

Working within the project cycle

Donna Hornby

Summary of major findings from Lisa del Grande's paper Delivering land for tenure reform: proposed practical guidelines

DLA is constitutionally responsible for securing tenure (along with restituting land rights and redistributing land). Through law, policy and work or delivery processes, DLA has come to interpret this responsibility as being equivalent to land transfer. Thus,

“The DLA delivers land and supports Land Rights, in addition it is the custodian of State land and Spatial and Title information but anything outside of these areas must be resolved or handled by another Department or organisation.”

Since South Africa has such an accurate and efficient deeds registry system, many commentators may agree with DLA that tenure is secured through transfer. However, most of DLA's projects involve groups of people who are organized into legal entities for the purposes of transfer. The transfer of title to such legal entities may indeed result in technically secure tenure for the legal body but it doesn't address the tenure security of members of these groups who live on and use pieces of the land so transferred. Furthermore, the framework of title transfer is a firm boundary around the space that DLA planners, consultants or community people have to work on internal tenure arrangements.

This space is also tightly bounded by the types of work practices DLA has adopted to implement land reform, namely, project identification and management. While the project management approach allows detailed planning against specific budgets for delivery of land reform products, it also entails work processes that start and end at a defined points. Project management assumes exit. For DLA then, project completion and exit should be at transfer of the land, that is, at the point at which tenure is supposedly secured.

Despite this, there is recognition in DLA, particularly at planner level, that something is wrong with the process and that some intervention is needed. Officials complain that they cannot exit projects – “people keep coming back to us” – creating delivery and budget expenditure bottlenecks. After transfer, municipalities (that are responsible for infrastructure and services) sometimes demand that DLA conduct beneficiary verification processes because the people living on the land don't relate to the official list of who is supposed to benefit from government grants. And where there are serious rights disputes between members after transfer, DLA finds it has no instruments or capacity to use to resolve the issues. The problem of members having formally insecure tenure thus tends to return to the DLA planner who, despite a project management delivery process, is unable to close the files and exit. S/he is unable to plan for completion, and this will continue for as long as internal rights and their administration are not dealt with in some way during the project cycle.

To enable the project manager to exit, a set of tenure arrangements (rights clarification and administration) would need to be in place prior to transfer and the project manager would need to hand these over to some state body for administrative support following DLA exit. The question of who, or which state body, provides this function remains unanswered. While DLA has the constitutional

responsibility for this function (as a function of securing tenure), it may be in the direct interests of municipalities to perform the function because it – provides the spatial information necessary for municipalities to deliver on their own constitutional mandates, such as service delivery and land use regulation.

These tenure arrangements would have to be incorporated into the generic project or decision cycle. This cycle has identifiable moments in which key decisions are taken in the process of transferring land. These are:

- Application acceptance
- Categorisation into products
- Prioritisation within products
- Situation assessment
- **Project acceptance – PIR/ Gazette etc**
- Feasibility / preliminary land use and institutional planning
- Land use/ and tenure model acceptance – Memo
- **Land transfer**
- Detailed planning
- **Detailed land use acceptance – plans & surveys**
- Implementation
- Exit

The steps in bold are decisions that must be made in any of the cycles developed to deliver land reform products. This is where formal approval decisions are required and these decisions allow the release of funds for the project.

If the tenure of members of groups is to be secured within the framework of transfer and project management, then the only space to shape intervention is in this project cycle, particularly where formal decisions are taken. DLA management staff in provincial offices would have to be clear about what are appropriate tenure arrangements in order to approve a project.

The indicators developed by Leap and the CPA task team could be used to evaluate tenure arrangements in projects prior to approval of planning budgets and land acquisition and transfer. The indicators suggest that project planners would need to assist 'beneficiary groups' to put in place arrangements that clarify which members have what rights where, and procedures for administering these rights after transfer. Concretely, a group project would require a constitution reflecting community agreements on rights and land administration processes, a communal land administration plan (CLAP) that shows land settlement patterns, public resources and land use, a register of rightsholders and a system for updating the register and records of the rightsholders' rights. DLA planners could then hand over to [municipalities] the constitution, CLAP and register.