

Policy Statement by the Minister for Agriculture and Land Affairs for Strategic Directions on Land Issues.

11 February 2000

1 Introduction

In my engagements with senior managers in the department it has become clear that there is a need to clarify our core business. Documents and reports on the Departments transformation program show that many attempts have been made to grapple with this question.

It would appear that there are different interpretations of policy matters within the Department. As a result it has been difficult for the department to come up with a coherent and integrated strategic plan from which an efficient and effective operational plan could be derived.

In order to assess this difficulty it is essential that we:

- Identify government priorities and the ministries policy priorities that derive therefrom
- Identify the outcomes and outputs that are expected from the department to achieve the priorities
- Allocate resources accordingly within the medium term expenditure framework

Without clarity on these questions we shall always plan and implement projects with outputs that work against each other and/or duplicate the work of other departments. This can only be counter-productive and inhibit the attainment of our set objectives in Land Reform.

Land Reform cannot succeed unless it is approached in an integrated fashion, this requires coordination and joint planning by relevant departments, and in particular joint planning and policy development with the Departments of Agriculture and Housing.

The new program derives its content from the current program albeit refined.

- The work that has been done from July to present on review and assessment of current policy;

1.1 Assessment

The first six months has constituted a period of assessment of current programmes and instruments. Several problems have been identified regarding the nature and application of the Settlement Land Acquisition Grant and other redistribution products.

In conducting the review various stakeholders were consulted and requested to make submissions regarding SLAG. These stakeholders included the NGO community, ie. The National Land committee its affiliates and Organised Agriculture.

The redistribution and Policy and Systems Directorate also provided detailed input on options for alternative grant system. In addition Provincial Department of Land affairs staff completed Provincial submissions. This was followed by Provincial visits to engage further with staff as well as beneficiaries.

- Problem statement on the weaknesses that have been identified in the current policies;

1.2 Limitations

In the review it emerged that the structure and the implementation of SLAG and other redistribution projects have several limitations that impede the attainment of objectives as set out in the White Paper on Land Reform.

The limitation referred to have both policy and implementation implications. Some of the limitations identified are:

1. The current approach has not permitted a full realisation of land reform policy objectives as envisaged in the RDP document;
2. The placing of responsibility on market forces, as core redistributive factor has not produced the desired effect and impact. This has limited the level of choice, suitability and quality of land parcels acquired for the beneficiaries of land reform program.
3. The manner in which the process has been structured has impacted on land prices and we have had to pay inflated prices for marginal land. This has brought about unintended consequences, which have impacted our land reform program.
4. The grant program in its current form has not made any significant contribution to the development of semi-commercial and commercial black farmers.
5. This has led to very little impact on rural employment creation or transformation of holding of agricultural land patterns.
6. The evaluation of progress thus far has been limited to measuring success through:
 - current spending patterns, and
 - hectares of land per capita delivered.
7. We thus are unable to measure in quantity the success we have made in sustainable agricultural production.
 - How land reform has impacted on our agricultural production?
 - The extent to which the current program has impacted on food safety net
 - The rate to which land reform has nurtured the growth of emerging and aspirant farmers

The evaluation of our success based on qualitative performance indicators therefore becomes critical in meeting challenges.

2 Policy directive and emphasis

The new policy has to fall in line with the needs of beneficiaries, taking into account their different needs.

The following areas are to be discussed in the stated policy directive:

3 Redistribution Windows

3.1 Basic assumptions

Three windows refer to the total project cost and not to the size of the farming enterprise or type of a farmer.

The allocation of the government grant will be based on grant amount per total project cost per window and not on grant amount per beneficiary per window.

Particular attention will be paid to environmental, economic, financial, management and social viability and sustainability of farming enterprise for which government grant funding will be solicited;

The grant per total project cost per window is structured not to realize a pre-establishes or anticipated income for the enterprise or for the beneficiaries;

In percentage terms, the contribution of government to each windows is set at about 70%, 40% and 20% in the small, medium, and large sized projects respectively- no proportion is for own contribution, loan or equity contribution;

The following will be eligible projects for grant financing commonage, areas, communal areas, and commercial farming areas.

3.2 Food Safety Net

This is a grant that is targeted for poor sections of communities who do not have land and cannot sustain themselves. The grant is intended to give them both land and food security.

3.3 Grant for Settlement

This grant shall be for urban poor as well as rural communities wishing to access land primarily for settlement.

The current policy on this grant is not to be radically affected by this directions.

3.4 Commonage.

The Grant for the Acquisition of Municipal Commonage will also be subject to some changes, which will be announced after the Commonage Workshop in February.

There are changes that are to take effect immediately. There are the following:

- The total amount available for purchases of individual properties will be subject to a ceiling.
- Municipalities are to make own contribution in funding balances where properties exceed the stipulated ceiling.

Currently there is an anomaly between policy espoused and the unchecked practice and procedures which operate in Commonages.

Although commonages remain a useful instrument in the attainment of broader land reform objectives, it must be clearly reasserted that it cannot take budgetary priority over the objectives over the redistribution of land to the landless poor.

So, while the policy remains stricter guidelines are recommended as set out above. To ensure that these practices and guidelines are achieved, I would like to see the following:

- Prioritisation of sources to poor municipalities where commonage do not exist and a clear eligibility criteria of those municipalities that would qualify for the Grant
- An allowance for the extension of tribal land through the acquisition of commonage for beneficiaries in rural areas where the need for food security is greater
- A clear budget allocation that DLA can utilize specifically for commonage purposes in each province. Budget allocation to be informed by the criteria set out above
- This would serve to avoid situations where particular provinces use this land reform facility so extensively that it negatively impacts on DLAs core business of land redistribution to the landless poor.
- A requirement that municipality must demonstrate the consultation and participation of local authorities in commonage projects when requests for grant are made.
- A workshop on commonage involving all stakeholders will provide an opportunity for further discussion around areas of mutual interest.

3.4 Equity Schemes

All Equity Schemes will be reviewed.

4 Compensation in restitution

There is a need again to look at current policy on the award of financial compensation in cases where restoration of land is not feasible as well as current methods for determining compensation due. The current approach, left unchecked, has financial implication that would make restitution unsustainable in the medium and long term, as well as Restitution taking longer that is politically acceptable.

- 63 455 (sixty three thousand four hundred and fifty five) claims were lodged with the Commission. To date only 785 claims have been settled. To meet current challenges requires a more simple and comprehensible approach to processing of claims
- Currently the cost of establishing historical evaluations is exceptionally high in relation to the payments made. It is too cumbersome and time-consuming.
- There is an over reliance on specialist staff (consultants).
- The preponderance of high urban claims, and financial payments, bears little relevance to wider government objectives, that of promoting development, reconciliation and providing opportunities to the poorest especially those in rural areas.

It is widely acknowledged that forced removals constituted serious violation of people's human rights. The democratic government has committed itself to measures that would seek to address the wrongs of the past.

The current policy practice in Restitution is to try to return exactly what was lost by assessing the value of the claim through historic valuations and subtracting compensation received at the time of dispossession.

This has produced alarmingly high compensation payoffs, which in some cases does not address fully the question of equity and development.

4.1.1 The priorities for the next two years are as follows:

- Speed up the settlement of restitution claim
- Review of current method of calculating monetary
- Reduce administrative cost through closer collaboration with other relevant Department.
- Refocusing of efforts in settlements of rural claims
- Restructuring in restitution process to enable speeding of claims;
- Integrated formulation of policy

4.2 Tenure reform

Tenure Reform is amongst others related to land administration and management. In order to achieve uniformity in the system of land administration and land holding an initiative of rationalising and consolidating legislation dealing with tenure reform has been commissioned. We have committed ourselves the target of finalising legislation with the above objects by the third quarter of this year .

4.2.1 Disposal of state land

4.2.1.1 Background

The South African state is the major landowner in the country. It is estimated that the state owns approximately 32 million hectares of land of which approximately 25% of the total land surface¹. The land policy provides that state land is land vested in the

national or provincial government respectively. State land can be broadly categorised into three:

- State land which is privately owned by the state
- State land which is leased by the state to the public mainly to white commercial farmers and companies
- State land which is settled or occupied by tribal groupings and communities

The government at present does not have a coherent policy on state land disposal. Over the past five years the focus of the department has been on promulgating laws protecting occupiers and labour tenants on private land (rural). There was a limited focus on the state land. The state land, which is used for agricultural purposes, is either being leased to commercial farmers or being left unutilised and as a result the landless people illegally took occupation of such land. The communities and tribes who occupy or control some of the state land mostly former homelands and self governing territories, have demanded that the land be transferred to them as tribes and communities. The Department has not favourably responded to such requests or demands.

The people who should benefit from the disposal of state land are the previously disadvantaged people, groups, communities or tribes. The disadvantage, which the said beneficiaries suffered, was both social and economic in nature. The disposal of state land should unlock economic opportunities for such beneficiaries to enable them to improve their quality of life both socially and economically.

4.2.1.2 Institutional arrangements

- (a) It is proposed that the state land disposal be a cooperative exercise between the national government and the provincial government. When an agreement has been reached, delegation of certain powers by the minister will be worked out. It is suggested that at present a Provincial State Land Committee be established in each province.

The said committee should be comprised of the Provincial Department of Land Affairs, Provincial Department of Agriculture, Department of Public Works, Department of Water Affairs and Forestry, Representatives of the traditional leaders; Municipalities and Land Bank. This committee will receive and consider applications for the disposal of state land in the province shall identify beneficiaries of the state land disposal process and supervise the project plan. This committee should be accountable to the Premier or MEC designate of each province, which will enjoy the delegated power either on a case by case or blanket delegation by the Minister.

- (b) The National State Land Committee should be established. The proposed committee should be based in the Minister's office. The object of the committee should be to advise the Minister on state land management and disposal. The committee shall comprise of directors-general of the Department of Agriculture, Land Affairs, Public Works and provinces and other people appointed by the minister.

4.2.1.3 Disposal procedure

- (a) The disposal of state land can take various forms. It is suggested that the outright transfer to tribes, communities or persons who are long term occupiers of state land be preceded by an investigation on the rights which people hold in respect of the land claimed. All the people who are protected by the *Interim Protection of Informal Land Rights Act, 1996*, are to be involved in the process so as to ensure that where their informal land rights will be affected, they will express their opinions in this regard. The investigation to be along the lines of the land rights enquiry process. On the findings of the investigator, the minister may take a decision to dispose or not to dispose of the land.
- (b) That the agricultural state land be disposed of to suitable emerging black farmers. The suggested disposal procedure is that the provincial committee invites applications from interested emerging farmers, who fall under one of the categories of the beneficiaries of land reform. The Provincial State Land Committee will screen and recommend to the MEC or the premier to dispose the state land to a suitable person. An applicant should have a right to appeal to the Minister or National State Land Committee against any decisions of either the premier or MEC.
- (c) Disposal can either be effected through the leasing of state land to suitable applicants with an option to purchase or an outright purchase. The rental for leasing of state farms should be based on the grading system over a period of 5 years. The lease rentals should be deducted from the purchase price when the sale transaction commences.

4.2.1.4 Interim arrangements

The following must be considered:

- (a) Delegation of powers in terms of the Land Administration Act, 1995, or State Land Disposal Act, 1961, to provincial MECs on a case by case basis until the policy has been developed and approved in respect of the disposal of state land.
- (b) That the regulations in respect of the transfers of land to communities and tribes in terms of the Upgrading of Land Tenure Rights Act, 1991 be drafted. The minister will be able to proceed to dispose of the state land occupied by the tribes in the interim. It must be understood that this is an involved process and it involves extensive consultation with various stakeholders such as the traditional institutions; provincial governments; local government bodies and community-based organisations representing land rights holders.
- (c) It is further suggested that a draft framework document be prepared to guide future legislative developments on the transfer of land to tribes and the administration of tribal land under the new local government dispensation.
- (d) The establishment of the National and State Land Committee as proposed to assist the Minister to deal with pressing requests from the MECs for the delegation of powers in terms of the Section of the State Land Disposal Act, 1961 and the tribes for the transfer of state land they occupy to them.

4.2.1.2 Farm-dweller Tenure Security

The program of Land Tenure Reform has been and is intended to extend security of land tenure rights to all South Africans. It particularly targets those “whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices”. In order to achieve this the Ministry together with the Department need to consolidate and rationalize national land administration and also devise a system for registration of land tenure rights in the rural areas (former homelands).

In relation to farm dwellers the short-term movement has been to introduce amendments on the extension of security of Tenure Act in order to minimize the rate of eviction of farm workers without any alternative accommodation being available. In the long term, the developmental aspect of ESTA, which clearly forms our constitutional obligation, will receive primary focus.

The time within which Labour tenants may submit their claims has been extended to achieve the same purpose of security of tenure. We have committed ourselves to the Portfolio on Land and agriculture to intensify the campaign to inform labour tenants of this extension. We further committed ourselves to ensure that we have completed our campaign by September this year. The committee has requested us to submit a report by September this year on progress made.

4.2.1.4 Conditions for a Secure and Functional Land Tenure System

For a land tenure system to be secure and functional:

- it must have legitimacy in terms of the nation’s constitution and laws;
- it must be clearly understood and consistent with the norms and standards of a society;
- it must meet the particular economic and land-use needs of society;
- It must be functional from an administrative point of view (i.e. there must be clearly established systems and procedures for land administration and predictable outcomes).

In former ‘white’ South Africa, these conditions are met, but in the former ‘homelands’, rural as well as urban areas, the required conditions for a secure and functional system, listed above, are generally absent. Some areas are very much worse than others are. The dual system of land rights introduced under colonial and apartheid governments for people of different race continues to prevail. Laws involving arbitrary racial distinctions have been repealed, but land in the former homelands continues to be registered in the name of the State and granted on limited and. Precarious permits subject to administrative discretion.

4.2.2 Principles Underpinning Land Tenure Reform in the Former Homelands

In settlements the individual family needs assurance that they will not be evicted without compensation; that they can improve their house to protect themselves and

their children against weather and thieves; that their children can inherit their property or that they can sell or otherwise transfer it.

They need to be able to use the property as collateral to borrow money. They want a reduction in property related disputes. They want their property to be serviced with such things as water and electricity and their roads to be upgraded. They need inexpensive and accessible system of administering their property rights.

In rural areas, the individual family and the group/ tribe need to feel secure in their use and occupation of the land, to make permanent improvements, to graze their animals, to have access for gathering fruits, fuel, minerals and to bury their dead. They need to be able to exclude outsiders who invade their land. They require the enforcement of legal and administrative provisions to protect what is theirs.

Government, on the other hand, needs a system of tenure that is nationally uniform and sustainable; a basis for implementing local taxation, land use and building control and for the provision of infrastructure. It needs a flexible means of administering property rights, e.g. the ability to accommodate individual and group rights, the rights of middle class, business and poor people. It needs to be able to deliver land titles to the public in an accessible and user friendly manner. It wants to deliver land titles that are not perceived as inferior and which can be upgraded to full ownership.

In order to achieve this, a land tenure reform programme that is underpinned by the following principles with respect to state-held land in the former homelands is necessary:

1. There is a need to divest government of the responsibilities of land ownership in the former homeland areas - a colonial and apartheid legacy
2. To transform the current land administration and tenure systems into a unitary system of land tenure - ownership (freehold) and statutory rights which can be legally registered
3. To lay the foundation for integrated economic development and sustainable land use and agricultural development by providing the basis for secure investment in the land by rural households, private entrepreneurs and local government
4. With regard to the governance aspects of land administration, to build on the existing local institutions and structures, both to reduce the costs to the government budget and to ensure local commitment and popular support:

To overcome the constraints and achieve the principles that are mentioned, in collaboration, the Ministry and the Department must draft an overarching legislation which would deal with all the problematic legislation on the statute books and provides for the consolidation and rationalisation of the land tenure system in terms of freehold ownership and statutory rights.

4.2.3 Spatial planning approach to Land Reform

The National Development Planning Commission in close collaboration with the Department has produced a green paper on Development and planning. Work is

underway to produce a white paper, which will set out clear policy direction on a number of key areas.

The integrated rural development policy is intended to concentrate public investment and service delivery improvements in areas within the poorest provinces, which have the best prospect for significantly increasing production and employment among the disadvantaged. This requires much closer co-ordination between government departments and the strengthening of district and municipal level planning.

We need to develop policies that will begin to challenge the increasingly inequitable access to urban and rural economic and social resources along racial lines.

The Department is well placed to meeting these challenges. This would however require a development of a broader policy framework, which would seek to reflect overall government priorities. This opportunity has not been fully exploited by the Department.

The Land Development Directorate needs to be capacitated to enable their effective participation in the process already initiated by the President.

In the near future I expect to engage the Department in the pursuit of a more integrated approach to land redistribution which amongst other things, would seek to address more closely the issues of development and the challenging of settlement patterns of the past.

5 Integrated policy formation.

There is a need to integrate policy formulation between the departments of Agriculture and Land Affairs. This will necessarily entail a comprehensive integrated legislative framework.

There is a need for policy, guidelines and coordination between the various stakeholder departments (Water and Forestry, Public Works) to ensure a consolidation and rationalisation of resources.

6 Structure of the Department.

The proposed restructuring plans submitted to the Ministers office have not been given approval.

This clarifies the current position further with regards to the proposed structure that was submitted for consideration.

As you will all recall, the restructuring proposal by the Department was the result of the Departments transformation programme which amongst other things sought to bring about equity and improved efficiency and effectiveness of the Department's service delivery to the public.

These efforts by the Department however need to be aligned with wider government objectives.

It was therefore not deemed prudent to consider the Departments proposal in isolation from wider stated government objectives.

Direction was given by Cabinet at its meeting on the 4th of August 1999 that effective and measurable plans should be established in all Departments, together with Components listed in Schedule 1,2 and 3 of the Public Service Act 1994. This is to meet a broader government objective, that of assessment of the effectiveness of delivery in the public service, with the view to the determination of the most effective size of the public service.

To this end the DPSA has given direction that Departments are required to provide the following:

1. A strategic plan informed by the service demands describing core objectives, activities, goals and targets of the Department and the programme for attaining these. In addition this has to be linked to the budgets required to attain such goals and targets.
2. A human resource plan, which indicates available resources (assessed in accordance with the public Service Regulations).
3. An organisational structure and post establishment that supports the strategic plan.
4. A service delivery improvement programme.

It is deemed that these management plans will then provide the DPSA with the relevant information to determine staffing and budgetary needs of the Department in line with the New Public Service Management Framework.

It is believed that Department has delivered on all key requirements as set out by the DPSA that will take this process forward. These are the following:

- A description of core functions, activities, targets and goals, linked to programmes to attain such goals and targets.
- A definition of the existing service standards of the Departments as well as the actual needs and a programme to satisfy the actual needs.
- The prevailing post establishment (actual number and grades of posts).
- The actual availability of personnel and skills against the personnel/skills needs or shortages.
- Sectoral/geographical definition of services and personnel/skills/availability and needs.

Any proposed structure would therefore need to be informed by the new requirements.

7 The program of change.

The current grant system will continue, but will be subject to a number of changes. The objective of the new programme is to gradually change the structure of the South

African agriculture by opening opportunities thereby creating a significant number of black commercial farmers operating on medium and large scale.

- There will now be an additional grant system, which will contribute to local economic development in the rural sector.
- The new grant will compliment current provisions but will differ in emphasis to cater for the varying needs articulated in the land redistribution objectives.
- All grant instruments will remain based on the Government's RDP targets for redistribution land.

The new programme is designed with the intention to distribute at least 15% of farmland in five years. The programme envisages land redistribution as a mechanism to facilitate long-term structural change in agriculture.

8 Moratorium on Redistribution projects.

Pipeline/legacy projects will continue as before to be dealt with on a case by case basis.

The deadline for dealing with pipeline projects will be the 31st of April 2000. All projects in the pipeline are therefore expected to have reached the Ministry by the said date.

All new projects are now to comply with the new guidelines. Projects reaching the Ministry after the cut off date are expected to be in line with the new guidelines.

The moratorium on new redistribution projects is therefore no longer applicable as from the day of this announcement.

ⁱ South African Land Policy, April 1997, Page 83.