

ANNUAL REPORT
2018-19



LAND ACCESS
OMBUDSMAN



We provide help and direction for landholders and resource companies who need assistance to resolve land access disputes in Queensland.

Our service is free, fair and independent.



Letter of compliance

11 September 2019

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 first annual report for the Office of the Land Access Ombudsman, for the financial year of 1 July 2018 to 30 June 2019.

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

Land Access Ombudsman
Level 12
53 Albert St
BRISBANE QLD 4000

Telephone 1800 717 550
www.lao.org.au

About this report

The Office of the Land Access Ombudsman (OLAO) provides a dispute resolution service for landholders and resource authority holders with Conduct and Compensation Agreements or Make Good Agreements. This annual report provides information about the performance of the Ombudsman scheme from our opening on 14 September 2018 to 30 June 2019. It includes our activities and achievements for the financial year and summarises our future priorities, for the benefit of all our stakeholders.

Interpreter Service



OLAO 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.

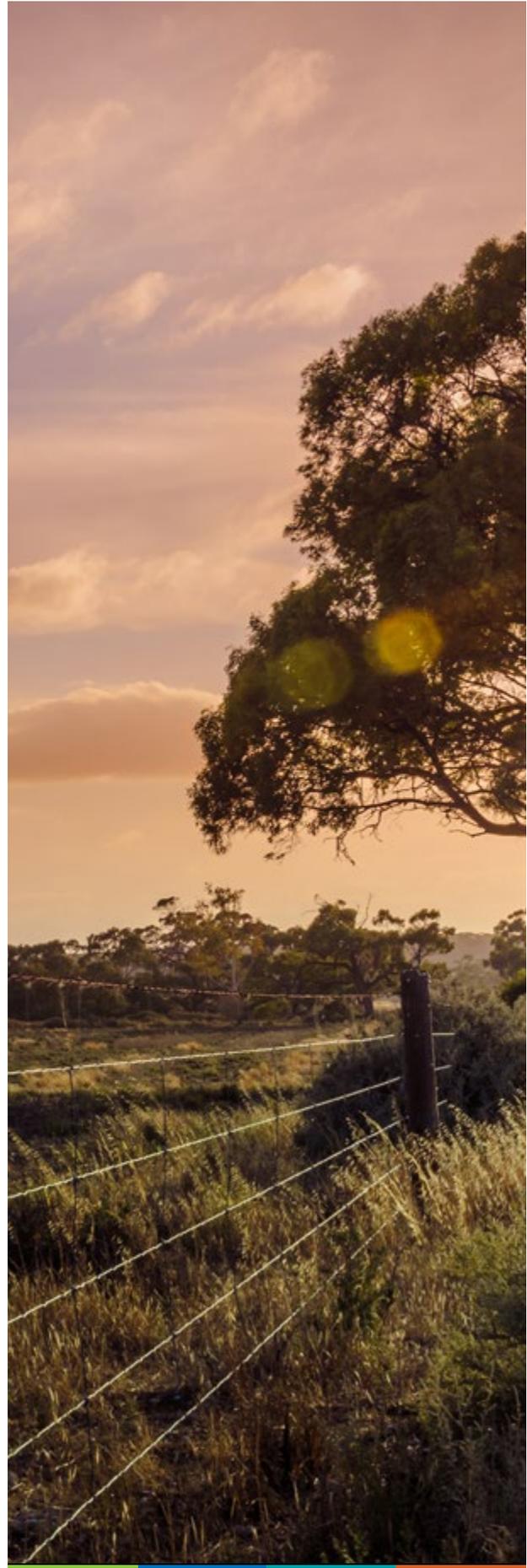
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We acknowledge and pay our respects to the past, present and emerging Traditional Custodians and Elders of this nation and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.





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Our profile

Our role

The Office of Land Access Ombudsman was established under the *Land Access Ombudsman Act 2017*. 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), giving advice and making recommendations about how disputes could be resolved, and referring possible offences and breaches to the relevant government department. We do this as quickly, efficiently and with as little formality as possible, always prioritising the ongoing relationship between the two parties and aiming for an amicable and mutually satisfactory outcome.

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.

We are Queensland and Australia's first Land Access Ombudsman scheme. Prior to our doors opening in September 2018, landholders or resource authority holders wanting to resolve disputes over CCAs and MGAs faced (often lengthy, complex or costly) legal action, or a conference with government staff. OLAO provides an accessible, affordable alternative; our services are free, fair and independent.



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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:

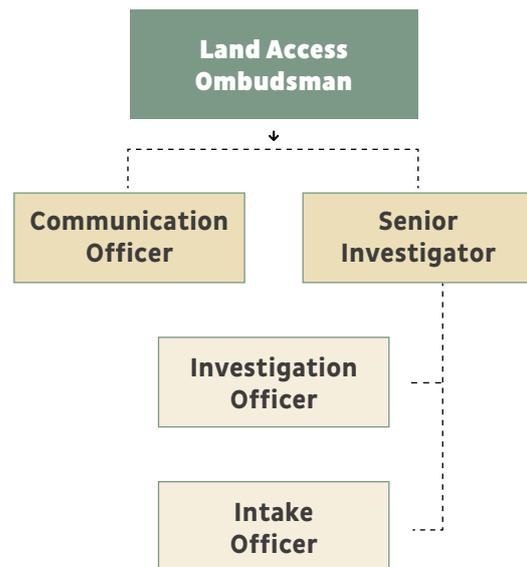
- » when the CCA or MGA is still under negotiation, or subject to a minimum negotiation period or cooling off period
- » the content of legislation or government policies
- » a decision made by Cabinet, a Minister or a chief executive of a government department
- » a matter that is, or has been, the 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 structure

The Land Access Ombudsman is not subject to direction by anyone, but must submit reports to the Minister for Natural Resources, Mines and Energy. The Land Access Ombudsman is Ms Jane Pires.

In addition to the Land Access Ombudsman, as at 30 June 2019 the Office also includes four employees — three dispute resolution and investigation staff, and a communications officer. The investigation team, led by the Senior Investigator, support the Land Access Ombudsman in investigating and resolving complaints and enquiries, and in undertaking reviews. The Communication Officer reports directly to the Ombudsman, improving awareness of and access to the Office.



Disputes and investigations

Referrals received

Between doors opening on 14 September 2018, and 30 June 2019, we received 17 referrals, two of which proceeded to investigation.

Referrals that did not proceed to investigation

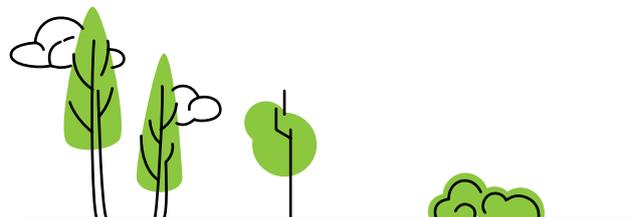
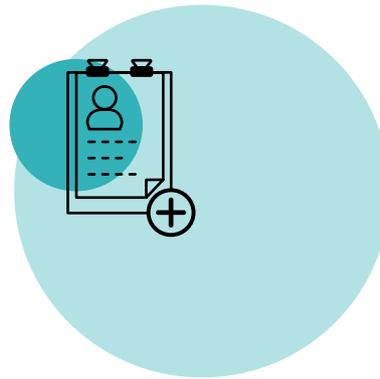
We did not investigate 15 of the referrals as they were out of jurisdiction under section 36 of the Act.

Where relevant, the enquiring person was referred onto the following departments, agencies or organisations:

Department of Natural Resources, Mines and Energy	5
Queensland Ombudsman	2
New South Wales Ombudsman	2
Relevant local council	2
Office of Fair Trading	1
Queensland Building and Construction Commission	1

The most common reasons we were unable to investigate were due to the dispute:

- » not being between a landholder and a resource authority holder
- » being related to a landholder and resource company, but with no Conduct and Compensation Agreement or Make Good Agreement in place
- » being located interstate.



Investigations

Two of the land access dispute referrals received proceeded to investigation. One was referred by the landholder, and one by the resource authority holder.

Both were related to Conduct and Compensation Agreements involving coal seam gas operations in the Surat Basin.

Issues and frustrations common to both dispute included:

- » biosecurity concerns (mainly weed and washdown compliance)
- » outstanding rehabilitation or rectification works
- » rubbish and used materials left on property without the landholder's consent
- » gate and access conditions.

Notice of Investigation Outcome

One full investigation has been completed. A Notice of Investigation Outcome (section 51 notice) was accordingly issued to the parties.

Notices about legislation breaches

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



Message from the Ombudsman



It is a great pleasure to introduce the 2018-19 Annual Report as Queensland's first Land Access Ombudsman.

I've been privileged to lead the Office of the Land Access Ombudsman since its establishment on 14 September 2018.

Mining and agriculture are both integral to Queensland's economy and lifestyle. The two industries have a varied and often tumultuous shared history, and the ongoing growth and development of both necessitated a body that could resolve disputes without unnecessary cost, while promoting respect, communication and coexistence.

In response, our scheme was introduced - and at an interesting junction in the state's agricultural and resource history. Some communities have already experienced decades of conflict or cooperation, while others are feeling the excitement or apprehension of exploration for the first time. When meeting with those involved, I've been met with both "where were you eight years ago?" and "I'm glad to know you're here if I need you somewhere down the track."

Along with my team, who were each brought on board for their experience across disputes, the resource industry and rural issues, I'm committed to assisting Queensland landholders and business, no matter which stage of the land access journey they're at.

Land access disputes and enquiries

By 30 June 2018, 17 referrals had been made to our office. Of these, two were under our jurisdiction and proceeded to investigation. I'm pleased to say that at the time of writing, one investigation has been completed to the agreement and satisfaction of both parties, and the other is progressing well. Preserving the parties' working relationship is our top priority, and we

strive for an amicable and mutually satisfactory outcome in all cases; results to date have been promising.

The average time taken to resolve and close a dispute has been longer than initially forecast. While the dispute resolution team are committed to improving investigation closure times, the delays experienced to date have provided a number of valuable learnings about roadblocks we can expect in our operating environment, and how we can adapt our processes to meet the needs of each party.

Both of these cases have shared a number of issues raised by the parties, which also reflect problems relayed to me in the community. These have included biosecurity concerns, access to the property, and a feeling of being disrespected.

My remit as Land Access Ombudsman also includes identifying systemic issues presented in our investigations, and providing advice and recommendations to government and industry accordingly. Though our cases to date have not revealed any systemic issues, I've had productive conversations with industry leaders regarding several trends and legacy problems I have anecdotally been made aware of. I also contributed to the Queensland Audit Office's audit into the management of coal seam gas activities, due to be tabled in 2019-20 financial year.

Awareness and engagement

One of our priorities under the Act and for the betterment of Queensland's land access landscape, is to promote awareness and understanding of our services.

Parties to a dispute are often unsure of the path to take when they have a problem, and paired with the frustrations of the dispute itself, this can lead to distrust, apathy and unwillingness to seek help

Our communication to date has focussed on establishing our presence and network, fostering relationships with as many key influencers – whether industry, community or media – as possible.

This has included directly engaging with representatives from stakeholder organisations including:

- » Department of Natural Resources, Mines and Energy
- » Department of Environment and Science
- » Land Court of Queensland
- » Gasfields Commission Queensland
- » AgForce
- » Queensland Farmers Federation
- » Cotton Australia
- » Association of Mining and Exploration Companies
- » Australian Petroleum Production and Exploration Association (APPEA)
- » Queensland Rural and Industry Development Authority
- » Rural Investment Corporation
- » LegalAid and the Farm and Rural Legal Service
- » Financial and Rural Financial Counsellors
- » Local Government officials
- » Lifeline
- » Are You Bugged Mate?

While all the events I've attended as the Land Access Ombudsman have provided invaluable opportunities to connect with our stakeholders, two have been standouts – the APPEA Land Access Forum, and the regional Land Access Dispute Resolution Workshops coordinated by Gasfields Commission Queensland and the Department of Natural Resources, Mines and Energy. Both saw me travel to regions most impacted by land access activities, to speak to, and more importantly, hear the experiences of the landholders and resource authority holders we exist to help. This insight has been crucial in our launch phase.

In addition to face-to-face engagement, we've built a suite of accessible resources to help inform our stakeholders in their own time, or when we can't be there. Development of our digital channels (website and social) has opened another avenue to share and receive information, while traditional brochures and guides can easily be circulated and kept on hand.

Challenges

Our narrow jurisdiction, there being a limited number of Conduct and Compensation Agreements and Make Good Agreements and the complexity of these cases mean that we expect a lower case volume in comparison to other ombudsman schemes. This aside, a number of other challenges need to be overcome in order to meet our full potential and assist more Queenslanders.

Potential referrers to our scheme cover a wide geographical area. Many landholders are in remote areas of Queensland, while resource company employees can be based interstate. Message penetration is an ongoing challenge, and sustained

...we are committed to continuing to improve our processes and expand our reach so that any relevant Queenslanders or resource company knows that we can help resolve their dispute efficiently and without unnecessary cost.

communication and engagement efforts will be key to raising not just awareness, but understanding.

Public perception of the land access system is another challenge. Feedback from stakeholders reveals it to be a historically murky one. Parties to a dispute are often unsure of the path to take when they have a problem, and paired with the frustrations of the dispute itself, this can lead to distrust, apathy and unwillingness to seek help. The introduction of another service risks further confusion. This challenge makes maintaining clarity on our role and place in the system a key priority in all interactions, with an emphasis on what sets us apart from the options previously available.

Moving forward

As more land opens for exploration, and with recent legislative changes around Conduct and Compensation Agreements and Make Good Agreements, the number of land access disputes – and the need for our scheme – are likely to increase.

With the foundations now in place, we are committed to continuing to improve our processes and expand our reach so that any relevant Queenslanders or resource company knows that we can help resolve their dispute efficiently and without unnecessary cost.

Our ultimate purpose is to support sustainable working relationships between Queensland's landholders and resource authority holders. To fulfil this, a key strategy in the months ahead is implementing a program to promote resource industry best practice in land access

interactions. Response from peak bodies and individual companies has so far been encouraging, and we look forward to working with our stakeholders to minimise future land access disputes.

Likewise, I look forward to continuing my regional engagement program in the next year. On-the-ground presence is essential to meeting the needs of our communities and understanding where this scheme needs to go.

My thanks

Thank you to the industry bodies, community leaders, government agencies, companies and landholders for your interest, insights, cooperation and support to date. In particular, to the landholders and resource company who have already trusted us to resolve your dispute. Thank you also to my team for the hard work you've put into establishing our office.

I am confident we will continue to create positive change for Queenslanders experiencing land access conflicts, and look forward to what we can achieve over the next 12 months.



Jane Pires
Land Access Ombudsman

Financial Information

The financial statements for the Office of the Land Access Ombudsman are included in the Department of Natural Resources, Mines and Energy 2018-19 Annual Report. Separate financial statements are not required for the OLAO.



Appendix one: Glossary

(The) Act	Land Access Ombudsman Act 2017 (Qld)
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 OLAO 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
OLAO	Office of the 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

Land Access Ombudsman
Level 12, 53 Albert Street
BRISBANE QLD 4000

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www.lao.org.au

Keep in touch   

