

LAND ACCESS OMBUDSMAN

ANNUAL REPORT
2020-21



LAND ACCESS
OMBUDSMAN

Letter of compliance

13 September 2021

The Honourable Scott Stewart MP
Minister for Resources
1 William St
BRISBANE QLD 4000

Dear Minister,

I am pleased to present the Land Access Ombudsman's Annual Report for the financial year of 1 July 2020 to 30 June 2021.

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

Yours sincerely,



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 2020 to 30 June 2021. It includes our activities and achievements for the financial year, and summarises our future priorities, for the benefit of all our stakeholders.

Interpreter Service



The 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 the state of Queensland and the land on which we operate. We respect 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. We do this 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 monitor the matter to ensure recommendations or agreements are carried out.

Importantly, we work to 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 will be accountable and responsible for our actions.



Reliability

We will be dependable. We will follow through on our actions and commitments.



Adaptability

We will adapt to industry changes and our operating environment.



Accountability

We will be proactive. We will take ownership over our learning to enhance continuous improvement.



Communication

We will actively engage through open and transparent dialogue.



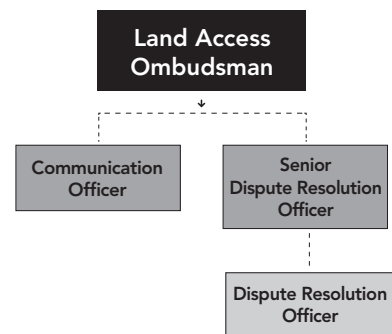
Respect

We will act fairly. Accepting the opinions and individuality of others.

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 Office to the Minister for Resources.

As of 30 June 2021, the Office 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, supports the land access ombudsman in managing enquiries, investigating, and resolving disputes, and identifying systemic issues and trends. The senior dispute resolution officer is responsible for managing one staff member, the dispute resolution officer. This role is currently vacant. The communication officer reports directly to the Ombudsman and supports the business activities of the LAO by 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 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 your CCA or MGA.

2. Investigation

If we decide to investigate, our dispute resolution team will take reasonable steps to examine 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

We focus on preserving the long-term relationship between parties and finding a mutually satisfactory outcome. Consequently, investigations may advance to a facilitation stage, where the case remains open, with regular checks made by our Dispute Resolution Officers, to confirm that agreed upon actions have been fulfilled.

4. Outcome

On completion of our investigation, we issue a Draft Notice of Investigation Outcome and invite both parties to respond. Comments from both parties are considered before the Land Access Ombudsman issues a final Notice of Outcome.

If your dispute has been resolved through 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.

Ombudsman Message

It is a pleasure to introduce the 2020-21 Annual Report for the Office of the Land Access Ombudsman (LAO).

2020-21 has remained a challenge, as we ventured into a new COVID-19 sensitive working environment. Challenges were faced in finding ways to engage with our stakeholders, to create meaning and connection in a world where we are now more behind screens than ever. Despite these challenges, the industry has continued to grow and change at speed. For the LAO, this has meant making sure that the communities of Queensland, with increased resource activities, are aware of the services of the LAO and where to find support if they are experiencing a land access dispute.

This financial year we have concentrated our efforts on increasing our engagement and community knowledge of our service in key regional communities, growing our industry connections to support this engagement, and remaining constant in delivering a quality dispute resolution service that supports the needs of landholders and resource authorities in Queensland.

As we move into a new financial year, I look forward to meeting the challenges of an ever-changing industry, to working with the LAO to improve land access relations across Queensland and advocating for the service that the LAO provides in those communities that need us the most.

Our Performance

This year, our office received 47 overall dispute enquiries, an increase of 100 percent since 30 June 2020. This growth indicates the benefits gained from increasing our engagement activities and the additional work that we have done to promote the service of the LAO, to ensure Queensland communities are aware of the service.

Of the 47 enquiries received, 35 were out of our jurisdiction, while five preliminary enquiries were conducted that once assessed did not proceed to the investigation stage.

The increased inquiry experienced this financial year has meant providing support to landholders and resource authority holders, with varying land access

issues from across the land access spectrum. Although not always within our jurisdiction, our team remain a connection point for our stakeholders, referring these issues to government departments and organisations for appropriate management.

Providing a dispute resolution service that is fair is fundamental to our service delivery. In every investigation, we work with both parties to promote a sustainable working relationship, one that values the opinions of both parties, where both parties are clear and transparent in their dealings with each other. In October 2020, we received a referral that proceeded to the investigation stage. The case was complex and encompassed numerous disputes. Our team worked respectfully to improve the relationship between both parties and provide a fair outcome.

Learnings from each case referred to us demonstrate the complex nature of each dispute. With each year of operation, we develop a better understanding of the sensitivities that exist within the landholder and resource authority relationship, where a place of business may also be considered a home. Our team has navigated these sensitivities with respect and professionalism. I thank my team for their dedication to providing a service that is impartial, solutions-based, and outcome-focused.

Systemic Issues

No systemic issues were identified through our investigations this year. Through our collaborative operational approach, we continue to share case findings with key stakeholders in aid of improving the land access and Make Good frameworks.

As part of engaging with the communities of Queensland, to listen to their needs and understand their interests, issues have been presented to the Office. This year concerns for communities with high resource activity encompassed public liability insurance for Queensland farmers with existing Coal Seam Gas (CSG) activity on their land, Cross Directional Drilling



on neighbouring properties without Conduct and Compensation Agreements in place and the late issuing of Entry Notices to landholders. Where these issues have been encountered, they have been raised with the relevant Queensland government department or service provider that is able to provide support in the area.

We take pride in delivering a collaborative service. I thank our team for their proactive engagement with landholders and resource authority holders and their ability to manage the potential or emerging issues presented to the Office.

Our landscape

Our network

Collaborating with industry, community groups and government remains a priority work area for the Office. Developing and maintaining these ongoing relationships is essential to increasing awareness of the Land Access Ombudsman service in Queensland communities, particularly as we endeavour to keep pace with an ever-changing industry.

In 2020 – 21, we have continued our collaborative engagement with the Department of Resources (DoR), Department of Environment and Science (DES), GasFields Commission Queensland and the Land Court through the Resource Engagement Coordination Group. This collaborative approach has allowed us to reach regional communities experiencing industry growth, despite being affected by the logistical issues encountered in our COVID-19 operating environment.

This year we have built on our previous industry partnerships to form additional relationships with key stakeholders. This has allowed for greater information sharing and increased reach throughout the regions of Queensland experiencing higher resource activity, in particular the Surat basin.

Industry expansion

The continued growth of the State's resource industry and the pace at which the industry is expanding and changing presents a greater need for landholders and resource authorities to be aware of the service provided by our Office. With the industry growth that has occurred, we have seen increased enquiry this year for assistance that has fallen out of our jurisdiction. In

response, we have endeavoured to provide information through pathways that will help those starting out, to educate stakeholders early about where to go should a future dispute with a CCA or MGA take place.

Our plans

Our key priorities for 2021-22 include:

- » Executing our 2021 – 2024 strategic plan
- » Continuing our community engagement activities to increase our reach into the key regions of Queensland that are experiencing high resource activity and continued industry growth
- » Developing a Resource Industry Practice Group (RIPG) to provide general information and advice to the Office about standard industry practices, ensuring that we keep pace with the changing landscape.

My thanks

I thank the industry bodies, community leaders, government agencies, resource authorities and landholders for their insight and ongoing collaboration in this time of industry growth yet challenging operating environment. In particular, the landholders and resource authorities who have worked with us and trusted our team to resolve their disputes.

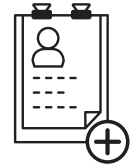
I thank the communities of Queensland for their continued engagement with us, for approaching and trusting in our service, and for sharing our information.

Finally, I thank my team for their continued support and work through a time where resilience and the ability to adapt to continual change in our operating environment is critical to achieving our strategic goals.

I look forward to the next 12 months and our achievements as we move into a period of growth and change in the industry.

Jane Pires
Land Access Ombudsman

Dispute Referrals in 2020-21



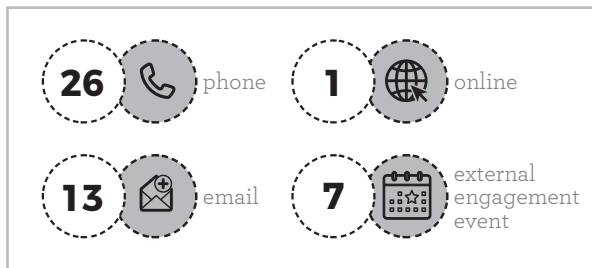
Referrals received

Between 1 July 2020 and 30 June 2021, the office received 47 enquiries about a possible dispute referral, reflecting an increase of 100 percent from the previous financial year. Of these enquiries, two dispute referrals were received from our key stakeholders (DoR, DES, GFCQ), while 36 enquiries were out of our jurisdiction and referred to another entity to help resolve the matter of enquiry.



Disputes possibly in jurisdiction

Of the 47 dispute enquiries received preliminary enquiries were conducted from five of the dispute referrals, which once assessed did not proceed to the investigation stage. Additionally, the office received three enquiries about disputes that were potentially within the jurisdiction of the Land Access Ombudsman. All three dispute enquiries were made by a landholder who referred to a possible breach of a Conduct and Compensation Agreement (CCA). However, in the three instances the landholder either decided not to progress the matter with the Office or advised that the issue had been resolved by legal assistance.



Referrals to other bodies

The 35 enquiries about disputes that we received and referred to other bodies were assessed by the team to be out of our jurisdiction under Section 36 of the Act.

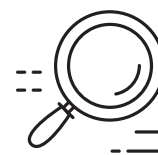
Themes in out of jurisdiction enquiries include:

- » Disputes over ownership, land value or access to land
- » Compensation Agreement for mining leases and claims under the Mineral Resources Act 1989
- » Dissatisfaction with a decision made by a government department (Department of Resources or Department of Environment and Science)
- » Disputes about issues on a neighbouring property
- » Complaints about telecommunication services on properties.
- » Assistance with the negotiation of a CCA or MGA
- » Negotiation of an access agreement for a windfarm
- » Breaches of Environmental Authorities
- » Resource activities on neighbouring properties
- » Dispute between owners of a mining lease
- » Disputes over use or ownership of easements
- » Disputes regarding a Deferral Notice
- » Local council complaint
- » Seeking assistance in finding out who owned land
- » Seeking payment for costs incurred when CCA negotiation was not completed

The number of forwarded referrals are depicted in the table to the right.

Organisation	Number of forwarded referrals
Department of Resources	13
Department of Agriculture and Fisheries	1
Department of Environment and Science	6
Queensland Ombudsman	6
Telecommunications Industry Ombudsman	1
Local free legal service	4
Commissioner for Body Corporate and Community Management	1
Department of Justice and Attorney General (Dispute Resolution Branch or Land Court)	1
Relevant Local Council	2
National Wind Farm Commissioner	1
Titles Queensland	1
Energy and Water Ombudsman Queensland	1
Queensland's Valuer General	2
Office of Fair Trading	1

Investigations



One investigation was undertaken in the 2020-21 financial year and is in the process of being finalised (no increase or decrease from the 2019-20 financial year), with five preliminary enquiries completed (an increase of four times the amount completed in the 2019-20 financial year).

The following are examples of cases that were referred to the LAO but after conducting preliminary enquiries were not investigated further.

Case one:

Transfer of a petroleum licence, concerns about biosecurity and public liability insurance.

Case overview

The LAO received a referral from a Queensland Government Department on behalf of a landholder with concerns about a resource authority holder operating on their land. At the time of enquiry, the landholder was denying the resource authority access to the property.

The landholder had several dormant wells on the property with a Conduct and Compensation Agreement (CCA) that had been renewed in recent years. The petroleum licence related to the property had been transferred from the original resource authority holder to a new resource authority holder, who now intended to commence production from the wells. **The landholder alleged breaches and issues related to:**

- » The validity of the existing CCA given the agreement had been signed with a different resource authority holder. The landholders believed renegotiation of the original CCA was required after a period of five years and that production should not have commenced on the wells without consultation.
- » Biosecurity on the property due to increased activity from resource company employees accessing the property.

Our actions

As part of our preliminary enquiries, documentation, correspondence exchanged between the parties and the CCA were examined to determine the date of expiry, ownership transfer, and the resource authority holder's obligations under the Biosecurity Act 2014. Advice was also sought regarding the issue of public liability insurance for landholders with coal seam gas infrastructure on their land.

Our examination revealed no breach of the CCA could be identified given that:

- » The CCA was signed in 2015 and valid from the date it took effect until the completion of activities, or 15 years after the agreement date.
- » There was no clause, or reference, requiring the CCA to be renegotiated after five years. A clause in the CCA stated that the CCA was binding on any transfer of the land and any transferee of an interest in the petroleum authority.
- » The operation of some of the wells without prior consultation was included in the CCA as part of authorised activities. The CCA did not contain any clause requiring the resource authority to gain consent or consult with the landholder before recommencing operation of the wells. It was reasonable to assume that the wells would become operational, and compensation provided. The resource authority apologised for the oversight in operating the wells without prior consultation with the landholder.
- » The resource authority had amended their practices to meet the landholder's expectations about biosecurity, this was considered reasonable.

Our preliminary enquiries concluded that no further investigation into the matter was required. Both parties were advised of the decision not to investigate the matter further.



Case two:

Loss of livestock, use of chemicals and damage to property.

Case overview

The LAO received the dispute enquiry from a Landholder at an LAO community engagement event. For some time, the landholder had been in dispute with a resource authority over alleged breaches of a CCA. **The alleged breaches included:**

- » Loss of livestock caused by the resource authority's approach to property access and compliance with shutting the gate.
- » The unauthorised spraying of chemicals by the resource authority when the property maintained organic status.
- » Damage caused by the resource authority to the property during a natural disaster event.

Our actions

The LAO undertook preliminary enquiries with documentation and correspondence exchanged between both parties, and the CCA reviewed.

Enquiries revealed that:

- » There was insufficient evidence of a breach or breaches relating to gate shutting and access to the property.
- » There was no clause in the CCA relating to the property having organic status.
- » There was no breach of the CCA relating to the actions taken by the resource authority about the natural disaster.

The LAO provided written advice to both parties highlighting that based on the documentation received, preliminary investigations could not identify a breach in the CCA but identified the findings above. The LAO suggested that the landholder refer the matter relating to the Environmental Authority to the Queensland Department of Environment and Science for investigation. Additionally, the LAO advised the landholder that to investigate their claim about the alleged breaches of the CCA further, the LAO required the landholder to provide additional evidence.

The LAO received no further information from the landholder, and the investigation was closed.

Notice of investigation

As per the process and the Act, one Notice of Investigation Outcome (section 51 notice) was issued in 2020-21, to the parties in the above-mentioned dispute.

Notice about legislation breaches

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

Engagement



It is our priority under the Act to promote an understanding of the benefits and functions of the Land Access Ombudsman service, to ensure that Queenslanders know who we are and how we can help with land access issues.

In the 2020-21 financial year, our efforts concentrated on connecting and engaging directly with key communities and increasing our online presence so that Queenslanders experiencing a land access dispute are aware of the service provided by the Land Access Ombudsman. This section provides an overview of key initiatives.

Community engagement

In 2020-21, the LAO worked to:

- » Increase community engagement activities in aid of creating broader community knowledge of the service in key Queensland communities.
- » Encourage engagement with our key stakeholders.
- » Strengthen industry partnerships.

In the early half of 2020, many community events and activities were cancelled or postponed due to COVID-19. In the first quarter of 2020-21, the LAO concentrated on rebuilding activities in communities experiencing high resource activity, to reinstate our presence on the ground.

Activities commenced with our pop-up office initiative in July 2020, with the dispute resolution team visiting the Western Downs regional towns of Dalby, Chinchilla and Roma. These activities have continued (COVID-19 situation permitting) as the year progressed, based on staff availability and peak business operating periods, with the following visits:

Location	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
Dalby	●	●	●		●				●		●	
Chinchilla		●	●		●				●		●	
Roma			●		●							
Toowoomba												●

In conjunction with our pop-up office initiative, the LAO also attended:

- » The Chinchilla Show
- » FarmFest 2021 Toowoomba
- » APPEA Gas Vision 2050 - Delivering a Clean Energy Future Webinar
- » GasFields Commission Queensland's Community Leaders Council
- » Queensland Resources Industry Development Plan Consultation Chinchilla.

Attending regional events allows the Office to connect directly with community stakeholders experiencing high resource activity, to hear their concerns and gain insight into any issues emerging in the region. Whilst industry events allow the Office to gain insight into industry best practices and hear of the challenges faced by industry workers. Overall, event attendance provides an effective means to collaborate and proactively engage with industry and community groups, landholders, and resource companies in high activity regions, to raise awareness of the LAO and our service.



Resource Engagement Coordination Group

As a collective, the Resource Engagement Coordination Group (RCEG) continues to be a key element of our engagement strategy and schedule to date. The group works collaboratively to strategically deliver tailored information to high resource activity regions through the Resource Community Information Sessions. With the continuing effects of COVID-19 on our operational environment, these sessions have been delivered online via webinar in the 2020-21 financial year. **These webinars are held in collaboration with:**

- » GasFields Commission Queensland
- » Department of Resources
- » Department of Environment and Science
- » Land Court Queensland.

Online Resources Community Information Sessions that the Land Access Ombudsman presented as part of this collaboration included:

- » Online Resource Community Information Session: Navigating Land Access for landholders and resource companies operating in the Wide Bay/ North Burnett region, December 2020.
- » Online Resource Community Information Session for landholders and resource companies operating in the Mt Isa (North West Minerals Province), March 2021.
- » Online Resource Community Information Session for the broader mineral sector, March 2021.
- » GasFields Commission Webinar: Navigating Land Access, August 2020.

Online engagement

In 2021-21, building our online presence has been a key component of our engagement activities as we continue to manage the ever-changing operating environment presented to us through the COVID-19 pandemic.

This financial year, the LAO experienced a 22.9 per cent increase in overall website usage. 42.1 per cent of users found the LAO website via a search engine, with 10 per cent of users directed to the site via our social media channels, an increase of 200 per cent from last year.

The increase in social media referrals to the LAO website reflects our focus on increasing online engagement this year. In 2020-21, we promoted all community engagement activities through social media channels, building our online community by connecting with industry stakeholders and sharing stakeholder information with LAO followers. We utilised our social media platforms to cross-promote our involvement in the RCIS webinars and directly promote LAO activities on the ground, connecting with the communities in our focus regions. The LAO Facebook page has increased its following by 114 per cent this financial year, with increases also experienced across LinkedIn and Twitter. We will continue to use the LAO social media channels to build a strong, informative online presence, to educate and support the landholders and resource companies of Queensland.

Overall, the success of our engagement strategy is reflected in the increased enquiry and referrals received by the LAO in the 2020-21 financial year. We look forward to building on these activities as we move into the new financial year.

Financial Information



The financial statements for the Land Access Ombudsman are included in the Department of Resources 2020-21 Annual Report.

Separate financial statements are not required for the Land Access Ombudsman.

Appendix one: Glossary

Term	Definition
(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
DoR	Department of Resources
DES	Department of Environment and Science
DAF	Department of Agriculture and Fisheries
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 OLAO 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

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Keep in touch   



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