AND  
LAND REFORM**

**DATE:**

## A. Orientation

The Pro-Active Land Acquisition Strategy is currently the primary strategic land reform intervention which serves as a strategic approach towards land reform.

This document outlines the revised implementation framework taking into account the most recent amendments to Act 126 of 1993 that are captured in Act 58 of 2008. It also outlines the shift to the CDRP and the introduction of the approach that land acquired for land reform will be retained by the state and not disposed of to the lessees. The key focus of these amendments allows the State to acquire not only land, but moveable property as well, and make provision for stricter control of activities and funding relating to the acquisition and holding of land by the state.

In addition, this document takes an approach that acknowledges that there are different “*Categories*” of land reform lessees, and that land reform should *focus, but not limited to*, on those that are already engaged in agriculture at all scales, from landless people (including farm dwellers) communal farmers, through to existing commercial farmers that are constrained in various ways.

Given the crucial role that access to land plays in the livelihood strategies of people, and particularly rural people, and in the development of the rural economy, broadening access to land and securing the land rights that people currently have, is central to these initiatives. But what type of land, where it is located, how it should be utilized and what it should be used for is dependent on many other factors, including:

- the skill and competence of rural people and their financial capability;
- whether they are aiming at addressing only household food security needs or whether their intention is to link into a broader market or production chain;
- the access to water, transport, and other resources; and
- the extent to which they can be supported in the use of land and so forth.

Decisions on land reform must therefore be made in terms of a broader plan, an area plan developed through the CRDP processes, an interim area plan (discussed below) and so forth.

The *strategic intervention* aspect is introduced for the purposes of purchasing particularly advantageous land including that which:

- is well-located in relation to the lessees, the markets, other initiatives etc,
- is especially amenable to subdivision,

- is suitable for particular agricultural activities that government would like to promote through redistribution, and/or
- is an especially good bargain.

The PLAS will therefore contribute to the aim of the CRDP by being an effective response against poverty and food insecurity by maximizing the use and management of natural resources to create vibrant, equitable and sustainable rural communities.

## **B. Legislative Framework**

### ***1. Land Reform: Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993)***

#### **Acquisition of land and resources**

The Land Reform: Provision of Land and Assistance Act, Act No. 126 of 1993 as amended in 2008 is the key legislation that governs land redistribution by providing the government with mechanisms to utilise money appropriated Parliament to purchase land and other property for land reform purposes. The Act originally only addressed the acquisition of land, but it was amended in 2008 to enable government to purchase property other than land, for land reform purposes. Section 1 of the Act states the following:

“The objects of this Act are to-

- a. give effect to the land and related reform obligations of the State in terms of section 25 of the Constitution of the Republic of South Africa, 1996;
- b. effect, promote, facilitate or support the maintenance, planning, sustainable use, development and improvement of property contemplated in this Act;
- c. contribute to poverty alleviation; and
- d. promote economic growth and the empowerment of historically disadvantaged persons.

Within these objectives, the amended Sections 10(1)(b)(ii) and 10(3) are of particular relevance for the PLAS programme providing the state with the ability to acquire land and other property and undertaking business of various kinds with the property:

“(1) The Minister may, from money appropriated by Parliament for the purpose of this Act-

- (a) acquire property; and
- (b) on such conditions as he or she may determine-

- (i) make available state land administered or controlled by him or her or made available to him or her;
- (ii) maintain, plan, develop or improve property or cause such maintenance, planning, development or improvement to be conducted by a person or body with whom or which he or she has concluded a written agreement for that purpose;

(3) The Minister shall have all the rights, powers and duties arising from or incidental to anything contemplated in this section and, without detracting from the generality of the foregoing, may-

- (a) maintain property, including state land;
- (b) conduct a business or other economic enterprise; or
- (c) exercise the rights of a holder of shares or a right in or to a juristic person, other entity or trust, contemplated in subsection (1).

### **Delegation of powers**

The Act indicates that the Minister is not required to centralise control over the processes involved in the rollout of the Act. Firstly, the Act provides that the Minister can distribute the funds required for the acquisition, planning, improving and other activities on the land to other spheres and organs of government or bodies. The Minister may:

- 10(1)(b)(iv) in writing authorise the transfer of funds to-
  - (aa) a provincial government;
  - (bb) a municipality;
  - (cc) any other organ of state; or
  - (dd) any other person or body recognised by the Minister for such purposes, which he or she considers suitable for the achievement of the objects of this Act, whether in general, in cases of a particular nature or in specific cases.

Section 15 of the Act provides further detail on the ability of the Minister to delegate most of the powers to another officer of the Department:

- (1) The Minister may, on such conditions as he or she may determine-
  - (a) delegate to any officer in the Department of Land Affairs any power conferred upon the Minister by this Act, except the power under section 14 to make regulations;
  - (b) authorize any such officer to perform any duty imposed upon the Minister by this Act.

### **Managing assets acquired in terms of Act 126**

It is important to note here that the Auditor General provided extensive critique on the current leasing and management practices in the Department. The various



problems highlighted by the Auditor General have been addressed through a process of adjusting the delegations to the PSSCs and through the establishment of a Trading Entity and the associated processes which will hold and manage the funds for PLAS.

The Land Reform: Provision of Land and Assistance Act, Act No. 126 of 1993 as amended includes specific measures to assist the Director General of the Department of Rural Development and Land Reform in this regard through the requirement in Section 10.A that a trading entity be established with its separate accounts:

*“(1) The Department must account for the acquisition, management, disposal and leasing of property and the provision of financial assistance in terms of this Act through a trading entity established and operating in accordance with the requirements of the Public Finance Management Act, 1999 (Act 1 of 1999).*

*(2) The trading entity referred to in terms of subsection (1), once established, must maintain separate and itemised financial accounts and accounting records in respect of each agricultural enterprise or separately administered portion of immovable property which it acquires, manages, disposes of, or leases.”*

This entity is in the process of being established and will consist of the relevant financial management systems related to accounting for the assets. A Trading account for such spending has however been established and all spending on PLAS therefore is allocated to this account.

With regards to leasing of land, Section 11 of the Act 126 as amended indicates that the Minister has the power to set terms and conditions to “sell, exchange, donate, lease, award or otherwise dispose of or encumber any property contemplated in this Act or, if such property is no longer required for the purposes of this Act, for any other purpose”.

## ***2. The Public Finance Management Act, 1999 (Act No.1 of 1999) and Treasury Regulations***

Asset management, letting and disposal of assets are governed by the PFMA and Treasury Regulations issued in terms of the PFMA.

### **Asset Management**

Asset management is a requirement by the Public Finance Management Act, Act 1 of 1999 (PFMA). According to section 38 (1) (d) of the PFMA, the accounting officer of a department is responsible for the management, including the safeguarding and the maintenance of the assets, and for the management of the

liabilities, of the department. Treasury Regulations 10.1 in terms of the above section of the Act states as follows:

***“10.1 Responsibility for asset management [Section 38(1)(d) of the PFMA]***

*10.1.1 The accounting officer of an institution must take full responsibility and ensure that proper control systems exist for assets and that –*

*(a) preventative mechanisms are in place to eliminate theft, losses, wastage and misuse; and*

*(b) stock levels are at an optimum and economical level.*

*10.1.2 The accounting officer must ensure that processes (whether manual or electronic) and procedures are in place for the effective, efficient, economical and transparent use of the institution’s assets.”*

**Letting of assets**

The letting of land and other resources owned by the state is governed by a number of laws or regulations of which the following is most important for PLAS: Treasury regulation 16A7.4 which states that *“The letting of immovable state property must be at market related tariffs unless the relevant treasury approves otherwise.”*

In relation to this, the current Policy: Lease Management (Issued by the Chief Directorate: Financial Management) will be used to manage all leases.

In addition, the Government Immovable Asset Management Act, 2007 (Act No. 19 of 2007) also has relevance (GIAMA). The objectives of the GIAMA are:

- (a) provide a uniform immovable asset management framework to promote accountability and transparency within government;
- (b) ensure effective immovable asset management within government;
- (c) ensure coordination of the use of immovable assets with service delivery objects of a national or provincial department and the efficient utilisation of immovable assets;
- (d) optimise the cost of service delivery by –
  - (i) ensuring accountability for capital and recurrent works;
  - (ii) the acquisition, reuse and disposal of an immovable asset;
  - (iii) the maintenance of existing immovable assets;
  - (iv) protecting the environment and the cultural and historic heritage; and
  - (v) improving health and safety in the working environment.

### **3. Other relevant legislation**

In addition to the above, the following legislation is applicable and should be adhered to when implementing PLAS. Importantly, there is scope for negotiation in much of this legislation, and DRDLR officials are therefore required to enter into negotiations, in conjunction with lessees in order to obtain the most beneficial option in each specific circumstance:

<b>Legislation</b>	<b>Relevance</b>
<b>The Municipal Property Rates Act, 2004 (Act No.6 of 2004)</b>	The Act gives the power to municipalities to impose rates on properties and to also exclude certain properties from rating in the national interest. In terms of this Act, Section 17. (1) g) a municipality may not levy a rate on a property belonging to a land reform lessee or his or her heirs, provided that this exclusion lapses ten years from the date on which such lessee's title was registered in the office of the Registrar of Deeds.
<b>The Income Tax Act, 1962 (Act No. 58 of 1962)</b>	The Income Tax Act has implications in relation to PLAS transactions involving shares in companies, or the acquisition of capital-intensive, complex operations and for going concerns. Such implications must be evaluated in each case by a relevant expert with specialist tax knowledge and skills. In this regard, PLAS agreements must be checked and signed off by a qualified tax lawyer against the PLAS manual guidelines before the conclusion of agreements.
<b>Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975)</b>	The levying of interest in respect of monies owed to the DRD&LR and which monies are in arrears, is a matter which must be dealt with in terms of all PLAS contracts. Contracts concluded with caretakers and lessees could be defective in that contractual terms regarding interest that would be levied in respect of monies owed to the DRD&LR, and which are in arrears, do not provide that the rate prescribed in terms of section 1 and 2 of the Prescribed Rate of Interest Act, 55 of 1975 would apply to such monies.

<b>Legislation</b>	<b>Relevance</b>
<b>National Environmental Management Act, 1998 (Act No. 107 of 1998)</b>	NEMA is a key piece of environmental legislation. It seeks to provide for co-operative environmental governance by establishing principles for decision- making on matters affecting the environment, institutions that will promote co-operative governance, and procedures for co-ordinating environmental functions exercised by organs of state. It further seeks to provide for certain aspects of the administration and enforcement of other environmental management laws
<b>The Preferential Procurement Policy Framework Act 5 of 2000</b> <b>The Preferential Procurement Policy Framework Act Regulations of August 2001;</b> <b>Supply Chain Management – A 2003 Guide for Accounting officers/ Authorities.</b>	In implementing this strategy, the PSSCs will be appointing conveyancers, community facilitators, agricultural economists, surveyors, etc. Procurement processes must be fair, equitable, transparent, competitive and cost-effective in line with the legislation.
<b>Section 26 (2) (a) and (b) of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005)</b>	Deals with intergovernmental cooperation especially in relation to district fora and the roles that each stakeholder should play within such fora.
<b>National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998)</b>	Deals with fire management and places the onus on the “owner” to prepare and maintain a firebreak and have appropriate equipment, clothing and personnel for extinguishing fires. The owner, in terms of this Act, is a lessee or other person who controls the land in question in terms of a contract, testamentary document, law or order of a High Court.
<b>National Water Act, 1998 (Act No. 36 of 1998)</b>	Deals with the acquisition of water rights and resources for its use, but at the same time provide measures for the protection and management of water resources.
<b>Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983)</b>	The Act provides for the conservation of natural agricultural resources by maintaining the production potential of land, combating and preventing erosion and the destruction of water resources, protecting vegetation and combating weeds and invader plant species. It

Legislation	Relevance
	provides the Department of Agriculture, forestry and fisheries with the power to introduce control orders, directions and schemes on private and state land in order to achieve its objectives.

### ***C. Targeted individuals and groups and the use of (Proactive Land Acquisition Strategy (PLAS)***

The PLAS programme aims to increase access to agricultural land by black people (Africans, Coloureds, and Indians) and to contribute to the redistribution of the country's commercial agricultural land owned by White South Africans or companies owned by white South Africans who are the majority shareholders

#### **1. Categories of individuals and groups and variations of contexts**

The Department has adopted a new approach to land reform – the Categories Approach. This Approach moves away from an adhoc, first come-first served programme, where those that were able to mobilise capital became the target of land reform regardless of their capabilities. Instead, in the new Approach, the state recognises that there are different land (and related development) needs and that the land reform and support programmes must address these different needs in a targeted way. The experience, capabilities and access to capital of lessees then become important when deciding who will get access to land from the Department's programmes, but not limited to this, i.e. the NARYSEC (National Rural Youth Services Corps), women, farm workers and unemployed agricultural graduates.

The categories that have been proposed as the basis for the new approach are as follows:

- Category 1: Households with limited or no access to land - those who seek land and tenure security for productive purposes at a subsistence level and, or, for residential purposes
- Category 2: Expanding commercial smallholders – those who have already been farming commercially at a small scale and with aptitude to expand, but are constrained by inadequate access to land and other resources.

- Category 3: Well-established black commercial farmers – those who have been farming at a reasonable scale, but are disadvantaged by location and other circumstances, and with real potential to become large-scale commercial farmers.
- Category 4: Financially capable, aspirant black commercial farmers – established businesspeople who wish to expand into agriculture. This will primarily be an AgriBEE component.

It is important to note that farm dwellers, as a key target group of the land reform programme, are not strictly identified with any particular category, but rather could be eligible for any of them (though presumably rarely for Category 4), depending on their capabilities, resources and interests, as well as passion, willingness and commitment to farm.

The identification of the categories is premised on lessons DRDLR has learnt over the years, namely that at lessee and project level, the opportunities we make available through land reform have to correspond more closely to the skills possessed by the lessee, and to the nature of the demand for land. To put this differently, training and mentoring are valuable interventions to build lessees' capabilities, but too much is often expected of them. In a similar vein, it has become increasingly clear that in considering applications from lessees, we have not given enough attention to what applicants are doing already in agriculture and other productive activities. Drawing from this, the new approach requires more focus to be placed on evidence that applicants can provide of their interest and skills in agriculture and other enterprises, where particular attention is given to *what they are presently doing*.

## **2. Graduation between Categories**

The Categories Approach is aimed at providing land and resources to individuals and groups at a level at which they can manage such resources. It is expected that in many of the land reform projects the farming and other enterprises will increase in size over time and thus, depending on the nature of the product, additional land and other resources will be required. To enable this, the Categories Approach specifically encourages Graduation where the individual wants this to happen – moving from a lower category to a higher category, from e.g. Category 1 to 2, 2 to 3 and 3 to 4.

## ***D. Institutional arrangements***

One of the major challenges was the constituency of these approval structures, where district managers who played a big part in the inception of these projects, would also form part of the PGC in approving projects. This created a conflict of

interest where these district managers would assume the role of both player and at the same time referee. This has led to the Department taking a strategic decision to disband the DSC and incorporate some of its functions into the PGC. The PGC will now assume a new role as the Provincial Technical Committee (PTC), which will be responsible for screening a project and recommending its approval. District managers will not form part of the PTC but will only present projects to the PTC.

There are two levels of institutional arrangements– the external institutional arrangements of support and the internal institutional arrangements of operation and management on each portion of land acquired.

Using PLAS as the only instrument to acquire land, has led to the Department reviewing its internal structures/ institutional arrangements. The initiation of projects took place at district level where the District Screen Committee (DSC) would approve the inception of a project based on its feasibility. Once a project was deemed feasible, planning around the project would resume by commissioning a land valuation report to determine the market value of the land, preparation of the business plan, etc. The next level of approval would be through the Provincial Grants Committee (PGC), which would approve the acquisition of the land based on the negotiated/ agreed selling price and a viable Business Plan. All these processes have not gone without its challenges, as such this process will no longer be followed.

Projects will henceforth be approved at national level, by the National Land Allocation Control Committee (NLACC) chaired by the Deputy Minister and deputized by the Deputy Director-General: Land Reform and Administration.

## **1. External institutional arrangements: Roles and Responsibilities of government role-players and major private sector players**

The Rural Development and Land Reform Plans (RDLRPs) are an instrument for better coordination and integration in the IDP at municipal level, including the CRDP all draw on the Intergovernmental Relations Framework Act (Act No. 13 of 2005)<sup>1</sup>, and encourage collaboration between government departments and spheres.

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<sup>1</sup> The Act seeks to establish a framework for the national government, provincial governments and local governments to promote and facilitate intergovernmental relations; to provide for mechanisms and procedures to facilitate the settlement of intergovernmental disputes; and to provide for matters connected therewith.

The Department of Agriculture, Forestry and Fisheries will continue playing a pivotal role in terms of conducting feasibility Studies and/ or Agricultural Potential Reports for Land Reform projects and will also serve as major stakeholders and constituent of the Provincial Technical Committee (PTC). Where settlement projects are involved, the DRDLR and the Department of Human Settlement will work together in managing the systems for delivering land for settlement purposes where the DRDLR is committed to make funding available for land acquisition as governed by relevant legislation in line with the department's mandate.

## **2. Internal institutional arrangements**

Land bought through the PLAS process will be owned by the State and the individuals or groups will lease the land from the State. The precise internal institutional arrangements will differ depending on the enterprises on the land.

The general approach is that, individuals should sign a lease agreement on an individual basis, and therefore each individual's rights, responsibilities and benefits must be specifically determined. In situations where a group of lessees is acquiring the use of the land, a constitution or trust deed determining the rights, benefits and responsibilities of each individual member must be clarified before occupation and this must be attached to the lease agreement. However, in situations where there will be collective ownership of an enterprise in the use of land, the agreement would be signed by such a group collectively.

Where land is going to be held by a group, clarity on membership (who actually is part of the group and what is the criteria), rights to land (what rights does each member have to each part of the land), responsibilities and benefits must be discussed and stated in the constitution or trust deed prior to the lessees acquiring access to the land – and therefore needs to be included in the Business Plan for the farm.

## ***E. Financial Mechanisms***

### **1. Acquisition of land**

Once the land has been identified to fulfil a land need in a district, and a feasibility study indicates that the project is viable, and the PTC has made the recommendations, the National Land Allocation Control Committee (NLACC) will then approve the acquisition of the land. The capital funds for this will be drawn from the specific Agricultural Land Holding Account which is governed by the PLAS Trading Entity.



## **2. Planning, Development and Maintenance Costs**

As reflected in Section 10(1)(b)(ii) and (iii) of Act 126 of 1993 as amended, the Minister can make resources available for planning, development and maintenance of the land that is acquired.

According to the Policy:

- a) An upper limit of 15% of the PSSC's Capital Transfers Budget will be made available for valuations, subdivisions, feasibility studies, establishment of legal entities, development planning, and so forth. Requests for these Planning Funds are submitted to and approved by the District Manager as discussed below.
- b) Development and Maintenance funds will be made available through the RADP for:
  - a. Infrastructure development, where the land is being adjusted for use by land reform lessees.
  - b. Assisting lessees to acquire working capital for the initial phases of production on the land; and
  - c. Maintenance purposes for land acquired through the PLAS.

Requests for the Development and Maintenance Funds are made as part of the Credible Development Plan and are submitted to the Provincial Technical Committee and, after recommendation, are approved by the DDG: Land Reform. The allocation of the Development and Maintenance Funds will be different depending on the scale and nature of the changes introduced and the production undertaken. Where additional funds are necessary, these will need to be obtained through finance institutions.

## ***F. Guidelines for acquiring land proactively<sup>2</sup>***

### **1. Planning for land acquisition**

The Rural Development and Land Reform Plans (RDLRP) for each district will identify the need for land, *inter alia*, in the area. The RDLRP is a district-based planning instrument that is aligned to the CRDP objectives and IDPs. The RDLRP will be updated annually as per the strategic and operational plans of the Department and taking into account the local conditions. Relevant planning information including maps and other tools are necessary to support this process and the Chief Directorate: Spatial Planning and Information has a key role to play in this regard.

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<sup>2</sup> Refer to Table 1 for PLAS project cycle

Interim measures must be put in place for areas that do not have a RDLRP. In such cases joint planning by the PSSCs and Provincial Departments of Agriculture is encouraged to identify good agricultural land and lessees. However, it should be noted that, in exceptional cases where capable potential farmers have identified land themselves and wish the Department to acquire it, the Department may consider buying such land when it's in furtherance of the Department's strategic plans, the applicants fall within the ideal lessee profile and the buying of such land will be based on the availability of funds.

The Department, through the Directorate: Land Acquisition and Warehousing will also periodically identify land that is strategically<sup>3</sup> located for purposes of food security, job creation, income generation, etc, and this land will be acquired proactively.

## **2. Lessee selection**

In the process of area level planning, potential lessees and their needs will be *identified* across the area or district, taking into account what they are doing currently, and what they would like to do. The categorization of individuals in terms of the Categories Approach happens at this point.

The *selection* of specific lessees for allocation to particular portions of land, will then take place once suitable land has been identified. This *selection* of lessees must take two issues into account – the matching of individuals to land that has been or will be acquired; a fair process of application by the potential lessee and the allocation of land to particular vulnerable groups such as NARYSEC youth, farm workers and unemployed agricultural graduates, etc. A first come- first served approach may not be adopted in all instances as land that becomes available in a particular area may not match that local applicant's skills and/or needs.

In some situations, a specific type of land might be proactively sought for certain individuals (for example where the farmers have experience in sugar cane production, such land will be sought for such farmers) whereas in other situations, land that comes on to the market may be acquired and then matched to individuals that have applied to the Department.

## **3. Project cycle – key steps**

In the process of planning, either through the RDLRP processes or through the interim planning process, particular land portions or farms will be identified strategically to address particular individual or group needs. The planning

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<sup>3</sup> See definition on page 6 of the document.

process for each land portion or farm and individual or group of lessees will then begin and the following *key steps* are identified (see the diagram below):

**a) Strategic Identification of Land**

- The Department through the PSSCs will identify strategically located land. The PSSCs must use their RDLRP as a guiding tool to identify such land.

**b) Commission a feasibility Study**

- Once the land has been identified, the Department of Agriculture will then be requested to assist with the feasibility study or agricultural potential report (APR). This process will be done to provide an assessment of whether the land is good and appropriate for agricultural purposes. Where land other than agricultural land is to be acquired, it is important that significant thought and assessment is put into the possible acquisition of the land, the Department will draw in expertise to assist with this initial analysis where it is necessary. As soon as the feasibility study is made available, the project officer will prepare a Project Identification Report (PIR) and the responsible district manager will approve the release of planning funds to commission a valuation on the identified land. The farm is valued by an independent valuer according to the Standard Valuation procedures of the Department.
- Once the valuation has been sourced the negotiation process will start. This process will involve both the PSSC and the land acquisition and warehousing Directorate. During this process a communiqué must be sent to the land owner, informing them of the administrative and approval process that needs to be followed before the department can buy the land. This will ensure that they understand the processes.

**c) Provincial Technical Committee (PTC)**

- Once the selling price is been agreed upon, the responsible project office will make a package to be submitted to the PTC for recommendations to the National Committee.

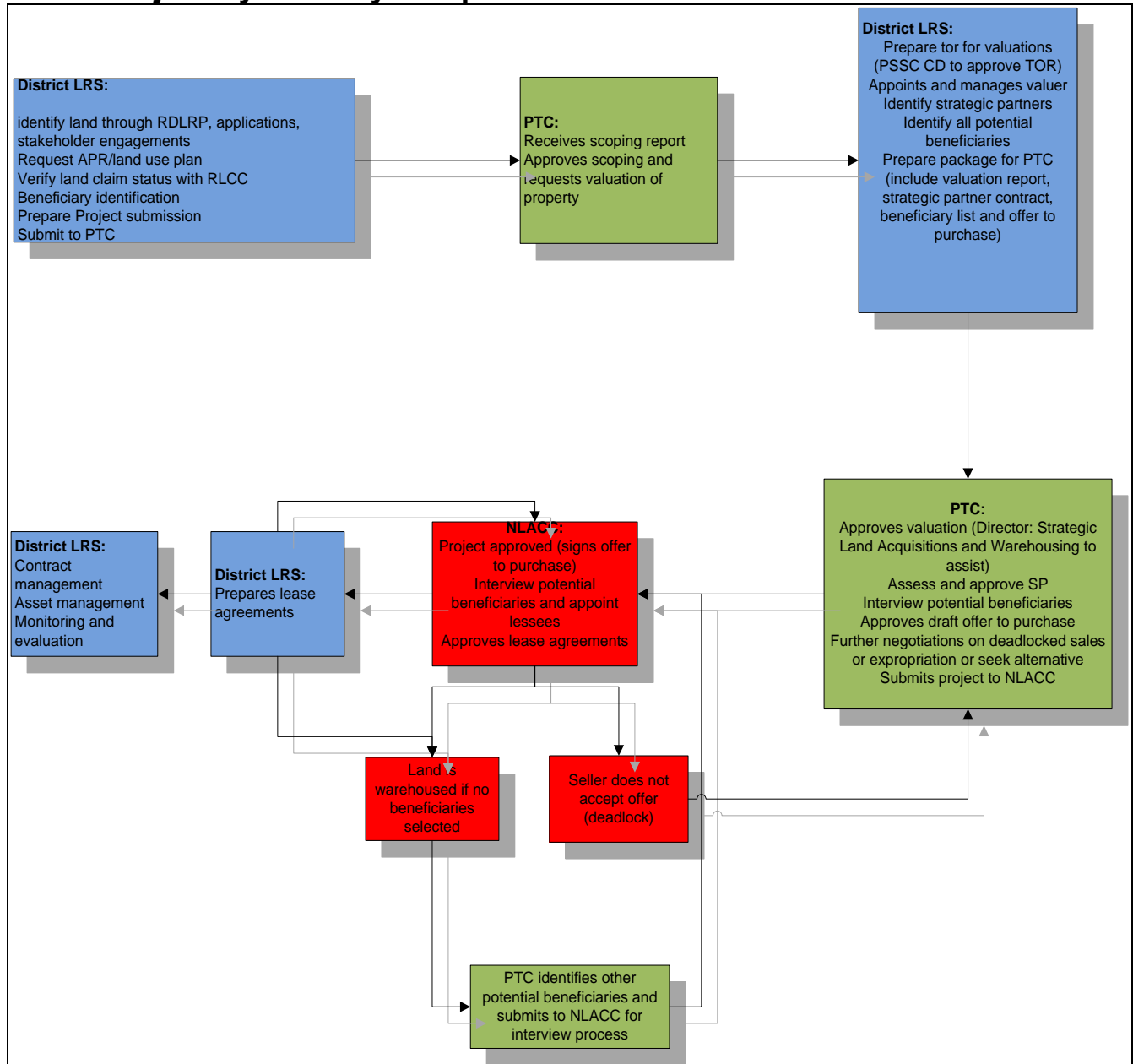
**d) National Land Allocation Control Committee (NLACC): Land Acquisition Approval**

- The NLACC will assess each project and then determine whether to purchase, or not.
- Once the NLACC has approved, the purchase agreement will be signed off
- Conveyancing process will start at provincial level. The land will then be registered in the name of the State and put on the provincial database. The land and additional assets must also be registered on the State Asset Register. At this point the identification and selection process will be done through the provincial lessee/caretaker selection committee (PLSC) chaired by the Provincial Land Reform Director. This Committee will be comprised of representatives from the local and district municipalities to recommend the potential lessees. Potential lessees will then be interviewed by this Committee and their success will depend on their scores. It is important to note that this process must take place during transfer stage.

#### **e) RADP Processes**

- Once the land is acquired and further development is required, holding arrangements will be put in place. RADP processes as they are stipulated in the policy will take effect.
- However, in some cases where development is not needed (e.g. going concern being bought), lease agreements will kick in.
- Once this is approved, the lessee will sign a lease agreement and can then take occupation of the land, if they have not been the caretakers of the land, and proceed with the rollout of the CDP. The lessee also signs the Social Contract with the Department, based on the CDP. At this point, the Strategic Partner is appointed to support the project, or be a partner, as detailed in the CDP.
- Continuous monitoring and evaluation on the implementation thereof will be done by the Department.

## PLAS Project Cycle – key components



### LEGEND:

APR: AGRICULTURAL POTENTIAL REPORT	PTC: PROVINCIAL TECHNICAL COMMITTEE [PSSC CD, DIRECTOR LAND REFORM, MUNICIPALITY, HUMAN SETTLEMENTS (IF SETTLEMENT PROJECT), PROVINCIAL DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES]
DISTRICT LRS: DISTRICT LAND REFORM STAFF	RLCC: REGIONAL LAND CLAIMS COMMISSION
NLACC: NATIONAL LAND ALLOCATION CONTROL COMMITTEE	SP: STRATEGIC PARTNER
PSSC: PROVINCIAL SHARED SERVICE CENTRE	TOR: TERMS OF REFERENCE

It is important to note that in situations where the State is acquiring an operating complex, capital-intensive operation, and going concerns more generally, it is not possible to disturb the production process as there is too much risk at stake regarding the assets that are being acquired – cows need to be milked, vines need to be watered, etc. In these situations, the transition from current owner, to caretaker where necessary, to future operators/owners of the enterprises must be done extremely carefully. As indicated above, the involvement of the Strategic Partner and a caretaker prior to acquisition to ensure continuous production and reduce risk is necessary as an additional precaution against such risk.

## ***G. Communication, Skills Development, Monitoring and Evaluation***

### **1. Communication Strategy**

Once the Framework of the PLAS is agreed to by the Department and approved by the Minister, it will need to be communicated to all spheres of government and relevant stakeholders.

This communication campaign needs to start with the DRDLR itself and a detailed programme of communication will be delivered to the various levels of the Department – particularly to the provincial and district offices.

At a national sphere, the key external stakeholders will be the DAFF, DWA, DEA and DTI. In each province, the different relevant departments dealing with these four areas will similarly be targets of the campaign.

Given the increased role of Strategic Partners and Mentors in the roll out of the land reform and rural development programme, a specific focus of the communication campaign will be the Strategic Partners to ensure that they are very clear about the programme and its current components and phases.

Importantly, civil society organizations including the land and agriculture NGOs, the organizations of emerging farmers, the landless people's formations in the different districts and the commercial farmers unions are important stakeholders to inform. At the same time, key business and financial institutions need to be informed; the campaign will include the Development Finance Institutions; the input and supplies companies; the marketing companies (agricultural, tourism and other related companies) and especially the various cooperatives and ex-cooperatives.

## **2. Skills development strategy**

Implementing the Proactive Land Acquisition Strategy will present the Department with challenges as it will need highly skilled personnel. To ensure effectiveness and efficiency in delivering land using the PLAS, and facilitating sustainable enterprises with the various categories of land reform lessees, various training programmes will be put in place. They will primarily target DRDLR and DAFF project and management staff but where feasible should also involve local government employees, other national and provincial government departments, commodity groups, estate agents and other stakeholders that would be identified from time to time.

Based on the steps involved in the processes of the different ways in which PLAS is to be used, a comprehensive training strategy and programme will be developed and rolled out.

The following will also be included:

- Methods of assessing farms;
- Approaches to land reform and the disaggregation of land reform lessees – practically using the Categories approach;
- Approaches to rural development and land reform and an in-depth engagement on the approach adopted by the Department;
- Options in different agricultural sectors;
- Basic understanding of business in the agricultural sector including the different business forms and the relation to leasing and access to finance;
- Tenure arrangements in group based land ownership and group enterprises;
- Livelihoods approaches to development;
- Integrated development planning;
- Policies and legislation that are specific to the programme including land reform, agricultural, business, water and environmental and other related legislation; and
- Crosscutting issues like gender and HIV/AIDS.

## **3. Monitoring and Evaluation**

The DRDLR, through its Chief Directorate: Monitoring and Evaluation, will develop indicators for land reform initiatives at different scales. The Business Plan that is prepared for each property will provide the baseline information for monitoring progress in the initiative. Monitoring audits will thereafter be performed in terms of a checklist for the various types of land reform initiatives. Evaluation will take place at regular intervals during the implementation of the initiatives and for a period of three years after the lessees have entered into a

long term lease arrangement for the land and property. Such information will be included in the Department's overarching monitoring and evaluation.

In addition, the Presidency has a programme called War on Poverty, which is housed in the STRIF Branch. Each new land reform project will be subjected to a survey of all the households involved. This will provide the baseline information for the War on Poverty fields. These will be updated for further assessment according to its programme.

### ***H. Integrating Environmental Planning into PLAS Project Planning***

Various land reform projects have had a negative impact on the environment. Even when environmental considerations have been included in the project planning phase, these have often been ignored in the roll-out. In other situations the planning process has not considered the environmental aspects at all. The Directorate: Spatial Planning Facilitation has developed a tool that sets out a method to do an Environmental Sustainability Assessment for land reform projects. It is intended for use in all land reform projects, although different elements will have different applications and emphasis depending on the context. The Environmental Sustainability Assessment Tool (ESAT) whose purpose is to integrate the biophysical environmental, social and economic pillars of sustainability into various stages of the planning and decision-making process. *(The ESA guideline document has replaced Chapter 6 of the DRDLR's Guidelines for the "Integration of Environmental Planning into Land Reform and Land Development" developed in 2001).* These environmental considerations must be undertaken and included in the planning process in each PLAS initiative.

The ESAT provides guidance on:

- How to manage the process of integrating environmental planning into land reform and development;
- Identifying the necessary specialist studies where required;
- Undertaking these studies, primarily in a participatory way with the lessees;
- Integrating these studies to inform decision-making; and
- Implementing the recommendations.

The main purpose of the ESAT is to:

- Ensure that resources are managed sustainably and that environmental impacts are minimised;
- Assist in improving the livelihoods of the land reform participants through the land reform process;
- Ensure that environmental opportunities and constraints are identified;



- Ensure that legislative requirements for environmental management are met by the land reform participants;
- Assist the land reform officials in determining whether or not environmental authorization (as per the Regulations to the National Environmental Management Act (NEMA) is required for the proposed activities;
- Facilitate the development of Environmental Management Plans (EMPs) or Resource Management Plans (RMPs) that cater for natural resource management, while being proactive and pre-emptive; and
- Provide environmental input into the planning and implementation phases, including the identification of detailed indicators for monitoring and evaluation<sup>4</sup>.

## ***I. Conclusion***

PLAS is the key mechanism used by the Department to provide access to land to those who are landless or land-needy. Its implementation must be done in a manner which contributes to agrarian transformation across the country – and this requires clear planning. With the CRDP as the overarching guide the area level CRDP report, the interim area plan and the CDP provide the tools to ensure this coherence and integration, and thus the key role of these Plans in ensuring the linkages with all aspects of rural development cannot be underestimated.

This framework has provided different approaches to using the Strategy – through highlighting that there are different types of lessees and that their needs can be addressed in different ways. The PLAS provides a good mechanism for acquiring strategic land and thus contributing significantly to the achievement of the target of the redistribution of 30% of commercial agricultural land. The sustainability of the initiatives undertaken through PLAS is also paramount, however, and this means that the planning processes that occur in the process of acquiring the land need to be done well, and need to be comprehensive.

The complexities involved in ensuring the sustainability requires good knowledge and skill, and the proposed training programme for Departmental staff and their associates will add to their already existing skill on these matters.

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<sup>4</sup> The complete guidelines are available at <http://land.gov.za/redistribution/>. Please note that the Directorate: Spatial Planning Facilitation (Sub directorate: Environmental Planning) can be contacted for further details on the ESA guidelines and NEMA compliance.