



COMMISSION ON RESTITUTION OF LAND RIGHTS  
IKHOMISHANA YOKUBUYISELWA  
KWAMALUNGELO OMHLABA  
KOMISHINI E MABAPI LE PUSETISO YA  
DITSHWANELO TSA LEFATSHE  
KOMMISSIE OP HERSTEL VAN GRONDREGTE

Commission on Restitution of Land Rights  
Regional Land Claims Commission: Gauteng and North-West Provinces  
9 Bailey Street, Arcadia, Private Bag X 03, PRETORIA 0007  
Tel: (012) 310-8500, Fax: (012) 323-2881

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT AND THE FINALISATION IN THE MATTER OF BAKGATLA BA MOSELHA TRIBE CONCERNING TRANSACTIE 3 JR: PORTION 0 OF DEPUTEN 4 JR, PORTION 1 OF VOGELSTRUISPAN 6 JR: PORTION 1 OF VOORUITZICHT 7 JR; PORTION 0 (REMAINING EXTENT) OF ZWARTBOOM 9 JR: PORTION 1 OF HAAKDOORNBULT 49 JR; PORTION 2, PORTION 3, PORTION 5, PORTION 6, PORTION 7 (A PORTION OF PORTION 2) OF LEEUWKRAAL 50 JR; PORTION 4 (A PORTION OF PORTION 2) OF BUFELSDRIEF 51 JR; PORTION 0 OF LOCHNESS 478 KR; PORTION 0 OF TOWER 480 KR; PORTION 0 (REMAINING EXTENT) OF WORCESTER 481 KR; PORTION 0 (REMAINING EXTENT) OF HAARTEBESLAGTE 66 JG; PORTION 0 (REMAINING EXTENT) OF TAMBOOTELAAGTE 164 JG; PORTION 1, PORTION 2, PORTION 3 (REMAINING EXTENT), PORTION 4 (A PORTION OF PORTION 3) OF KLIPDRAAI 166 JG; PORTION 0 (REMAINING EXTENT) OF DE GRENS 168 JG; PORTION 1 (REMAINING EXTENT), PORTION 2 (REMAINING EXTENT), PORTION 3 (REMAINING EXTENT), PORTION 4 (A PORTION OF PORTION 2), PORTION 5 (A PORTION OF PORTION 1), PORTION 6 (A PORTION OF PORTION 1), PORTION 7 (A PORTION OF PORTION 3), PORTION 8 (A PORTION OF PORTION 1), PORTION 9 (REMAINING EXTENT) (A PORTION OF PORTION 1) PORTION 10 (A PORTION OF PORTION 2) OF FLINK ZYN DRIEF 169 JG; PORTION 1 (REMAINING EXTENT), PORTION 2 (REMAINING EXTENT), PORTION 3 (REMAINING EXTENT), PORTION 4 (REMAINING EXTENT), PORTION 5 (A PORTION OF PORTION 4), REMAINING EXTENT OF PORTION 7 (A PORTION OF PORTION 1), PORTION 8 (A PORTION OF PORTION 3), PORTION 9 (A PORTION OF PORTION 7), OF RHENGSTERDRIEF 172 JG; PORTION 1 (REMAINING EXTENT), PORTION 2 AND PORTION 5 (A PORTION OF PORTION 1) OF WILDEBESKUIL 173 JG; PORTION 5 (A PORTION OF PORTION 1) OF KALKBANK 234 JG; PORTION 0 OF WATERVAL 561 KG; PORTION 0 AND PORTION 2 (REMAINING EXTENT) OF KLIPPOORTJIE 564 JG, IN THE MORETELE LOCAL MUNICIPALITY, BOJANALA DISTRICT, NORTH WEST PROVINCE.

REFERENCE: Z 0277

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF BAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOLAANGA DISTRICT, NORTH WEST PROVINCE

## CHIEF LAND CLAIMS COMMISSIONER

### 1. PURPOSE

- 1.1. To inform the Chief Land Claims Commissioner of the negotiation process, and that the parties have reached an agreement as to the manner in which the land claim for the above mentioned farms, should be finalized;
- 1.2. To inform the Chief Land Claims Commissioner of the certification of the agreement between the parties in the above mentioned land claim by the Regional Land Claims Commissioner for Gauteng and North West Provinces: Ms Kumeleng Seboka in terms of Section 14(3) of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994) as amended;
- 1.3. To request the Chief Land Claims Commissioner to approve the draft Settlement Agreement reached by the parties in terms of Section 42D of the Restitution of Land Rights, 1994 (Act no. 22 of 1994) as amended;

• Copy of the required draft settlement agreement attached as Annexure A

- 1.4. To request the Chief Land Claims Commissioner, in terms of Section 42D of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994) as amended, to approve the settlement transfer of the above mentioned properties in favour of the Bakgatla Ba Moseitha Tribe;
- 1.5. To request the Chief Land Claims Commissioner to approve R25 014 835-00 as Restitution Settlement Grants, for the above mentioned land claim; and
- 1.6. To request the Chief Land Claims Commissioner to approve the amount of R38 150 000-00 in terms of Section 42 C of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994) as amended, for the above mentioned land claim;
- 1.7. To request the Chief Land Claims Commissioner to approve the transfer of the above mentioned State land to the claimants' community in terms of the State Land Disposal Act, 1961 (Act 48 of 1961);
- 1.8. To request the Chief Land Claims Commissioner to authorize the North West Provincial Land Reform Office Chief Director or the Director, Public Land Support Services to sign transfer documents on behalf of the National Government of the Republic of South Africa; and
- 1.9. To request the Chief Land Claims Commissioner to authorize the Commissioner on Restitution of Land Rights for Gauteng and North West Provinces or her nominee to sign the agreements with the individual parties on behalf of the Chief Land Claims Commissioner;
- 1.10. The approval of the claim and the settlement thereof in terms of Section 42D of the Restitution of Land Rights Act, 1994, above, is conditional upon the following:

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF BAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MOSETHLE LOCAL MUNICIPALITY, BOJAWALA DISTRICT, NORTH WEST PROVINCE

- The ratification of the approval/restoration and the settlement of the claim by the relevant Provincial State Land Disposal Committee;
- The concurrence by any other appropriate National State Department Government in respect of provincial state land;
- The approval of the relevant executive authority in terms of applicable legislation for the transfer of state land.
- Should the ratification or concurrence in terms of the above, respectively, not be obtained or should additional conditions be imposed or existing terms be amended, the claim and settlement in terms of Section 42D of the Restitution of Land Rights Act, 1994, be referred back to the Minister or delegated authority for approval or be made subject to such conditions."

## 2. INFORMATION REGARDING THE LAND CLAIM

### 2.1 LODGEMENT OF THE LAND CLAIM, REPRESENTATION, AND *domicilium citandi et executandi*

2.1.1 The land claim was lodged with the Commission on Restitution of Land Rights Gauteng and North West Provinces in the prescribed manner before the 31<sup>st</sup> of December 1998, in compliance with Section 11(1) and 2(1) of the Restitution of Land Rights Act, (Act no. 22 of 1994) as amended. Chief Motseywa Hendrick Makapan lodged a restitution of land rights claim on behalf of the Bakgatla Ba Mosetha Tribe. He lodged the claim in his capacity as the Chief of the Tribe which was forcefully removed from the various farms which are under claim. The claim was lodged on the 30<sup>th</sup> of November 1998 on the prescribed land claim form. A committee was appointed to prosecute this claim to its finality. All the properties that have been claimed are state owned and will be transferred to the claimants' community gratis.

- Copies of the land claim form and claimant's ID attached as Annexure B

2.1.2 The process of establishing a legal entity has been completed and the Bakgatla Ba Mosetha Communal Property Association (CPA) will be registered as soon as the Section 42D submission gets approved. The election of the members of the CPA took place on the 21<sup>st</sup> of June 2008. The following are the members of the elected committee:

No.	Name	ID Number	Portfolio
1.	Mr. Kgokane William Setshedi	5106255590385	Chairperson
2.	Mr. Magabane David Lelobye	4201016804080	Deputy Chairperson
3.	Ms. Seketerne Elizabeth Lebogo	6905310549068	Secretary
4.	Ms. Mmatshubudi Kgata	6605130760083	Deputy Secretary
5.	Mr. Mochotsi George Rakale	6606175897089	Treasurer
6.	Mr. Ramongalo Dan Moeng	7708245985089	Deputy Treasurer
7.	Mr. Malaka Jerry Thibane	5712256148086	Project Coordinator
8.	Mr. Klaas Ngoako	5408035712082	Deputy Project Coordinator
9.	Mr. Nicholas Mphokeng	4809105466080	Public Relations Officer

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF BAKGATLA BA MOSELITHA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOJANALA DISTRICT, NORTH WEST PROVINCE.

10.	Mr. Selio Kenneth Moloisane	6201018529089	Additional Member
11.	Mr. Moagi Joseph Ramoufwa	2602085161082	Additional Member
12.	Ms Malefoka Elizabeth Modise	3806110229082	Additional Member
13.	Ms. Maiphaphi Nkopodi	8110290824084	Additional Member
14.	Mr. Isaac Sethedi	5804115980088	Additional Member

2.1.3 This committee has been appointed to serve the community until the holding of the third (3<sup>rd</sup>) annual general meeting after registration of the association with the Director General of the Department of Land Affairs, provided that the first annual general meeting shall be held within six (6) months reckoned from such date of registration. At the first annual general meeting, persons are elected to form the committee. The appointment of the committee members will be for a period of three years ending at the third annual general meeting, and this procedure is repeated every three years with the aim of members democratically electing committee members. The term of the committee members is three years.

• Copy of the required memorandum for the registration of the CPA and the constitution of Bakgatlha Ba Moselitha attached as Annexure C

2.1.4 The committee elected the address stated herein below as their *domicilium citandi et executandi* for the purpose of service and receipt of documents, notices and court processes should it arise relating to this land claim.

2228 MOSATE SECTION  
 MAKAPANSTAD  
 0404  
 NORTH WEST PROVINCE

## 2.2 LAND CLAIMANTS PROFILE AND THE VERIFICATION PROCESS

2.2.1 The land claimants are the direct descendants of the original owners while some are the originally disposed. The land claimants have been fully verified in the usual way by means of documentation, which includes the certified verification forms, certified ID copies etc. Several verification exercises were held with the land claimants, which resulted in a list of beneficiaries drawn from households' affidavits of the affected beneficiaries who are all the direct descendants of the originally disposed families.

• Copy of the required verified household list attached as Annexure D

## 2.3 PROPERTY DESCRIPTION AND LOCALITY OF THE CLAIMED LAND

2.3.1 The claimed properties are situated in Moretele Local Municipality, Bojanala District and North West Province. The farms to be transferred to the claimants are owned by the state and have to be confirmed vested in terms of item 28 (1) of schedule 6 to the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)*. Most of the farms are occupied by Bakgatlha Ba Moselitha community with villages and some are vacant.

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF BAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOJUMALA DISTRICT, NORTH-WEST PROVINCE.

2.3.2 The farms that have been claimed are described as follows:

1.	Transactie 3 JR	Portion 0	T7607/1960BP & T84/1980BP	2618.7053 ha
2.	De Putten 4 JR	Portion 0	T12326/1942 BP & T168/1989 BP	3019.2268 ha
3.	Vogelstruispar 6 JR	Portion 1	T160/1/1917 BP & T542/1987 BP	1588.7384 ha
4.	Vooruitzicht 7 JR Ptn 1	Portion 1	T23879/1984 BP & T413/1983 BP	556.7842 ha
5.	Zwarboom 9 JR	Portion 0 (Remaining Extent)	T252/1962 BP & T5277/2008	534.9677 ha
6.	Haakdoornbult 49 JR	Portion 1	T5367/1937 BP & T553/1987 BP	1873.7780 ha
7.	Leeuwkraal 50 JR	Portion 2	T27545/1961 BP & T422/1983 BP	566.1305 ha
8.	Leeuwkraal 50 JR	Portion 3	T3787/1955 BP & T550/1983 BP	174.7325 ha
9.	Leeuwkraal 50 JR	Portion 5	T3787/1955 BP & T550/1983 BP	168.6383 ha
10.	Leeuwkraal 50 JR	Portion 6	T31528/1984 BP & T420/1983 BP	1218.5377 ha
11.	Leeuwkraal 50 JR	Portion 7 (Portion of Portion 2)	T37134/1958 BP & T434/1983 BP	8711.9876 ha
12.	Buffelsdrif 51 JR	Portion 4 (A Portion of Portion 2)	T5368/1937 BP & T1549/1987 BP	813.9018 ha
13.	Lochness 478 KR	Portion 0	T52038/1981 BP & T131/1990 BP	1877.5395 ha
14.	Tower 480 KR	Portion 0	T25797/1977 BP & T132/1990 BP	1200.6437 ha
15.	Worcester 481 KR	Portion 0 (Remaining Extent)	T59139/1986 BP & T129/1990 BP	1039.2345 ha
16.	Hartbeeslaagte 66 JQ	Portion 0 (Remaining Extent)	T7016/1932 BP & T15/1979 BP	1085.7720 ha
17.	Tamboetelaagte 164 JQ	Portion 0 (Remaining Extent)	T26555/1947	2540.1356 ha
18.	Klipdraai 166 JQ	Portion 1	T1324/1940 BP & T57/1986 BP	1042.9458 ha
19.	Klipdraai 166 JQ	Portion 2	T518/1940 BP & T190/1979 BP	1499.8038 ha
20.	Klipdraai 166 JQ	Portion 3 (Remaining Extent)	T22266/1939 BP & T191/1979 BP	946.6221 ha
21.	Klipdraai 166 JQ	Portion 4 (A Portion of portion 3)	T9465/1960 BP & T670/1983 BP	358.6371 ha
22.	Klipdraai 166 JQ	Portion 5 (A Portion of portion 3)	T9465/1960 BP & T670/1983BP	203.2451 ha

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF SAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORELELE LOCAL MUNICIPALITY, BOJWALA DISTRICT, NORTH WEST PROVINCE.

23.	De Grens 168 JQ	Portion 0 (Remaining Extent)	T29902/1947 BP & T404/1983BP	1084.7341 ha
24.	Flink Zyn Drift 169 JQ	Portion 1 (Remaining Extent)	T160/1983 BP & T487/1986 BP	18.6485 H
25.	Flink Zyn Drift 169 JQ	Portion 2 (Remaining Extent)	T38808/1964 BP & T134/1978 BP	1432.2842 ha
26.	Flink Zyn Drift 169 JQ	Portion 3 (Remaining Extent)	T12105/1981 BP & T551/1983 BP	964.0696 ha
27.	Flink Zyn Drift 169 JQ	Portion 4 (Portion of Portion 2)	T9465/1980 BP & T670/1983 BP	77.7807 ha
28.	Flink Zyn Drift 169 JQ	Portion 5 (A Portion of Portion 1)	T3538/1940 BP & T407/1983 BP	456.9981 ha
29.	Flink Zyn Drift 169 JQ	Portion 6 (A Portion of Portion 1)	T6964/1921 BP & T428/1982 BP	456.9981 ha
30.	Flink Zyn Drift 169 JQ	Portion 7 (A Portion of Portion 3)	T9465/1960 BP & T670/1983 BP	403.8120 ha
31.	Flink Zyn Drift 169 JQ	Portion 8 (A Portion of Portion 1)	T113/1985 BP & T513/1987 BP	312.8950 ha
32.	Flink Zyn Drift 169 JQ	Portion 9 Remaining Extent (A Portion of Portion 1)	T74/1978 BP & T487/1986 BP	24.7131 ha
33.	Flink Zyn Drift 169 JQ	Portion 10 (A Portion of Portion 2)	T12105/1961 BP & T551/1983 BP	239.8290 ha
34.	Rhenosterdrift 172 JQ	Portion 1 (Remaining Extent)	T20264/1963 BP & T409/1983BP	713.4041 ha
35.	Rhenosterdrift 172 JQ	Portion 2 (Remaining Extent)	T921/1955 BP & T4081983 BP	1426.6954 ha
36.	Rhenosterdrift 172 JQ	Portion 3 (Remaining Extent)	T27298/1953BP & T71/1980BP	753.1673 ha
37.	Rhenosterdrift 172 JQ	Portion 4 (Remaining Extent)	T1559/1904BP & T5/180BP	790.4064
38.	Rhenosterdrift 172 JQ	Portion 5 (A Portion of portion 4)	T20264/1963 BP & T409/1938	700.3819 ha
39.	Rhenosterdrift 172 JQ	Remaining Extent Portion 7 (A portion of portion 1)	T9166/1961BP & T65/1980BP	539.8101 ha
40.	Rhenosterdrift 172 JQ	Portion 8 (A Portion of portion 3)	T15779/1956 BP	741.9092 ha

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF BAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOJAWALA DISTRICT, NORTH WEST PROVINCE.

41.	Rhenosterdriif 172 JQ	Portion 9 (A Portion of portion 7)	T22482/1961 BP & T411/1983 BP	173,5954 ha
42.	Wildebeeskull 173 JQ	Portion 1 (Remaining Extent)	T21392/1962 BP & T412/1983BP	231,4977 ha
43.	Wildebeeskull 173 JQ	Portion 2	T1560/1904 BP & T3/1980BP	1439,7347 ha
44.	Wildebeeskull 173 JQ	Portion 5 (Portion of portion 1)	T21392/1962 BP & T412/1983BP	117,9345 ha
45.	Kalkbank 234 JQ	Portion 5 (Portion of portion 1)	T17204/1938 BP & T215/1979BP	499,1055 ha
46.	Waterval 561 KQ	Portion 0	T12534/1949 BP & T482/1987 BP	2985,5408 ha
47.	Klippoortjie 564 KQ	Portion 0	T14727/1966 BP	931,8063 ha
48.	Klippoortjie 564 KQ	Portion 2	T14727/1966 BP	1093,5694 ha
			<b>Total Hectorage</b>	<b>52 251,8211</b>

Copies of the required SG diagrams and Locality sketch map attached as Annexure E and F

## 2.4 NATURE AND EXTENT OF RIGHTS LOST

2.4.1 This land claim is a classical case of aboriginal title which involves processes representing the systematic downgrading of rights of a community by use of government racially motivated legislation. The community occupied land in question on or before the 17<sup>th</sup> century until they were forcefully removed against their will. The rights of the land claimants' community cannot be restricted to residential occupation as they also owned large amounts of livestock and used some parts of the farms for grazing and ploughing. There are four types of rights which are applicable to this claim, namely: ancestral rights, beneficial occupational rights, tenancy rights and ownership rights in some properties. The claimants also argue that they owned the land long before the dispossession took place. Their land was taken without their consent and without negotiations for compensation.

2.4.2 In terms of the Restitution Act, section 1 of the definitions reads: the Right in land means any right in land whether registered or unregistered, and may include the interest of a labour tenant and sharecropper, a customary law interest, the interest of the beneficiary under a trust arrangement and beneficial occupation for continuous period of not less than 10 years prior to the dispossession in question.

## 2.5 HISTORY OF ACQUISITION AND DISPOSSESSION OF RIGHTS

2.5.1 The Bakgatla Ba Mosethla community land claim was validated and processed in terms of Restitution of Land Rights Act, 1994 (Act no 22 of 1994), as amended. The preliminary investigation has proven that the removals were racially motivated. From the oral research with the claimants, it emerged that

the community had occupied the farms under claim long before the arrival of whites in the area. That is because the community history dates back to the 17<sup>th</sup> century. At the time of the arrival of white people, the community was already conducting various farming activities in the farms. This includes farming with livestock and ploughing

2.5.2 With the elapse of time, white people began to inform the community that their livestock will be subjected to taxation. On account of this taxation, the community was unable to plough the land and pay for their livestock levy. This resulted into the community being given notices to leave the farms. Land claimants' lives deteriorated with the change of control of these farms from one white person to the other. The situation became worse with the establishment of Bophuthatswana as a self governing state. The incorporation of these farms into Bophuthatswana meant that the community did not have any say in the ownership and control of the farms. Even those farms which they occupied physically were held in trust by the Minister on behalf of the tribe.

2.5.3 The dispossession of Bakgatla Ba Moseitha community was conducted by South African Native/Bantoe Trust and the government of the Republic of Bophuthatswana. They were dispossessed in terms of the Native Land Act, 1913 (Act no 27 of 1913) and the Native Trust and Land Act 18 of 1936. For all intentions and purposes, the community regarded the land as belonging to their ancestors. From the time immemorial, they regarded themselves as the owners of the land. With the introduction of the Native Land Act, black people were precluded from owning land. This community was therefore no exception to the rule.

2.5.4 According to the Natives Land Act, 1913 (Act no 27 of 1913) and Native Trust and Land Act, 1936 (Act no 18 of 1936), areas that had been used as reserves were proclaimed as scheduled areas. These areas were allocated for black settlement only. The Act also made provision to investigate the purchase of additional land for black settlement and prohibited whites from buying land in these areas. The expansion of the scheduled areas only materialized in 1936 with the proclamation of the Native Trust and Land Act, 1936 (Act no 18 of 1936). According to the 1913 and 1936 Acts, any black owned land in areas outside of the scheduled and released areas were to be regarded as black spots. Black spots were defined as poorly situated black areas which were surrounded by white owned rural land. The aim was to remove such black spots from the white areas. This was done by buying the land from the African owner, providing alternative land within the released area and in the case of resistance from the African owner, by expropriating the farm. Furthermore, the South African Native Trust (SANT) held powers to appropriate land from black owners and this body was constituted by Section 4 of the Development Trust and Land Act, (Act no. 18 of 1936). This Section led to the dispossession of the black land owners and the removal of labour tenants and communities for the purposes of implementing the policy of separate development and the consolidation of the so called Homelands along ethnic and racial lines.



2.5.5 The farm Transactie 3 JR was proclaimed a released area according to the Development Trust and Land Act, 18 of 1936. This farm was transferred to members of the Bakgatla Ba Moseitha community on the 07<sup>th</sup> of April 1922 from the white owners under Deed of Transfer T3632/1922. On the 28<sup>th</sup> of March 1938 the farm was again taken from the members of the community by the South African Native Trust (SANT) under Deed of Transfer T5200/1938. On the same year, the farm was further transferred by the SANT to the Minister of Native Affairs in trust for the Bakgatla Ba Moseitha tribe under Chief Hendrik Makapan until it was then transferred to the Republic of Bophuthatswana under the Deed of Transfer T84/1980. This means that the community never enjoyed full ownership right in their land for a long period of time. The tribe would like to regain the full ownership of the farm.

▪ Copy of the required deeds information attached as Annexure H

2.5.6 The farm De Putten 4 JR was proclaimed a released area according to the Development Trust and Land Act, 18 of 1936. This farm was transferred to members of the Bakgatla Ba Moseitha community on the 09<sup>th</sup> of June 1922 from the Transvaal Consolidated land company under Deed of Transfer T567/1922. On the 3<sup>rd</sup> of July 1942 the farm was again taken from the members of the community and transferred to the Minister of Native Affairs of the Union of South Africa in trust for the Bakgatla Ba Moseitha tribe under Chief Hendrik Makapan until it was transferred to the Republic of Bophuthatswana under Deed of Transfer T168/1989. This means that the community never enjoyed full ownership right in their land for a long period of time. The tribe would like to regain the full ownership of the farm.

▪ Copy of the required deeds information attached as Annexure I

2.5.7 The farm Vogelstruispan 6 JR that used to be occupied by the Bakgatla Ba Moseitha tribe before they lost land rights was transferred from white owners to the Minister of Native Affairs in trust for the Bakgatla Ba Moseitha tribe under Chief Hendrik Makapan via Deed of Transfer T1601/1917. The farm was subsequently transferred to the Republic of Bophuthatswana under the Deed of Transfer T542/1987. The community enjoyed ancestral and beneficial occupation rights on the land. The tribe would like to enjoy the full ownership of the farm.

▪ Copy of the required deeds information attached as Annexure J

2.5.8 The farm Voornutzicht 7 JR that used to be occupied by the Bakgatla Ba Moseitha tribe before they lost land rights was transferred from white owners to the Minister of Native Affairs in trust for the Bakgatla Ba Moseitha tribe under Chief Hendrik Makapan via Deed of Transfer T23979/1984. The farm was subsequently transferred to the Republic of Bophuthatswana under the Deed of Transfer T413/1983. The community enjoyed ancestral and beneficial occupation rights on the land. The tribe would like to enjoy the full ownership of the farm.

▪ Copy of the required deeds information attached as Annexure K

2.5.9 The farm Zwartboom 9 JR was proclaimed a released area according to the Development Trust and Land Act, 18 of 1936. It used to be occupied by the Bakgatha Ba Moseitha tribe before they lost land rights and was transferred from the white owners to the South African Native Trust and the Republic of Bophuthatswana via Deed of Transfer T13052/1962 and T414/1983 respectively. The farm was finally vested in the name of the National Government of the Republic of South Africa via Deed of Transfer T5277/2008. The claimants never enjoyed ownership rights on the land. The claimants lost both ancestral and beneficial occupation rights at Zwartboom.

• Copy of the required deeds information attached as Annexure L

2.5.10 The farm Haakdoornbuit 49 JR was held in trust for the Bakgatha Ba Moseitha tribe via Deed of Transfer T5367/1937 and transferred to the Republic of Bophuthatswana via Deed of Transfer T553/87. This farm is up to date still registered under the government and will be vested in the name of the National Republic of South Africa. Bakgatha Ba Moseitha tribe were through the years denied the rights to the full ownership of the farm and would like to be restored such rights.

• Copy of the required deeds information attached as Annexure M

2.5.11 The Bakgatha Ba Moseitha tribe has lodged land claims on five portions of Leeuwkraal 50 JR. All the claimed portions are currently state owned. Portion 2 was transferred from white owners in 1961 to the South African Native Trust and subsequently to the Republic of Bophuthatswana in 1983. The same transaction occurred for Portion 3 and 5 in 1955 and 1963 respectively. Finally, Portion 6 and 7 were also registered in the name of South African Native Trust from 1964 and 1958 respectively and to the Republic of Bophuthatswana in 1983.

• Copy of the required deeds information attached as Annexure N

2.5.12 The farm Buffesdrift 51 JR was held in trust by Chief Makapan for Bakgatha Ba Moseitha through the Deed of Transfer T5368/1937. It was however transferred to the Republic of Bophuthatswana in 1987 via Deed of Transfer T1549/87. The tribe would like to be restored the ownership rights of the farm which they lost through the years.

• Copy of the required deeds information attached as Annexure O

2.5.13 The farm Lochness 478-KR is also state owned and was transferred to the Republic of Bophuthatswana via Deed of Transfer T131/1990. This farm is up to date still registered under the government and will be vested in the name of the National Republic of South Africa. Bakgatha Ba Moseitha tribe were through the years denied the rights to the ownership of the farm and would like to be restored such rights.

• Copy of the required deeds information attached as Annexure P

2.5.14 The farm Tower 480 KR is also state owned and was transferred to the Republic of Bophuthatswana via Deed of Transfer T132/1990. This farm is up to date still registered under the government and will be vested in the name of the National Republic of South Africa. Bakgatha Ba Moseitha tribe were through the years denied the rights to the ownership of the farm and would like to be restored such rights.

• Copy of the required deeds information attached as Annexure Q

2.5.15 The farm Worcester 481 KR is also state owned and was transferred to the Republic of Bophuthatswana via Deed of Transfer T129/1990. This farm is up to date still registered under the government and will be vested in the name of the National Republic of South Africa. Bakgatha Ba Moseitha tribe were through the years denied the rights to the ownership of the farm and would like to be restored such rights.

• Copy of the required deeds information attached as Annexure R

2.5.16 The farm Hartebeeslaagte 66 JQ was proclaimed a released area according to the Development Trust and Land Act, 18 of 1936. Bakgatha Ba Moseitha tribe has claimed this farm which they used to occupy before they lost their land rights. It used to be occupied by the Bakgatha Ba Moseitha tribe before they lost land rights and was transferred from the white owners to the Government of the Union of South Africa and the Republic of South Africa via Deed of Transfer T7016/1932 and T15/1979 respectively. The claimants never enjoyed ownership rights on the land. The claimants lost both ancestral and beneficial occupation rights at Hartebeeslaagte.

• Copy of the required deeds information attached as Annexure S

2.5.17 The farm Tambotelaagte 164 JQ was proclaimed a released area according to the Development Trust and Land Act, 18 of 1936. It used to be occupied by the Bakgatha Ba Moseitha tribe before they lost land rights and was transferred from the white owners to the South African Native Trust and the Republic of South Africa via Deed of Transfer T26555/1949 and T3125/1988 respectively. The claimants never enjoyed ownership rights on the land. The claimants lost both ancestral and beneficial occupation rights at Tambotelaagte.

• Copy of the required deeds information attached as Annexure T

2.5.18 The farm Kipdraai 166 JQ was proclaimed a released area according to the Development Trust and Land Act, 18 of 1936. Bakgatha Ba Moseitha tribe has claimed 5 portions of this farm which they used to occupy before they lost their land rights. Portion 1 and 2 were transferred to South African Native Trust in 1940 and 1939 respectively and to the Republic of Bophuthatswana in 1979. Portion 3, 4 and 5 were also transferred from white ownership to South African Native Trust in 1939 and 1960 respectively and to the Republic of Bophuthatswana in 1979 and 1983. The claimants lost both ancestral and beneficial occupation rights at Kipdraai.

• Copy of the required deeds information attached as Annexure U

2.5.19 The farm De Griens 168 JQ was proclaimed a released area according to the Development Trust and Land Act, 18 of 1936. It used to be occupied by the Bakgatla Ba Mosetha tribe before they lost land rights and was transferred from the white owners to the South African Native Trust and the Republic of South Africa via Deed of Transfer T29902/1947 and T404/1983 respectively. The claimants never enjoyed ownership rights on the land. The claimants lost both ancestral and beneficial occupation rights at De Griens.

▪ Copy of the required deeds information attached as Annexure V

2.5.20 The farm Flink Zyn Drift 169 JQ was proclaimed a released area according to the Development Trust and Land Act, 18 of 1936. The claimants have lodged a land claim on 10 portions of the farm. Like most of other claimed farms, Flink Zyn Drift was also transferred from white ownership to the South African Native Trust, The Government of the Union of South Africa and the Republic of Bophuthatswana. The claimants never enjoyed ownership rights on the land. The claimants lost both ancestral and beneficial occupation rights at Flink Zyn Drift.

▪ Copy of the required deeds information attached as Annexure W

2.5.21 The farm Rhenosterdrift 172 JQ was proclaimed a released area according to Development Trust and Land Act, 18 of 1936. The claimants have lodged a land claim on 8 portions of the farm. Like most of other claimed farms, Rhenosterdrift was also transferred from white ownership to the South African Native Trust and the Republic of Bophuthatswana. Portion 3,4 and 7 were held in trust under Chief Makapan on behalf of the tribe. The claimants never enjoyed ownership rights on the land. The claimants lost both ancestral and beneficial occupation rights at Rhenosterdrift.

▪ Copy of the required deeds information attached as Annexure X

2.5.22 The farm Wifidebeeskull 173 JQ was proclaimed a released area according to the Development Trust and Land Act, 18 of 1936. The claimants have lodged a land claim on 3 portions of the farm. Like most of other claimed farms, Rhenosterdrift was also transferred from white ownership to the South African Native Trust and the Republic of Bophuthatswana. Portion 2 was held in trust under Chief Makapan on behalf of the tribe. The claimants never enjoyed ownership rights on the land. The claimants lost both ancestral and beneficial occupation rights at Wifidebeeskull.

▪ Copy of the required deeds information attached as Annexure Y

2.5.23 The farm Kalkbank 234 JQ was proclaimed a released area according to the Development Trust and Land Act, 18 of 1936. Two portions of the farm have been claimed by the tribe. Like most of other claimed farms, Kalkbank was also transferred from white ownership to the South African Native Trust and the Republic of Bophuthatswana. The claimants never enjoyed ownership rights on the land. The claimants lost both ancestral and beneficial occupation rights at Kalkbank.

▪ Copy of the required deeds information attached as Annexure Z

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF BAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOPHUTHATSWANA DISTRICT, NORTH WEST PROVINCE.

2.5.24 The farm Waterval 561 KQ that used to be occupied by the Bakgatha Ba Mosetha tribe before they lost land rights was transferred from White owners to the South African Native Trust via Deed of Transfer T12534/1949. The farm was subsequently transferred to the Republic of Bophuthatswana under the Deed of Transfer T482/1987. The community enjoyed ancestral and beneficial occupation rights on the land. The tribe would like to enjoy the full ownership of the farm.

▪ Copy of the required deeds information attached as Annexure AA

2.5.25 The farm Klippoorjie 564 KQ that used to be occupied by the Bakgatha Ba Mosetha tribe before they lost land rights was transferred from White owners to the South African Bantoe Trust via Deed of Transfer T14727/1966. The farm was subsequently transferred to the Republic of Bophuthatswana under the Deed of Transfer T432/1983. The community enjoyed ancestral and beneficial occupation rights on the land. The tribe would like to enjoy the full ownership of the farm.

▪ Copy of the required deeds information attached as Annexure BB

**3. ACCEPTANCE OF THE LAND CLAIM IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO 22 OF 1994), AS AMENDED (HEREINAFTER REFERRED TO AS "THE ACT")**

- 3.1 This land claim has met the acceptance criteria as set out in Section 2 of the Act and the rules regarding the procedure of the Commission on Restitution of Land Rights. The land claim as illustrated in this submission was subjected to a validation process to ensure that it complies with the Act and was accepted as *prima facie* valid. The Commissioner on Restitution of Land Rights for Gauteng and North West Provinces is satisfied that the land claim complies with the acceptance criteria of land claims in terms of Rule 3 (a) - (h) of the Act, in that
- (a) It substantially complies with the requirements as contained in the prescribed land claim form.
  - (b) The land claim was lodged before 31 December 1998, that is on the 30<sup>th</sup> of November 1998.
  - (c) The original owners were dispossessed of land rights after 19 June 1913, that is between 1938 and 1990.
  - (d) The dispossession was as a direct result of racially discriminatory laws and practices.
  - (e) The land claimants did not receive just and equitable compensation at the time of dispossession.
  - (f) The land claim is neither frivolous nor vexatious.

(g) Neither the Land Claims Court nor the Minister of Agriculture and Land Affairs has made an order in respect of the land under claim.

### 3.2 COMPENSATION RECEIVED

3.2.1 There is no documentary evidence which indicates whether the claimants received just and equitable compensation in respect of the land from which they were removed. The information presented by the majority of the claimants indicates that they received a small amount of compensation, which could only be used for relocation.

3.2.2 The claimants no longer enjoyed access to vast land which they used for residential, agricultural or farming purposes before the dispossession. Their lifestyle underwent a dramatic change as they suffered a loss of their stock and community dignity. They were forced to accept and use land that was held in for the community.

3.2.3 It is therefore the view of the Regional Land Claims Commissioner for Gauteng and North West Provinces, that whatever was given to claimants should not be calculated for restitution purposes as the claimants were dispossessed in an abnormal situation, in terms of racial laws and practices and could not have had their rights restored with such compensation.

### 3.3 GAZETTING OF THE LAND CLAIM AND NOTIFICATION OF INTERESTED PARTIES

3.3.1 The land claim was gazetted and published in the government gazette as Notice No. 932 of 2007 in Government Gazette No. 30118 dated 03 August 2007.

• Copy of the required gazette notice attached as Annexure CC

3.3.2 Upon the publication of the land claim in the Government Gazette, the identified interested parties were notified directly and indirectly. Directly by means of registered mail and indirectly by means of posters in the areas where the land claimants currently live.

## 4. THE SETTLEMENT PACKAGE

### 4.1 OPTIONS CONSIDERED

4.1.1 Options discussions were held with the claimants' community and all the available options were explained to land claimants. It was further explained to the land claimants that the Minister's award will be guided by the responses at the options workshop and that there will be an offer made in terms of Section 42D of the Restitution of Land Rights Act, 1994 (Act no 22 of 1994). The options presented to the land claimants were restoration, alternative land, and a financial compensation.

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF BAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOJANALA DISTRICT, NORTH-WEST PROVINCE.

4.1.2 The land claimants have opted for restoration in order to engage in farming activities which their ascendants were conducting prior to the removals. The Office of the Regional Land Claims Commissioner: Gauteng and North West Provinces has satisfied itself during an inspection in-1000 conducted jointly with land claimants that it is feasible to restore all the properties in this submission.

4.1.3 The Office of the Regional Land Claims Commissioner: Gauteng and North West has requested in this submission the Restitution Settlement Grants i.e. Section 42 C

#### 4.2 VALUE OF LAND CLAIM AS PER VALUATION REPORT

4.2.1 The office of the Regional Land Claims Commissioner: Gauteng and North West commissioned service providers Sizanane Property Valuers to conduct property valuation to determine the open market value and the historic value of the subject properties and the valuation reports were received in February 2008.

4.2.2 The method of valuation used to determine the potential open market value of the land is the comparable sales method. This method entails the comparison of sales of properties with similar value forming attributes in comparison to the subject property and situated in the surrounding area of the subject property. It should further be noted that only land was valued and not improvements in this regard.

4.2.3 See the table below for particulars of valuations:

1.	Transactie 3 JR	Ptn 0	2616,7053 ha	R3300	R8 600 000
2.	De Putten 4 JR	Ptn 0	3019,2268 ha	R3000	R9 100 000
3.	Vogelstruispan 6 JR	Portion 1	1588,7384 ha	R3500	R5 600 000
4.	Vooruizicht 7 JR	Portion 1	556,7842 ha	R4000	R2 200 000
5.	Zwartboom 9 JR	Portion 0 (R/E)	534,9677 ha	R4000	R2 600 000
6.	Haakdoornbuit 49 JR	Portion 1	1873,7780 ha	R3500	R6 600 000
7.	Leeuwkraal 50 JR	Portion 2	566,1305 ha	R3300	R1 900 000
8.	Leeuwkraal 50 JR	Portion 3	174,7325 ha	R3500	R600 000
9.	Leeuwkraal 50 JR	Portion 5	168,6383 ha	R3500	R600 000
10.	Leeuwkraal 50 JR	Portion 6	1218,5377 ha	R3200	R3 900 000
11.	Leeuwkraal 50 JR	Portion 7 (Portion of Portion 2)	8711,9876 ha	R2000	R17 400 000
12.	Buffelsdrift 51 JR	Portion 4 (A Ptn of Ptn 2)	813,9018 ha	R2500	R2 000 000

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF BANGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOJAWALA DISTRICT, NORTH WEST PROVINCE.

13.	Lochness 478 KR	Portion 0	1877.5395 ha	R3200	R6 000 000
14.	Tower 480 KR	Portion 0	1200.6437 ha	R3800	R4 600 000
15.	Worcester 481 KR	Portion 0	1039.2345 ha	R3800	R3 900 000
16.	Hartbeeslaagte 66 JQ	Portion 0 (R/E)	1085.7720 ha	R3500	R3 800 000
17.	Tamboofelaagte 164 JQ	Portion 0 (R/E)	2540.1356 ha	R2600	R6 600 000
18.	Klipdraai 166 JQ	Portion 1, 2, 3, 4 & 5	4051.3 ha	R1800	R7 300 000
19.	De Grens 168 JQ	Portion 0 (R/E)	1084.7341 ha	R3200	R3 500 000
20.	Flink Zyn Drift 169 JQ	Portion 1 (R/E)	18.6485 H	R15000	R300 000
21.	Flink Zyn Drift 169 JQ	Portion 2 (R/E)	1432.2842 ha	R3200	R4 600 000
22.	Flink Zyn Drift 169 JQ	Portion 3 (R/E)	964.0696 ha	R3200	R3 100 000
23.	Flink Zyn Drift 169 JQ	Portion 4 (Portion of Portion 2)	77.7807 ha	R4500	R400 000
24.	Flink Zyn Drift 169 JQ	Portion 5 (A Portion of Portion 1)	456.9981 ha	R3500	R1 600 000
25.	Flink Zyn Drift 169 JQ	Portion 6 (A Portion of Portion 1)	456.9981 ha	R3500	R1 600 000
26.	Flink Zyn Drift 169 JQ	Portion 7 (A Portion of Portion 1)	403.8120 ha	R3500	R1 400 000
27.	Flink Zyn Drift 169 JQ	Portion 8 (A Portion of Portion 3)	312.8950 ha	R3500	R1 100 000
28.	Flink Zyn Drift 169 JQ	Portion 9 R/E (A Portion of Portion 1)	24.7131 ha	R15000	R400 000
29.	Flink Zyn Drift 169 JQ	Portion 10 (A Ptn of Ptn 2)	239.8290 ha	R3800	R900 000
30.	Rhenosterdrift 172 JQ	Portion 1 (R/E)	713.4041 ha	R3500	R2 500 000
31.	Rhenosterdrift 172 JQ	Portion 2 (R/E)	1428.6954 ha	R3200	R4 600 000
32.	Rhenosterdrift 172 JQ	Portion 3 (R/E)	753.1673 ha	R3500	R2 600 000
33.	Rhenosterdrift 172 JQ	Portion 4 (R/E)	790.4084	R3500	R2 800 000



SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF BAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOJAWALA DISTRICT, NORTH WEST PROVINCE.

34.	Rhenosterdrif 172 JQ	Portion 5 (A Portion of portion 4)	700.3819 ha	R3500	R2 500 000
35.	Rhenosterdrif 172 JQ	Remaining Extent Portion 7 (A portion of portion 1)	539.8101 ha	R3500	R1 900 000
36.	Rhenosterdrif 172 JQ	Portion 8 (A Portion of portion 3)	741.9092 ha	R3500	R2 600 000
37.	Rhenosterdrif 172 JQ	Portion 9 (A Portion of portion 7)	173.5954 ha	R3500	R600 000
38.	Wildebeeskuil 173 JQ	Portion 1 (R/E)	231.4977 ha	R3500	R800 000
39.	Wildebeeskuil 173 JQ	Portion 2	1439.7347 ha	R3200	R4 600 000
40.	Wildebeeskuil 173 JQ	Portion 5 (Portion of portion 1)	117.9345 ha	R3500	R400 000
41.	Kalkbank 234 JQ	Portion 5 (Ptn of portion 1)	499.1055 ha	R3500	R1 700 000
42.	Waterval 561 KQ	Portion 0	2985.5408 ha	R2500	R7 500 000
43.	Klippoortjie 564 KQ	Portion 0 & 2	2025.2000 ha	R2600	R5 300 000
<b>TOTAL</b>			52 251.8211	R2920.47 Average Price/ha	R152600000

• Copies of the required valuation reports attached as Annexure DD

## 5. SETTLEMENT PLANNING AND DEVELOPMENT SUPPORT

5.1 As it has been earlier highlighted that all the properties that are under claim are state owned, there is a formal consultation with the North West Provincial State Land Disposal Committee (NWPSLDC) to have all the properties vested in the name of Republic of South Africa and subsequently transferred to the land claimants.

5.2 The Moretele Local Municipality has been informed about Bakgatlha Ba Mosethla settlement project and the memorandum of agreement to that effect has been signed by both the office of the Regional Land Claims Commissioner: Gauteng & North West and the Municipality.

• Copy of the required memorandum of agreement attached as Annexure EE

5.3 The North West Provincial Department of Agriculture, Conservation and Environment, hereinafter called NWDACE, will provide the technical and extension support that will contribute towards the sustainability of the project.

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF BAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOJAMALA DISTRICT, NORTH WEST PROVINCE

feasibility studies and an agricultural business plan. They will also assist the emerging land claimants with mentorship, technical support and linking projects to markets, thereby making sure that farming in all the farms under claim is sustainable. Attached is the draft memorandum of agreement with NWDACE and terms of reference for the development of agricultural business plan.

- Copy of the required draft memorandum of agreement with NWDACE attached as Annexure FF
- Copy of the required terms of reference for the development of an agricultural business plan attached as Annexure GG

5.4 A proper Development Planning will be done (Environmental Impact Assessment, Detailed Land Use Plan, Capacity Building, etc.) using the Restitution Settlement Grants.

5.5 An additional amount has been requested in this submission in terms of Section 42C that amounts to 25% of the overall valuation amount and that is R38 150 000-00. This will cover the maintenance and infrastructure management and contributes towards the implementation of the projects identified in the business plan. The mentorship and care-takership arrangements will be facilitated with the relevant authorities.

5.6 Other relevant stakeholders have been identified i.e. the following state departments will be roped in to ensure that all the projects to be envisaged in are well supported e.g. the Provincial Department of Housing, Department of Water Affairs, Department of Labour, and the Department of Agriculture will come on board in maximizing resources available.

## 6. CERTIFICATION

6.1 The Commissioner on Restitution of Land Rights Gauteng and North West Provinces has satisfied herself of the *prima facie* validity of the land claim and resolution thereof and has issued a Section 14 (3) certificate to that effect.

- Copy of the required certificate attached as Annexure HH

## 7. FINANCIAL IMPLICATIONS

7.1 The budget for the project entails costs towards acquisition of land and Section 42C as per the table below.

Valuation Price	R152 600 000-00 (land being acquired gratis)
Restitution Settlement Grant (R6595 * 3793 households)	R25 014 835-00
Section 42C (25% of R152 600 000)	R38 150 000-00
<b>Total Settlement Cost</b>	<b>R63 164 835-00</b>

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF BAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOJANALA DISTRICT, NORTH WEST PROVINCE.

## 8. POLICY IMPLICATIONS

- 8.1 The calculation of the settlement for this land claim has been done according to the policy for settling land claims. Land claims for restoration are valued at current market value, history of acquisition, extent of state subsidies in the beneficial capital, improvement of the property and current land use.
- 8.2 The resolution of this land claim will also impact positively on the socio-economic status of the land claimants as most of them are currently unemployed and have very little means of sustenance. The settlement of this land claim will provide land claimants with the opportunity to develop different skills in farming, which they will utilize to work the land in order to earn a living and thus alleviating poverty among themselves. This will also add impetus to poverty alleviation among the rural communities and in so doing address issues of landlessness and sustainable development.

## 9. STATISTICAL INFORMATION

Name of claim	Bakgalla Ba Mosethla Land Claim
Location, Municipal area, Province	Moretele Municipality, Bojanala District, North West Province
No. of claims lodged	1 (One)
No. of valid claims	1 (One)
No. of properties claimed	21
Properties to be restored	Transactie 3 JR, De Putten 4 JR, Vogelstruispan 6 JR, Vooruitzicht 7 JR, Zwartboom 9 JR, Haakdoringsbult 49 JR, Leeuwkraal 50 JR, Buffelsdrift 51 JR, Lochness 478 KR, Tower 480 KR, Worcester 481 KR, Klipdraai 166 JQ, Tamboetelaagte 164 JQ, De Grens 168 JQ, Hartbeeslaagte 66 JQ, Flink Zyn Drift 169 JQ, Rhinosterdrift 172 JQ, Windaebeskuil 173 JQ, Kalkbank 234 JQ, Waterval 581 KQ, Klippoortjie 564 KQ
Estimated number of beneficiaries	16706
Number of households	3793
Female headed households	2231
Total hectorage to be restored	52 251,8211
Section 42C Grant @ 25%	R38 150 000,00
of the total valuation price	
RSG @ per household	R25 014 835,00
Total cost of settlement	R63 164 835,00 = (Valuations Amount Grants + Section 42C Grants + RSG)

## 10. RECOMMENDATIONS

It is therefore recommended that the Chief Land Claims Commissioner:

- 10.1 Notes the negotiation process, and that the parties have reached an agreement as to the manner in which the land claim for restoration of Transactie 3 JR, Portion 0 of De Putten 4 JR, Ptn 1 of Vogelstruispan 6 JR; Ptn 1 of Voornutzicht 7 JR; Ptn 0 (R/E) of Zwartboom 9 JR; Ptn 1 of Haakdooringbult 49 JR; Ptn 2, Ptn 3, Ptn 5, Ptn 6, Ptn 7 (A ptn of ptn 2) of Leeuwkraal 50 JR; Ptn 4 (A ptn of ptn 2) of Buffelsdrift 51 JR; Ptn 0 of Lochness 478 KR; Ptn 0 of Tower 480 KR; Ptn 0 (R/E) of Worcester 481 KR; Ptn 0 (R/E) of Haartebeeslagte 66 JQ; Ptn 0 (R/E) of Farnbotelaagte 164 JQ; Ptn 1, Ptn 2, Ptn 3 (R/E), Ptn 4 (A ptn of ptn 3), Ptn 5 (A ptn of ptn 3), of Klipdraai 166 JQ; Ptn 0 (R/E) of De Grens 168 JQ; Ptn 1 (R/E), Ptn 2 (R/E), Ptn 3 (R/E), Ptn 4 (A ptn of ptn 2), Ptn 5 (A ptn of ptn 1), Ptn 6 (A ptn of ptn 1), Ptn 7 (A ptn of ptn 3), Ptn 8 (A ptn of ptn 1) R/E of Ptn 9 (A ptn of ptn 1), Ptn 10 (A ptn of ptn 2) of Flink Zyn Drift 169 JQ; Ptn 1 (R/E), Ptn 2 (R/E), Ptn 3 (R/E), Ptn 4 (R/E), Ptn 5 (A ptn of ptn 4), Ptn 8 (A ptn of ptn 3), Ptn 9 (A ptn of ptn 7) of Rhenosterfontein 172 JQ; Ptn 1 (R/E), Ptn 5 (A ptn of ptn 1), R/E of Ptn 7 (A ptn of ptn 1) of Wildebeeskul 173 JQ; Ptn 5 (A ptn of ptn 1) of Kalkbank 234 JQ; Ptn 0 of Waterval 561 KQ; Ptn 0 and Ptn 2 (R/E) of Klippoorjie 564 JQ should be finalized;
- 10.2 Notes the certification of the agreement between the parties in the above-mentioned land claim by Regional Land Claims Commissioner for the Gauteng and North West Provinces: Ms (tumuleng Seboka in terms of Section 14 (3) of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994), as amended;
- 10.3 Approves the draft settlement agreement reached by the parties in terms of Section 42D of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994), as amended;
- 10.4 Approves in terms of State Land Disposal Act, 1961 (Act 48 of 1961); the transfer of properties mentioned in paragraph 10.1 above, in favour of Bakgatla Ba Moseitha Community;
- 10.5 Approves an amount of R38 150 000-00 in terms of Section 42C of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994), as amended; for the above mentioned land claim, and
- 10.6 Approves an amount of R25 014 835-00 in terms of RSG of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994), as amended; for the above mentioned land claim, and
- 10.7 Authorizes the Commissioner on Restitution of Land Rights for Gauteng and North-West Provinces or her nominee to sign the agreements with the individual parties on behalf of the Chief Land Claims Commissioner and North West Provincial Land Reform Office Chief Director or the Director; Public Land Support Services to sign transfer documents on behalf of the National Government of the Republic of South Africa.

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND REALISATION IN THE MATTER OF BAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOPANMULA DISTRICT, NORTH WEST PROVINCE.

10.8 The approval of the claim and the settlement thereof in terms of Section 42D of the Restitution of Land Rights Act, 1994, above, is conditional upon the following:

- The ratification of the approval/restoration and the settlement of the claim by the relevant Provincial State Land Disposal Committee;
- The concurrence by any other appropriate National State Department which may have control or jurisdiction over the property, or Provincial Government in respect of provincial state land;
- The approval of the relevant executive authority in terms of applicable legislation for the transfer of state land.
- Should the ratification or concurrence in terms of the above, respectively, not be obtained or should additional conditions be imposed or existing terms be amended, the claim and settlement in terms of Section 42D of the Restitution of Land Rights Act, 1994, be referred back to the Minister or delegated authority for approval or be made subject to such conditions."

  
M. S. SEBOKA

REGIONAL LAND CLAIMS COMMISSIONER –GAUTENG AND NORTH WEST

DATE:

## 10. RECOMMENDATIONS

It is therefore recommended that the Chief Land Claims Commissioner:

- 10.1 Notes the negotiation process, and that the parties have reached an agreement, as to the manner in which the land claim for restoration of Transactie 3 JR, Portion 0 of De Putten 4 JR, Ptn 1 of Vogelstruispan 6 JR; Ptn 1 of Vooruitzicht 7 JR; Ptn 0 (R/E) of Zwartboom 9 JR; Ptn 1 of Haakdongpult 49 JR; Ptn 2, Ptn 3, Ptn 5, Ptn 6, Ptn 7 (A ptn of ptn 2) of Leeuwkraal 50 JR; Ptn 4 (A ptn of ptn 2) of Buffelsdrift 51 JR; Ptn 0 of Lochness 478 KR; Ptn 0 of Tower 480 KR; Ptn 0 (R/E) of Worcester 481 KR; Ptn 0 (R/E) of Haartebeeslaagte 66 JQ; Ptn 0 (R/E) of Tambotielelaagte 164 JQ; Ptn 1, Ptn 2, Ptn 3 (R/E), Ptn 4 (A ptn of ptn 3), Ptn 5 (A ptn of ptn 3), of Klipdraai 166 JQ; Ptn 0 (R/E) of De Grens 168 JQ; Ptn 1 (R/E), Ptn 2 (R/E), Ptn 3 (R/E), Ptn 4 (A ptn of ptn 2), Ptn 5 (A ptn of ptn 1), Ptn 6 (A ptn of ptn 1), Ptn 7 (A ptn of ptn 3), Ptn 8 (A ptn of ptn 1) R/E of Ptn 9 (A ptn of ptn 1), Ptn 10 (A ptn of ptn 2) of Flink Zym Drift 169 JQ; Ptn 1 (R/E), Ptn 2 (R/E), Ptn 3 (R/E), Ptn 4 (R/E), Ptn 5 (A ptn of ptn 4), Ptn 8 (A ptn of ptn 3), Ptn 9 (A ptn n of ptn 7) of Rhenosterfontein 172 JQ; Ptn 1 (R/E), Ptn 5 (A ptn of ptn 1), R/E of Ptn 7 (A ptn of ptn 1) of Wildebeeskull 173 JQ; Ptn 5 (A ptn of ptn 1) of Kalkbank 234 JQ; Ptn 0 of Waterval 561 KQ; Ptn 0 and Ptn 2 (R/E) of Klippoorfjie 564 JQ should be finalized;
- 10.2 Notes the certification of the agreement between the parties in the above-mentioned land claim by Regional Land Claims Commissioner for the Gauteng and North West Provinces: Ms Itumeleng Seboka in terms of Section 14 (3) of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994), as amended;
- 10.3 Approves the draft settlement agreement reached by the parties in terms of Section 42D of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994), as amended;
- 10.5 Approves in terms of State Land Disposal Act, 1961 (Act 48 of 1961); the transfer of properties mentioned in paragraph 10.1 above, in favour of Bakgatla Ba Moselha Community;
- 10.5 Approves an amount of R38 150 000-00 in terms of Section 42C of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994), as amended; for the above mentioned land claim, and
- 10.6 Approves an amount of R25 014 835-00 in terms of RSG of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994), as amended; for the above mentioned land claim, and
- 10.7 Authorizes the Commissioner on Restitution of Land Rights for Gauteng and North-West Provinces or her nominee to sign the agreements with the individual parties on behalf of the Chief Land Claims Commissioner and North West Provincial Land Reform Office Chief Director or the Director: Public Land Support Services to sign transfer documents on behalf of the National Government of the Republic of South Africa.

SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF SAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOJAMULA DISTRICT, NORTHWEST PROVINCE.

10.8 The approval of the claim and the settlement thereof in terms of Section 42D of the Restitution of Land Rights Act, 1994, above, is conditional upon the following:

- The ratification of the approval/restoration and the settlement of the claim by the relevant Provincial State Land Disposal Committee;
- The concurrence by any other appropriate National State Department which may have control or jurisdiction over the property, or Provincial Government in respect of provincial state land;
- The approval of the relevant executive authority in terms of applicable legislation for the transfer of state land.
- Should the ratification or concurrence in terms of the above, respectively, not be obtained or should additional conditions be imposed or existing terms be amended, the claim and settlement in terms of Section 42D of the Restitution of Land Rights Act, 1994, be referred back to the Minister or delegated authority for approval or be made subject to such conditions.\*

Recommendation 10.1 supported / not supported  
Recommendation 10.2 supported / not supported  
Recommendation 10.3 supported / not supported  
Recommendation 10.4 supported / not supported  
Recommendation 10.5 supported / not supported  
Recommendation 10.6 supported / not supported  
Recommendation 10.7 supported / not supported  
Recommendation 10.8 supported / not supported

Comments:

  
MR V MAHLANGU

CHIEF DIRECTOR: RESTITUTION

COMMISSION ON RESTITUTION OF LAND RIGHTS, SA

DATE: 30/3/09

## 10. RECOMMENDATIONS

It is therefore recommended that the Chief Land Claims Commissioner:

- 10.1 Notes the negotiation process, and that the parties have reached an agreement as to the manner in which the land claim for restoration of Transactie 3 JR, Portion 0 of De Putter 4 JR, Ptn 1 of Vogelstruispan 6 JR; Ptn 1 of Vooruitzicht 7 JR; Ptn 0 (R/E) of Zwartboom 9 JR; Ptn 1 of Haakdongrbuit 49 JR; Ptn 2, Ptn 3, Ptn 5, Ptn 6, Ptn 7 (A ptn of ptn 2) of Leeuwkraal 50 JR; Ptn 4 (A ptn of ptn 2) of Buffelsdrif 51 JR; Ptn 0 of Lochness 478 KR; Ptn 0 of Tower 480 KR; Ptn 0 (R/E) of Worcester 481 KR; Ptn 0 (R/E) of Haartebeeslaagte 66 JQ; Ptn 0 (R/E) of Tambotelaagte 164 JQ; Ptn 1, Ptn 2, Ptn 3 (R/E), Ptn 4 (A ptn of ptn 3), Ptn 5 (A ptn of ptn 3), of Klipdraai 166 JQ; Ptn 0 (R/E) of De Grens 168 JQ; Ptn 1 (R/E), Ptn 2 (R/E), Ptn 3 (R/E), Ptn 4 (A ptn of ptn 2), Ptn 5 (A ptn of ptn 1), Ptn 6 (A ptn of ptn 1), Ptn 7 (A ptn of ptn 3), Ptn 8 (A ptn of ptn 1) R/E of Ptn 9 (A ptn of ptn 1), Ptn 10 (A ptn of ptn 2) of Flink Zyn Drif 169 JQ; Ptn 1 (R/E), Ptn 2 (R/E), Ptn 3 (R/E), Ptn 4 (R/E), Ptn 5 (A ptn of ptn 4), Ptn 8 (A ptn of ptn 3), Ptn 9 (A ptn of ptn 7) of Rhenosterfontein 172 JQ; Ptn 1 (R/E), Ptn 5 (A ptn of ptn 1) R/E of Ptn 7 (A ptn of ptn 1) of Wildbeeskui 173 JQ; Ptn 5 (A ptn of ptn 1) of Kalkbank 234 JQ; Ptn 0 of Waterval 561 KQ; Ptn 0 and Ptn 2 (R/E) of Klippoorstje 564 JQ should be finalized.
- 10.2 Notes the certification of the agreement between the parties in the above-mentioned land claim by Regional Land Claims Commissioner for the Gauteng and North West Provinces: Ms Humeleeng Seboka in terms of Section 14 (3) of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994), as amended;
- 10.3 Approves the draft settlement agreement reached by the parties in terms of Section 42D of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994), as amended;
- 10.6 Approves in terms of State Land Disposal Act, 1961 (Act 48 of 1961): the transfer of properties mentioned in paragraph 10.1 above, in favour of Bakgatla Ba Moseitha Community;
- 10.5 Approves an amount of R36 150 000-00 in terms of Section 42C of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994), as amended; for the above mentioned land claim, and
- 10.6 Approves an amount of R25 014 835-00 in terms of RSG of the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994), as amended; for the above mentioned land claim, and
- 10.7 Authorizes the Commissioner on Restitution of Land Rights for Gauteng and North-West Provinces or her nominee to sign the agreements with the individual parties on behalf of the Chief Land Claims Commissioner and North West Provincial Land Reform Office Chief Director or the Director: Public Land Support Services to sign transfer documents on behalf of the National Government of the Republic of South Africa.



SUBMISSION IN TERMS OF SECTION 42D OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED, BEING THE SETTLEMENT OF AND FINALISATION IN THE MATTER OF BAKGATLA BA MOSETHLA TRIBAL LAND CLAIM IN THE MORETELE LOCAL MUNICIPALITY, BOJANANLA DISTRICT, NORTH WEST PROVINCE.

10.8 The approval of the claim and the settlement thereof in terms of Section 42D of the Restitution of Land Rights Act, 1994, above, is conditional upon the following:

- The ratification of the approval/restoration and the settlement of the claim by the relevant Provincial State Land Disposal Committee;
- The concurrence by any other appropriate National State Department which may have control or jurisdiction over the property, or Provincial Government in respect of provincial state land;
- The approval of the relevant executive authority in terms of applicable legislation for the transfer of state land;
- Should the ratification or concurrence in terms of the above, respectively, not be obtained or should additional conditions be imposed or existing terms be amended, the claim and settlement in terms of Section 42D of the Restitution of Land Rights Act, 1994, be referred back to the Minister or delegated authority for approval or be made subject to such conditions."

Recommendation 10.1 approved / not approved  
Recommendation 10.2 approved / not approved  
Recommendation 10.3 approved / not approved  
Recommendation 10.4 approved / not approved  
Recommendation 10.5 approved / not approved  
Recommendation 10.6 approved / not approved  
Recommendation 10.7 approved / not approved  
Recommendation 10.8 approved / not approved

Comments:



MR B.M. MPHELA

CHIEF LAND CLAIMS COMMISSIONER (Acting)  
COMMISSION ON RESTITUTION OF LAND RIGHTS, SA

DATE: 31/03/09