

LAND ACCESS OMBUDSMAN

ANNUAL REPORT **2019-20**



LAND ACCESS
OMBUDSMAN

Letter of compliance

31 August 2020

The Honourable Anthony Lynham MP
Minister for Natural Resources, Mines and Energy
1 William St
BRISBANE QLD 4000

Dear Minister,

I am pleased to present the annual report for the Land Access Ombudsman, for the financial year of 1 July 2019 to 30 June 2020.

This report is produced under the requirements of the *Land Access Ombudsman Act 2017*. It does not contain financial information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jane Pires', with a large, stylized initial 'J'.

Jane Pires
Land Access Ombudsman

About this report

The Land Access Ombudsman (LAO) provides a dispute resolution service for landholders and resource authority holders with Conduct and Compensation Agreements or Make Good Agreements. For the benefit of our stakeholders and the Queensland public, this annual report provides information about our performance for the Financial Year of 1 July 2019 to 30 June 2020, including our activities and achievements for the financial year and summarises our future priorities.

Interpreter Service



LAO is committed to providing accessible services to Queenslanders from culturally and linguistically diverse backgrounds. If you have difficulty in understanding the annual report, you can contact us on 1800 717 550 and we will arrange an interpreter to effectively communicate the report to you, free of charge.

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We acknowledge and pay our respects to the past, present and emerging Traditional Custodians and Elders of this nation and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

About us

Role of the Land Access Ombudsman

We exist to improve the quality of land access interactions between landholders and resource authority holders in Queensland.

Our primary function is to investigate disputes involving alleged breaches of Conduct and Compensation Agreements (CCA) and Make Good Agreements (MGA). We assess all parties' positions, give advice and make recommendations about how disputes could be resolved, as efficiently and with as

little formality as possible. In the interest of improving or preserving the long term relationship between parties, where necessary, we will also monitor the matter to ensure recommendations or agreements are carried out.

Importantly, we also identify systemic issues, reporting them and providing advice to government and industry to improve the land access landscape and encourage best practice.

Our Values



HONESTY

We act with integrity, accountability and transparency



RESILIENCE

We persevere through difficult situations and conversations, and help others to do the same



RESPECT

We are inclusive, accessible, courteous and fair



COMMUNICATION

We share information and foster understanding. No one is left in the dark.



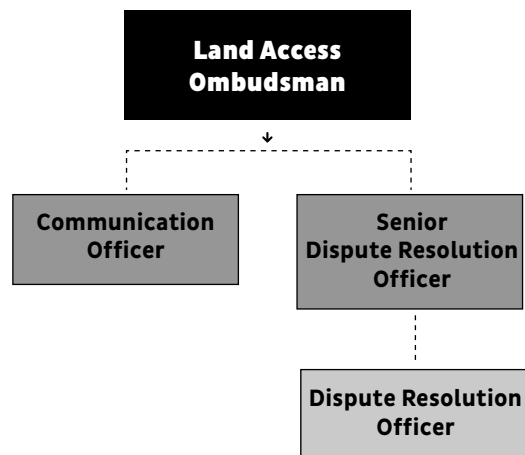
EXCELLENCE

We strive to do our best – for our customers, our co-workers and Queensland.

Structure

The Land Access Ombudsman, Ms Jane Pires, is not subject to direction by anyone, but submits reports on the progress and activities of the LAO to the Minister for Natural Resources, Mines and Energy.

As at 30 June 2020, the Office of the Land Access Ombudsman also includes three employees — two dispute resolution and investigation staff, and a communications officer. The dispute resolution team, led by the Senior Dispute Resolution Officer, support the Land Access Ombudsman in managing enquiries, investigating and resolving disputes, and identifying systemic issues and trends. The Communication Officer reports directly to the Ombudsman, improving awareness of and access to the Office.



Our jurisdiction



Matters we can investigate

We investigate matters referred to us when the party:

- » has an existing CCA or MGA
- » reasonably believes the other party is not complying with their obligations under the agreement
- » has already made a reasonable attempt to resolve the issue



Matters we cannot investigate

We cannot investigate:

- » when the CCA or MGA is still under negotiation, or subject to a minimum negotiation period or cooling off period
- » the content of legislation or government policies
- » a decision made by Cabinet, a Minister or a chief executive of a government department
- » a matter that is, or has been, the subject of a court proceeding or an arbitration
- » a matter that is, or has been, the subject of an investigation by a government department
- » compensation agreements for mining leases and mining claims under the *Mineral Resources Act 1989*
- » access agreements
- » matters outside Queensland

Our process



1. Assessment

The initial dispute is referred to us, and we find out as much information as we can to determine if we can formally investigate the issue. This might include:

- » finding out what (if any) attempts have been made to resolve the dispute before (including if it's previously been before court or investigated by government)
- » requesting further information from both parties
- » reviewing the CCA or MGA

2. Investigation

If we decide to investigate, our dispute resolution team will take reasonable steps to look into and help resolve the issue. This could include:

- » requesting additional information from both parties, and (potentially) government agencies
- » holding meetings and interviews with each party, either separately or together
- » undertaking site visits and inspections
- » providing alternative dispute resolution options
- » consulting with entities with required technical expertise

3. Facilitation

Because we're focused on preserving the long term relationship between parties and finding a mutually satisfactory outcome, the investigation might evolve into a facilitation stage, where we keep the case open and regularly check in until agreed upon actions have been completed.

4. Outcome

Once our investigation is complete, we will issue a Draft Notice of Investigation Outcome and invite both parties to respond. We will consider comments from both parties before issuing a final notice.

If the dispute has been resolved as a result of our investigation, the notice will include details of the resolution.

If either party does not feel the dispute is resolved, the notice will include:

- » advice about the merits of each party's position
- » our recommendations about how the dispute could or should be resolved
- » reasons for the advice and recommendations

Message from the Ombudsman

It is a pleasure to introduce the 2019-20 Annual Report for the Office of the Land Access Ombudsman – the first covering a complete financial year.

It's been a challenging year for many; particularly for the sectors we assist and the rural and regional communities they support. One of extreme drought, floods, devastating bushfires, COVID-19, trade tensions and more. However, it's also been a time of resilience, change, industry expansion and opportunity.

In late 2019, I was reappointed to the role of Land Access Ombudsman for another three years. This extension is an honour, but more importantly provides continuity and consistency for Queensland's landholders and resource authority holders in a crucial time of development and change. I look forward to the next three years, and continuing to work with my team and stakeholders to improve land access relations across Queensland.

Our performance

Land access disputes and referrals

Our office received 23 referrals this year, with none proceeding to investigation. Although we are likely to always experience a lower case volume than other ombudsman schemes (due to our narrow jurisdiction), this is still lower than expected when considering the information and feedback from industry and our own time on the ground. The figure indicates that we have to continue to focus on raising awareness of our role and the benefits of using our service.

The case that was resolved had been carried over from the previous financial year, taking 11 months from the first contact with the referring party to closure. While significantly longer than the average case time predicted when our scheme commenced, it represents the complex nature and needs of these matters, and provides a prime example of the "facilitation" phase of our process.

In every investigation, we strive to preserve or repair the long-term working relationship between the two parties, conscious that the nature of their agreement

may require them to work together for another decade or more. This particular case was complex from the start, with further disputes raised throughout. In order to reach an outcome acceptable to both parties, our team kept the case open and facilitated the conversation until all of the actions agreed upon in the initial meeting – and others agreed to along the way – were completed. I'm pleased to say that a mutually satisfactory outcome was achieved, and thank the parties to the dispute and my team for their patience and diligence to get the matter resolved and the agree outcomes

I expect as more cases come in we'll find that although this case was unique, it won't be unusual.

Systemic issues

No systemic issues were identified through our investigations this year. Where recurring issues have been brought to our attention anecdotally, I have endeavoured to raise them with the relevant organisations and agencies.

Our response to COVID

As for most organisations and individuals, the COVID-19 pandemic has in many ways defined the latter half of 2019-20 for LAO.

We're fortunate to be a small, agile and well-equipped team, allowing us to adapt quickly and swiftly make the move to working from home in mid-March. Already used to working remotely to many of our stakeholders, there was no interruption to the continuity or quality of our services.

Where COVID-19 has impacted us most directly is the loss of events and regional travel. Time spent on the ground is crucial for our team, for gaining direct knowledge of regional issues and trends in the region, increasing awareness of our services and making ourselves accessible to the people who may need them. This was felt keenly; scheduled events and the introduction of our new pop-up office program were

postponed indefinitely, the web traffic they bring notably absent.

However, the lack of face-to-face events encouraged us to act flexibly and in a matter of weeks, we had announced our first webinars. Not an immediate priority before the pandemic struck, our pilot webinars proved to be more effective and cost-efficient than anticipated, and will form an ongoing part of our communication strategy.

Our landscape

Our network

Building and strengthening our relationships with industry and government is an enduring priority. These connections are essential for ensuring effective, coordinated services are available to our customers and staying abreast of events and issues in their sectors, and we've continued to nurture them across a range of sectors.

In 2019-20, this involved forming relationships with several incoming community and industry leaders, including newly elected mayors and new Chief Executives in key stakeholder organisations. I've had many productive conversations and look forward to continuing to work with them to serve their communities,

After successfully collaborating with the DNRME, DES, Gasfields Commission Queensland and the Land Court on several forums and events in the previous two years, this year's formalisation of the Resource Engagement Coordination Group was welcomed. Managing Coal Seam Gas Activities, the Queensland Audit Office report tabled in February 2020, identified some stakeholder confusion about the different roles and obligations of some of these agencies. The new Terms of Reference and coordinated approach, including improved sharing of intelligence and engagement best practice, is a positive step to providing Queenslanders with the information, clarity and support they need.

Industry expansion

The state's resource industries are continuing to grow and develop, with the release of the 2020 Queensland Exploration Program (QEP) being a significant milestone this year. Coal, gas and petroleum exploration opportunities have been opened across thousands of square kilometres in key basins, with advance notice given to landholders who may be affected.

The expanding footprint of mineral and resource industries across agricultural land holds a number

of opportunities and implications for co-existence in Queensland. We appreciate that this is a time of great excitement for some, and of wariness for others.

As the LAO cannot assist with disputes experienced in the initial days of a land access process, we don't engage too soon with areas recently opened to tender. However, in the coming months we will extend information and resources to help those starting out be better prepared and know where assistance can be found should they need it in future.

Our plans

Some of our key priorities for 2020-21 include:

- » Executing our 2020-24 Strategic Plan
- » Continuing to stay current and enhance our understanding of the experiences, issues and contexts within land access
- » Implementing our 'Pop-up Office' initiative, increasing accessibility and approachability by regularly making our dispute resolution team available for face-to-face meetings and enquiries in key regions
- » Developing resources for landholders, resource companies and related professionals to assist and empower them to avoid or resolve simpler land access disputes themselves.

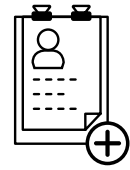
My thanks

Thank you to the industry bodies, community leaders, government agencies, companies and landholders for your insights, collaboration and support to date. In particular, to the landholders and resource companies who have approached and put your trust in us, or shared our information through word-of-mouth. Thank you also to my team for your support, work and resilience throughout a difficult year.



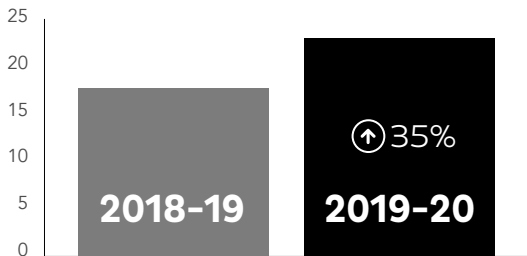
Jane Pires
Land Access Ombudsman

Dispute Referrals in 2019-20



Referrals received

Between 1 July 2019 and 30 June 2020, 23 disputes were referred to us by the public, an increase of 35 percent from the previous financial year. None proceeded to investigation.



Disputes possibly in jurisdiction

Of the 23 disputes referred to LAO, four were potentially in jurisdiction. Three were referred by a landholder, or person speaking on behalf of a landholder, and one was referred on behalf of a resource authority holder.

All four disputes were in reference to an alleged breach of a Conduct and Compensation Agreement, however none proceeded to preliminary investigation. In three cases, this was due to the referring person not being party to the CCA – two legal representatives and one government employee – and without a completed Authority to Act form, therefore unable to formally refer the dispute to us. Each referring person was provided with information to give their contact or client but no further contact was made. In the fourth case, the landholder decided not to pursue the issue via our processes.

Referrals to other bodies

The remaining 19 disputes were immediately assessed to be out of jurisdiction under Section 36 of the Act.

Themes in out of jurisdiction enquiries included:

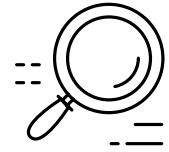
- » being related to resource industry activity on rural land, but there being no Conduct and Compensation Agreement or Make Good Agreement in place
- » disputes over use/ownership of easements and bodies of water
- » complaints about telecommunications workers accessing private land

In each case, the caller was referred onto the following relevant organisation or body:

| Organisation | Number of forwarded referrals |
|--|-------------------------------|
| Department of Natural Resources, Mines & Energy | 5 ⊖ |
| Queensland Ombudsman | 6 ↑ |
| Telecommunications Industry Ombudsman | 2 ↑ |
| Queensland Police Service | 1 ↑ |
| Local free legal service | 1 ↑ |
| Commissioner for Body Corporate and Community Management | 1 ↑ |
| Department of Justice and Attorney General (Dispute Resolution Branch or Land Court) | 1 ↑ |
| Relevant local Council | 1 ↓ |
| Customer service and complaints arm of private company | 1 ↑ |

- Key:**
- ⊖ no change
 - ↑ increase from 2018-2019
 - ↓ decrease from 2018-2019

Investigations



One investigation was completed in the 2019-20 financial year (no increase or decrease from 2018-19).

Case overview

The investigation commenced in the 2018-19 financial year, and closed in March 2020. It had been active for 11 months, due to the complexity of the case and both parties' wishes that LAO keep it open until all issues had been resolved to mutual satisfaction.

Issues raised

The dispute was brought to us by the resource authority holder, though the investigation revealed that both parties were in breach of their Conduct and Compensation Agreement.

The landholder had locked the gate, denying the resource authority holder access.

The resource authority had failed to adhere to biosecurity conditions of their access, and to sufficiently rectify disruption caused by pipeline installation.

Our actions

After accepting the dispute, LAO staff perused documentation provided by both parties, conducted a site inspection of the area in dispute and facilitated a meeting between the parties, where a number of actions required to resolve the matter were agreed upon. Further negotiations through the LAO resulted in a fair and reasonable compensation amount being offered to the landholder by the resource company.

With the proposed resolution actions agreed to, the LAO transferred the matter to a facilitation phase to ensure that all agreed actions were completed to the satisfaction of both parties. The landholder restored access to the resource authority holder, and rectification efforts began. The LAO maintained regular contact with both parties until both were satisfied that the matter could be finalised, and the investigation was closed.

Notice of investigation

As per our process and the Act, one Notice of Investigation Outcome (section 51 notice) was issued in 2019-20, to the parties in the mentioned dispute.

Notices about legislation breaches

No formal referrals were made regarding this investigation under sections 53 (breach of a Resource Act), 54 (breach of *Water Act 2000*) or 55 (breach of *Environmental Protection Act 1994*) of the Act.

Engagement



One of our priorities under the Act is to promote awareness and understanding of our services, ensuring that relevant Queenslanders know who we are and how we can help them.

In the 2019-20 financial year, we continued to communicate with the community and our stakeholders through a range of avenues, with this section providing an overview of key initiatives.

Events attendance

Speaking at regional events and information sessions has continued to be one of the most effective means of raising awareness of the LAO and our services. With key industry events planned for early 2020 (such as the APPEA Land Access Forum and FarmFest) postponed or cancelled due to COVID-19, our regional travel was concentrated in the first half of the financial year.

Regional events at which we presented in 2019-20 included:

- » Resource Community Information Sessions for landholders in Richmond and Cloncurry, August 2019
- » Gathering of social and community services in Mount Isa, August 2019
- » A land access dispute resolution information session in Moranbah, October 2019
- » A meeting of community leaders in Moranbah, October 2019
- » Resource Community Information Session for resource companies operating in the Wide Bay Burnett region, November 2019

'Guide to the LAO' webinars

With in-person events cancelled and travel restricted in early 2020, LAO presented a short series of webinars – one targeted at landholders and another for resource industry employees – in May 2020.

The webinars provided an overview of our services, case studies, common problems and trends we've encountered and tips for navigating a dispute. We received 89 registrations, with attendees of the live webinars including landholders, landholder advocates, resource company employees, legal representatives and government officers.

Resource Engagement Coordination Group

The abovementioned Resource Community Information Sessions have been a key element in our engagement strategy and schedule to date. Tailored to the informational needs of the regions where they're presented, the sessions have been a collaboration between:

- » Land Access Ombudsman
- » Gasfields Commission Queensland
- » Department of Natural Resources, Mines and Energy
- » Land Court of Queensland
- » Department of Environment and Science

In the latter half of 2019-20, this collective (known internally as the Resource Engagement Coordination Group) developed terms of reference, committing to better cooperation to increase clarity and access to assistance for Queensland's landholders and resource companies.

Engagement cont.

First year in operation and Ombudsman’s reappointment

Land Access Ombudsman, Jane Pires, was reappointed to the role for another three years, soon after the one year anniversary of our office opening. Learnings from the first year in operation and news of the Ombudsman’s extension garnered statewide media coverage in radio segments and regional newspapers widely listened to or read by our key customers.

Handbooks to the LAO

In July 2019, we published and distributed the Resource Industry’s Guide to the Land Access Ombudsman. In May 2020, we updated and re-released it as the Resource Industry’s Handbook to the Land Access Ombudsman, as well as a new Landholders’ Handbook.

These resources were initially intended as “onboarding” tools, designed to provide parties of a referred dispute with an overview of what to expect, who they’d be hearing from and how to participate to make the process a smooth and positive one. However, they’ve also been adopted as a general informational resource with copies regularly requested by stakeholders.

Financial Information



The financial statements for the Land Access Ombudsman are included in the Department of Natural Resources, Mines and Energy 2019-20 Annual Report. Separate financial statements are not required for the LAO.

Appendix one: Glossary

| | |
|---------------------------|---|
| (The) Act | <i>Land Access Ombudsman Act 2017 (Qld)</i> |
| Case | The issues, situation and context surrounding a given land access dispute referral or investigation. |
| Dispute | A conflict-based issue brought to the Land Access Ombudsman |
| DNRME | Department of Natural Resources, Mines and Energy |
| Investigation | The process of LAO staff formally investigating a land access dispute referral that is found to be within the LAO's jurisdiction. |
| Landholder | The individual or business who owns or leases the land on which the disputed activity is taking place. |
| LAO | Land Access Ombudsman |
| Out of jurisdiction | A matter that is not, under legislation, within the Land Access Ombudsman's authority to investigate or manage. |
| Referral | The contact a landholder, resource authority holder or their representative makes with the Office of the Land Access Ombudsman regarding a dispute and our ability to investigate it. Depending on context, it can also mean the action of LAO staff referring out of jurisdiction matters to another entity. |
| Resource Authority Holder | The company or organisation who has authority to access land for resource exploration, production or extraction. |
| (The) State | The State of Queensland |

Land Access Ombudsman
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Telephone 1800 717 550

www.lao.org.au

Keep in touch   



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