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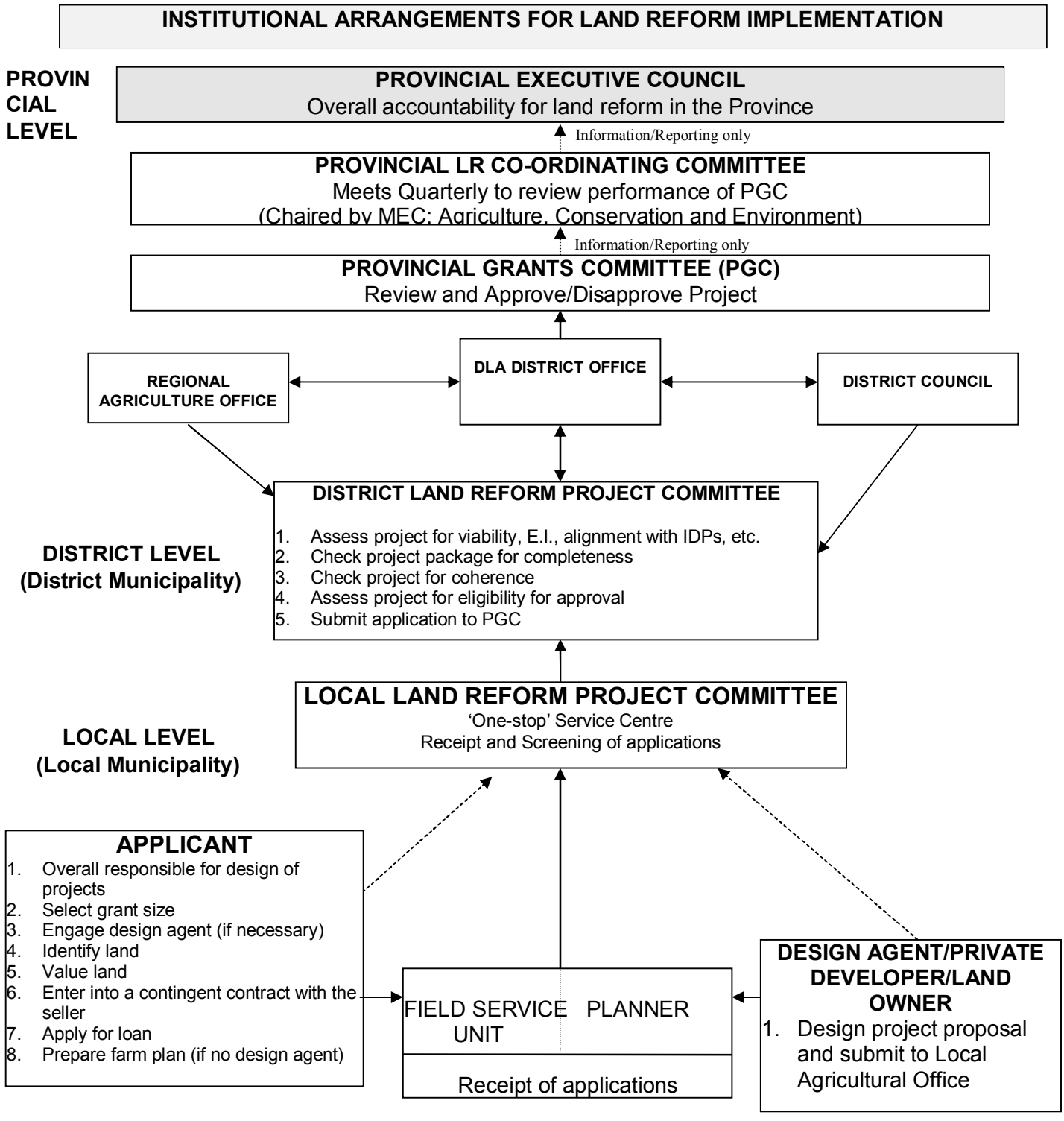
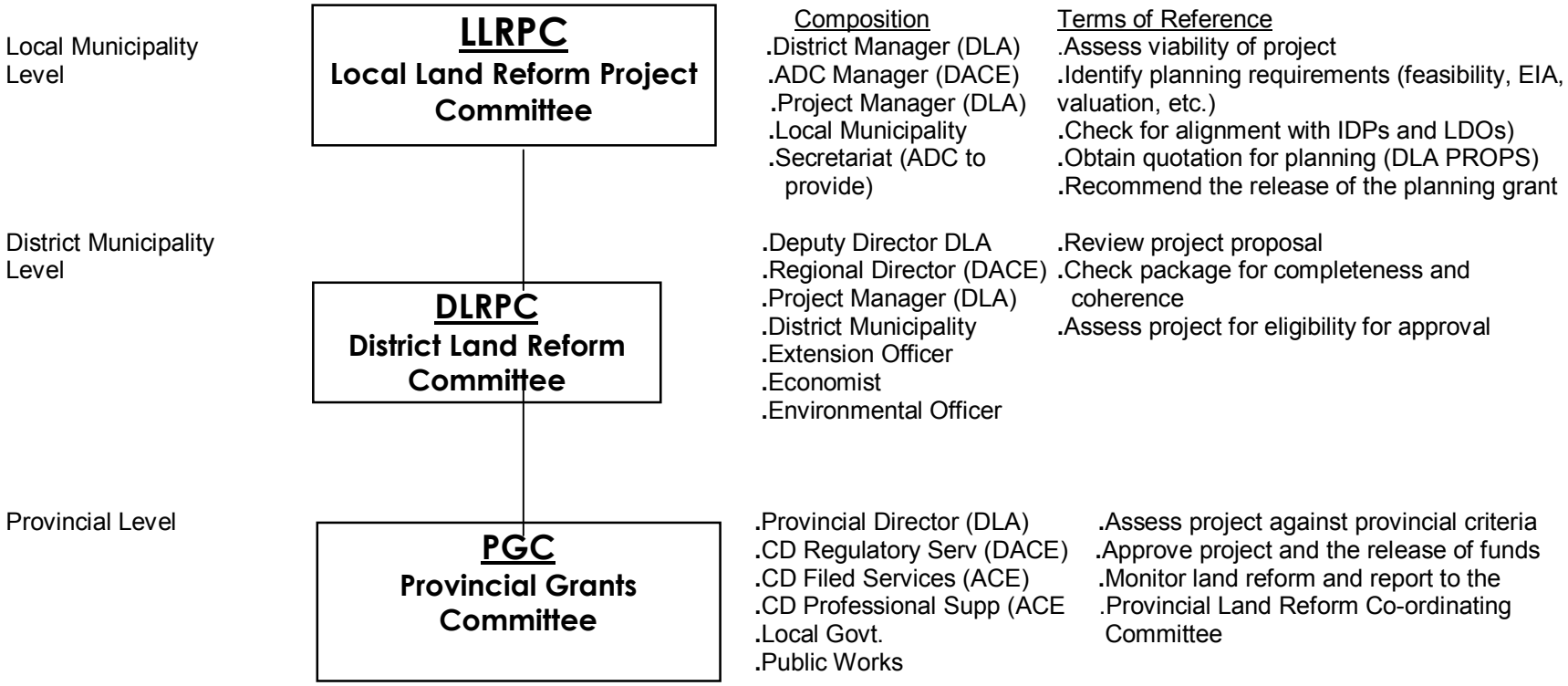
APPENDIX 1: LAND REFORM INSTITUTIONAL ARRANGEMENTS IN THE NORTH WEST PROVINCE (Source: North West PLRO)

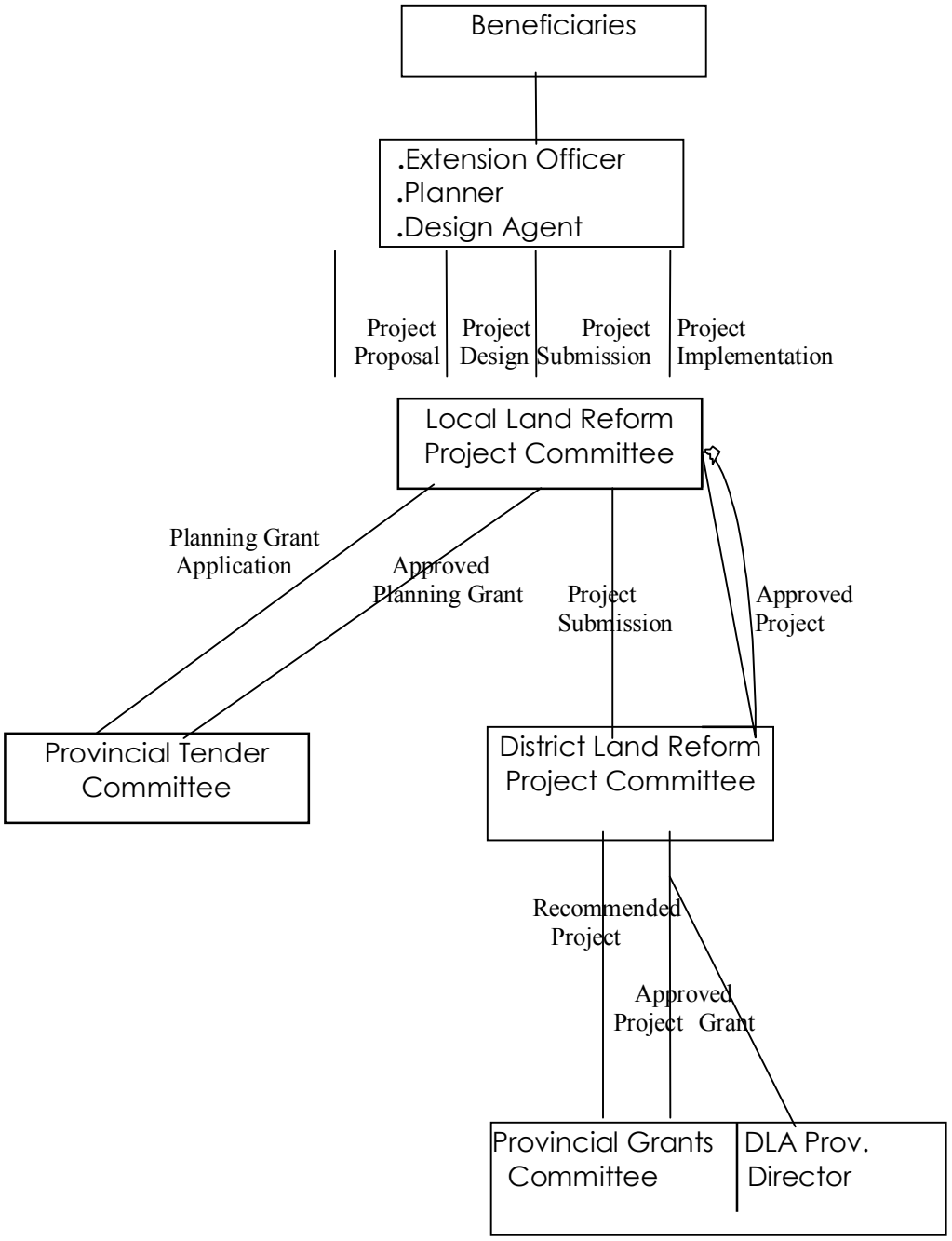


APPENDIX 2: Institutional structures for dealing with LRAD applications



Source: North West PLRO

APPENDIX 3: LRAD project approval process



Source: North West PLRO

APPENDIX 4: STRUCTURED INTERVIEW SCHEDULE WITH MANAGERS ON ADMINISTRATION OF THE LRAD PROGRAMME IN THE NORTH WEST PROVINCE OF SOUTH AFRICA

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January 2008

PURPOSE:

The questions are meant to draw from key respondents (deputy-directors to chief-director level) their experiences with regard to the administration of the LRAD programme, during the period since inception in August 2001 until the end of the 2006/07 financial year. The study is mainly about the effectiveness with which the LRAD programme was administered. The information gathered through these structured interviews will be used for academic purposes, in compliance with the requirements of a doctoral thesis.

Two implementation "phases" have been identified in terms of this study:

Phase 1: Introduction of the LRAD programme in August 2000.

Two implementation streams were in place, namely the Provincial Land Reform Office (PLRO) route as well as the Land Bank route. The Provincial Department of Agriculture, Conservation and Environment was expected to provide technical support during the pre- and post-settlement stages.

Phase 2: Confined to the financial years 2004/05 until 2006/07.

The Land Bank implementation route was revoked at the end of the 2003/04 financial year; as such LRAD programme administration was driven mainly by the North West PLRO. The Provincial Department of Agriculture, Conservation and Environment was still expected to provide technical support during the pre- and post-settlement stages, as well as provide grant funding to land reform beneficiaries from the Comprehensive

Agricultural Support Programme that was launched in the 2004/05 financial year. Land Bank was expected to continue supporting the process of land redistribution by giving loan finance to qualifying beneficiaries of the LRAD programme.

EXPERIENCE OF RESPONDENTS IN TERMS OF LRAD IMPLEMENTATION

1. Job title……..

2. Name of institution working for currently……..
3. Number of years working for the institution……..
4. How long have you been involved with LRAD administration in the North West Province……
5. In what capacity/ties have you been involved with LRAD administration during this period.....
6. Can you please spell out clearly what your current role in LRAD administration entails……..

OPINIONS OF RESPONDENTS ON KEY DEFINING FEATURES OF A WELL-ADMINISTERED LRAD PROGRAMME, AS WELL AS ROLE EXPECTATIONS OF MANAGERS

7. In your opinion, what do you think are the key defining features of a well-administered LRAD programme.....?
8. What do you think are the critical factors for effective administration of the LRAD programme in the North West Province……
9. What in your opinion should the leadership role of Management be in effective administration of the LRAD programme within your institution……

TAPPING ON THE INSTITUTIONAL MEMORY OF RESPONDENTS PERTAINING TO LRAD PROGRAMME ADMINISTRATION

10. What functional responsibilities came about to your institution as a result of the introduction of the LRAD programme……

11. What measures were put in place by your institution to ensure effective administration of the LRAD programme……..

12. What other measures do you think ought to have been put in place, and the reason/s therefore……

13. What in your opinion constrained your institution from putting up all the necessary measures for effective administration of the LRAD programme……

14. What has been the role of your institution in the administration of the LRAD programme……

15. Which other institutions were involved in the administration of the LRAD programme……

16. Which other institutions do you think ought to have been involved in the administration of the LRAD programme, and why……..

17. Did other institutions have to depend on your institution in order for them to effectively implement the LRAD programme

Yes……No……..

18. If yes to the above question, name the institutions and please describe the nature of the dependency relationship……

19. Having described the dependency relationship above, what in your opinion constrained your institution from effectively performing functions pertaining to the LRAD programme, on which other institutions depended to implement the LRAD programme.

20. Did your institution have to depend on other institutions for it to implement the LRAD programme?

Yes……No……

21. If yes to the above question, name the institutions and please describe the nature of the dependency relationship……

22. How did the institutional dependency described above enhance effective implementation of the LRAD programme by your institution……

23. What other factors (internal or external to the institution) have enhanced the effective administration of the LRAD programme within your institution……

24. How did the institutional dependency constrain your institution from implementing the LRAD programme effectively……

25. What other factors (internal or external to the institution) do you think constrained your institution from implementing the LRAD programme effectively……

26. Which stage/s or phase/s in the LRAD implementation process do you think was/were impacted negatively by the constraints mentioned in questions 24 and 25 above, and why……

27. What measures were put in place by your institution in particular to deal with constraints mentioned above……

28. What other measures were introduced by government to bring about better co-ordination of administration of the LRAD programme……

RECOMMENDATIONS SUGGESTED BY RESPONDENTS

29. What recommendations can you make to improve multi-institutional co-ordination of the administration of the LRAD programme……

30. What recommendations can you make to improve effective implementation of the LRAD programme within your institution……

THANK YOU FOR PARTICIPATING

APPENDIX 5: Process for approving LRAD applications in the North West Province

1. Planning phase

1.1 Pre-application stage

The buyer identifies a farm to purchase. After locating a farm to purchase, the buyer negotiates the purchase conditions with the seller. The seller makes an offer, which if the buyer accepts; he/she will then proceed to the next stage of applying for the LRAD grant.

Buyers are encouraged by the NWPLRO planners to negotiate offers which remain valid for a period of three months, since it is considered that within three months the PGC would have made a decision in terms of whether to approve or decline an application. The offer that buyers accept from the seller is considered preliminary by the NWPLRO, since the NWPLRO still has to do property valuation and negotiate price on behalf of the applicant.

1.2 Application stage

The buyer approaches any office of the DACE (at local or district level), the Land Bank, local municipality or District Land Reform Office (DLRO) to apply for the LRAD grant, using a prescribed application form. An application is considered to have been formally received and registered when it has been received by the DLRO, which implies that in cases where an application is submitted to the DACE, Land Bank, or local municipality, these institutions then forward the application to the DLRO.

Once the DLRO receives an application, it is registered in the database of applicants, a file is then opened with a file number and the project allocated to a planner. The admin clerk does the basic administration work of opening project files for all projects received by the DLRO.

The planner would once he/she receives a file for the project do the following:

- screen the application for compliance with procedures governing the LRAD programme;
- calculate the amount of LRAD grant which the applicant qualifies for;
- write an acknowledgement letter to the applicants to indicate among others the following:
    - additional information that must be submitted by the applicant;
    - the need for applicants to form a legal entity if they had not done so;
    - based on the preliminary value of assets owned by the applicant, the LRAD grant amount which the applicant would qualify for;
    - in the case where the LRAD grant would be insufficient to purchase the farm, to inform and advise the buyers to remedy the situation by for example applying for a loan at the Land Bank or any other commercial bank; and
    - where the application form provides all the required information, and the applicant does not meet the conditions attached to the LRAD, he/she will be informed as such and the file will be closed;
- do a deeds search to ensure that the seller is indeed the owner of the property;
- liaise with the Commission for Land Restitution to ensure that there is no valid restitution claim lodged against the property;
- send a request to the DACE local office for assistance with:
    - a technical assessment of the farm;
    - compilation of a feasibility report, to ensure that if the project is not feasible, it is rejected before much government resources are wasted on it;
- the planner works with the Agricultural Extension Officer from the DACE in compiling the farm assessment and feasibility reports, which activities also involve engaging the applicants to confirm (i.e. through farm inspection) information as submitted in the application form:
    - the correctness of all the basic information (e.g. their particulars and profile;
    - the size of farm;

- the basic farming activities being undertaken on the farm;
- the available infrastructure; and
- the purchase price.

1.3 First presentation to the Local Land Reform Committee or District Land Reform Committee

In the North West Province, it was originally planned to have three committees, namely Local Land Reform Committee (LLRC), District Land Reform Committee (DLRC) and Provincial Grants Committee (PGC) (see Appendices 1-3), however, there are differences between the four DLROs in terms of the committees that assesses the LRAD applications as follows:

- Bojanala Platinum District Municipality: The applications are processed by one committee (a hybrid between LLRC and DLRC) before reaching PGC.
- Ngaka Modiri Molema District Municipality: The applications are processed by one committee (a hybrid between LLRC and DLRC) before reaching PGC.
- Dr. Kenneth Kaunda District Municipality: Has both the LLRC and DLRC, through which the application must pass before it reaches PGC.
- Dr. Ruth Segomotsi Mompati District Municipality: Has both the LLRC and DLRC, through which the application must pass before it reaches PGC.

The planner can prepare and make an introductory submission of the application to the DLRC, in both of the following cases:

- Applications for which the planner does not have all the required information (e.g. where the applicant/s meet the basic requirement for the LRAD programme but still have to furnish the planner with additional information he/she has requested). The purpose with such an introductory submission to the DLRC is:

  - For the committee to be made aware of the existence of such a project. The DLRC can after briefly considering the submission, reject the application outright based on factors such as exorbitant

cost of the land (based on facts) as specified in offer-to-sell agreement, and non-compliance to policy. In the instance where the application is rejected, the applicant shall be notified and the file closed.

- In the instance where the DLRC is of the view that there is merit in proceeding with the application to the next stages, the planner would be advised on the basic issues (e.g. land price and feasibility), which he/she must consider when he/she comes back to the committee to make a second submission, to request a planning grant.

- For the DLRC committee to start the process of tracking progress on the project, since it would have been captured in the minutes thus making tracking easier.

- Applications for which the planner has all the required information. The purpose of such a submission to the DLRC is:

  - for the committee to be made aware of the existence of such a project;
  - to identify planning requirements (e.g. property valuation);
  - to request that a planning grant be approved;
  - for the committee to check for compliance with the requirements of the LRAD programme, and advise the planner on the issues that he/she must consider when taking the application forward to the next stages; and
  - for the DLRC to either reject the application outright, or approve the request for the planning grant (with or without corrections), after having considered it.

After the planning grant has been approved by the DLRC, the DLRO Manager (who is the DLRC Chairperson) will do the following:

- Have the Project Information Report (PIR) prepared, which he/she will then sign.

- Fill in the necessary form to provide information as required in the Basic Accounting System (BAS).
- Submit the PIR, BAS information, and a copy of the DLRC minutes directly to the DLA, for the DLA to register the project in the BAS system. A copy of the minutes sent to the DLA provides proof that the request for the release of the planning grant has been approved by the DLRC, and to prevent the DLRO Managers from taking arbitrary decisions pertaining to approval of planning grants. It is important for the project to be registered in the national BAS system because without this, the planning services cannot be procured for the project, and the LRAD grant cannot be paid. The BAS system thus creates an identity for the project, against which all financial transactions for the project shall be referenced to ensure proper controls.
- In the meantime, while the process of registering the project in the BAS system is unfolding, the planner would prepare the terms of reference (TOR's) for the appointment of the planning service provider.
- Once the DLRO receives official confirmation from the DLA that the project has been registered in the BAS system, the DLRO Manager would then prepare the necessary documents (attaching the terms of reference to the submission) for submission to the NWPLRO, for procurement of planning services for the project (only service providers who are in the DLA database are considered for appointment). The NWPLRO does the appointment of the service provider, and informs the DLRO.

Once the service provider (e.g. property valuer) has been appointed, he/she will prepare, for example, a property valuation report which must be handed to the planner appointed for the project. The planner would:

- Monitor the work of the service provider to ensure that it complies with the terms of reference for his/her appointment
- Once he/she receives a report (e.g. property valuation report) from the service provider, use such a property valuation report (which is the official and legal tool which planners use to negotiate down the purchase price of farms) to negotiate (together with the buyers) on behalf of buyers with the seller for a reduction in the land purchase price. The planner cannot

negotiate indefinitely, as such, irrespective of whether the seller agrees to reduce the price or not, the planner would prepare a detailed submission to be presented to the DLRC for a decision on whether to recommend the project to PGC or not. In the detailed submission, the following documents would be attached:

- cover memo providing a summary of the application, and formally requesting release of the LRAD grant;
- profile of buyers;
- profile of seller;
- valuation report;
- proof of own contribution;
- feasibility report, or business plan (when available);
- if Land Bank loan was secured, a letter of confirmation;
- a letter from the Commission for Land Restitution confirming that there is no valid claim against the land; and
- If the land to be purchased through LRAD grant is state land, a letter of authorisation from the Minister of Rural Development and Land Reform for the release of the described state land.

1.4 Presentation to the DLRC for recommendation to PGC

The planner would once he/she has all the required information to make a detailed submission, submit a request to the secretariat of the DLRC to include his/her application in the agenda for presentation to the DLRC, as a detailed submission requesting recommendation to the PGC. The planner would then make a presentation to the DLRC, requesting it to recommend to the PGC the release of the LRAD grant. The DLRC can make one of the following decisions:

- Decide not to recommend the application to the PGC. If a project is not recommended, the file will be closed and the applicants informed as such. However, if it has the potential to be resubmitted after short-comings as

identified by the DLRC were corrected, the planner would address the shortcomings for resubmission later.

- Recommend the application to the PGC, subject to corrections identified by the DLRC being made first. If there are any corrections to be made, it would be up to the DLRC Manager to ensure that these are made.

- Recommend the application to the PGC without any conditions attached. The decision process of the DLRC is consensus based.

2. LRAD grant approval phase– PGC level

2.1 Submission of request for approval of LRAD grant to the PGC

The DLRO would, after the application has been recommended by the DLRC, prepare a formal submission to the PGC. The application would contain all the attachments as were submitted to the DLRC plus others as deemed necessary by the DLRC, with the exception that in the cover memo the planner would be requesting the PGC to approve the LRAD grant. The application must be submitted a minimum three weeks before the scheduled meeting of the PGC. The reason for submission of the documents three weeks earlier is:

- To afford the PISU at the NWPLRO, and all the PGC members, an opportunity to scrutinise the application for compliance with official policy, and to make policy-related as well as general inputs on the submission before it can be presented in the PGC sitting,
- To avoid having the PGC decision-making processes being slowed down with petty issues that should have been dealt with at DLRC level.
- To ensure that inputs/comments made are communicated back to the DLRO Manager for him to attend to so that when the application is resubmitted to the PGC secretariat, it is ready for consideration by the PGC. The comments/inputs are made in writing for each project and sent to the DLRO for them to be attended to via the PGC secretariat. The project could be temporarily withdrawn if the comments/inputs are major, so as to allow time for the DLRO to work on the submission. The corrected submissions are sent back to the PGC secretariat before the sitting of the PGC.

The role of the PISU in supporting the PGC is to do quality check of the submission in terms of, among others:

- compliance with policy;
- ensuring that relevant documents have been attached;
- ensuring correctness of the cover memo; and
- ensuring corrections in line with the DLRC minutes (i.e. whether any conditional issues raised by the DLRC when it recommended the application have been dealt with).

2.2 Approval of the application

The planner, accompanied by the DLRO Manager plus other team members (e.g. agricultural extension officer from the DACE), presents the application to the PGC. The PGC would scrutinise the application, and make one of the following decisions:

- Reject the application. In this instance the applicant will be informed of the decision of the PGC as well as reasons therefore. The project file will then be closed.

- Refer the project back. The application will be referred back for certain issues/concerns as identified by the PGC to be attended to by the DLRO. Once the issues have been dealt with, the application can be resubmitted later.

The PGC approval process is consensus based. Once the PGC approves the application, the chief director for the NWPLRO (who is PGC chairperson) would prepare and sign a memo to be submitted to the DLA, indicating approval of the LRAD grant and for the DLA finance directorate to begin making preparations for payment of the grant once the conveyancing process begins. The DACE representative in the PGC, as well as the DLRO Manager of the affected LRAD project, would also co-sign the memo to the DLA approving the release of the LRAD grant. The memo would be submitted to the DLA, together with a copy of the PGC minutes reflecting the approval decision made on the project.

The decision for the release of the LRAD grant would then be communicated to the following:

- The buyer of the property
- The seller of the property

3. Property registration and transfer - conveyancing phase

The property transfer process happens as follows:

- The DLRO would draft the TOR's for appointment of property transferring/conveyancing attorneys. The TOR's would then be sent to the NWPLRO for appointment of a service provider.
- The transferring attorneys would then draft a deed of sale to be signed by both parties (i.e. the buyer & seller). The draft deed of sale would be submitted to the DLRO to check for correctness before signing off by the buyer and seller.
- After signing, the DLA will then issue a guarantee letter to the transferring attorneys, giving an assurance that the transaction is going ahead, and that there are sufficient funds available (funds for land purchase plus transfer costs). In case where a portion of funds for the purchase of the property are loan funds, the bank will also issue a guarantee letter to the transferring attorneys indicating the availability of loan funds.
- The transferring attorneys will then lodge the documents with the deeds office for registration of the property

While the above-mentioned property registration processes is unfolding, the planner will in the meantime do the following:

- Prepare a package of the whole documentation required for payment purposes, which includes:
  - Original invoices from transferring attorneys, which covers land price plus transfer costs.
  - A copy of certified memo from the PGC.
  - A certified guarantee letter.

- A memo to the DLA finance section, requesting payment from the LRAD grant funds (i.e. for land purchase plus transfer costs).
- The package would be sent to the NWPLRO to capture the information for payment, but authorisation will be done by the DLA. After capturing, the whole package (documentation) will then be sent to the DLA to make payment. The reason why these processes have to run concurrently is that come the day of transfer, when the project manager receives notification of transfer or registration of the property, he/she has to immediately notify the finance section at the DLA national office to process payment to the trust account of the transferring attorneys. Payment takes place within 48 hours after the DLA has received formal notification from the NWPLRO to make it. Once the necessary conditions have been met (including payment of LRAD grant funds to the seller), the property would be registered in the name of the buyers, and transferred to them.

4. Post-transfer phase

Once the project is transferred, the applicants must start farming. For them to start farming they would need the following:

- agricultural extension support;
- funding from the balance of LRAD grant (i.e. balance of grant if any);
- CASP funding from the DACE; and
- production loan from a financial Institution (if any).