

2021/22



LAND COURT OF QUEENSLAND

ANNUAL REPORT

ARTWORK:

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LAND COURT
OF QUEENSLAND



LAND COURT OF QUEENSLAND
Chambers of President FY Kingham

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28 September 2022

The Honourable Shannon Fentiman MP

Attorney-General and Minister for Justice

Minister for Women and Minister for the Prevention of Domestic and Family Violence

1 William Street

Brisbane Qld 4000

attorney@ministerial.qld.gov.au

Dear Attorney

Re: Land Court of Queensland Annual Report 2021-2022

As required by s 77A(1) of the *Land Court Act 2000*, I provide you with the fifteenth annual report on the operations of the Land Court of Queensland.

Yours sincerely

President FY Kingham



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President's Report



COVID still lingers on

In the last annual report I noted the ongoing impact of the COVID-19 pandemic and its impacts in the Land Court. That is true of 2021-22, largely because of the turndown in activities that drive filings in the Land Court. This is explained in the Performance Reporting section of this Annual Report.

Access to courtrooms

The smaller filings in 2021-22 placed the Court in the fortunate position of being able to assist other justice agencies with accessing our courtrooms, which are well equipped with audio-visual technology. With the agreement of the Chief Magistrate, the Land Court has provided courtroom access to the Queensland Civil and Administrative Tribunal.

Sessional members of QCAT

On 24 May 2022, three members of the Land Court were sworn in as sessional members of QCAT. Their primary function is on this Court, and QCAT sittings are subject to their caseload with the Land Court. This initiative makes good use of judicial resources across the justice sector.



Proctor News published 27 May 2022

Back row, from left: Deputy Chief Magistrate Anthony Gett, Member William Isdale, QCAT Executive Director & Principal Registrar Natalie Parker, Member James McNamara, Judicial Member the Hon. Colin Forrest SC. Front row, from left, Member Peta Stilgoe, Chief Justice Helen Bowskill, QCAT President Kerri Mellifont, Deputy Chief Magistrate Janelle Brassington.

The Land Court Rules

The *Land Court Rules 2022* commenced on 18 March 2022. They provide a stronger platform for the reformed procedures developed in the preceding 5 years. The Court will now consult with the profession about consequential revisions to the practice directions.

First Nations Evidence

For the first time in the Court's history, the Land Court took evidence from First Nations witnesses on country. In 2022-23, the Court



will consult with relevant groups to develop a protocol about First Nations evidence that provides clarity about the Court's practices and ensures procedural fairness for all parties.

[Queensland Law Reform Commission](#)

In 2021-22, the Queensland Government issued a Queensland Resources Industry Development Plan, which includes a recommendation to refer to the QLRC the processes for assessing, deciding and reviewing mining applications. This may have implications for the Land Court's functions and procedures in mining cases.

My sincere gratitude to the Members, Associates, the Principal Registrar and his staff for their constancy and professionalism, which I have come to rely upon, but do not take for granted.

A handwritten signature in purple ink, reading 'F Y Kingham'.

President FY Kingham



Principal Registrar's Report



I would like to thank everyone who contributed to improving the operations of the Court and in particular the Land Court Registry team for their dedication and commitment. I lead a team who together have created a unique workplace culture whereby everyone is valued, respected and inclusive, in essence we have a shared sense of purpose which inspires everyone to do their best.

Strategic Plan

There has been good progress implementing the 2021-2022 strategic plan.

The court has:

- revised its Rules and Practice Directions
- commenced an audit of all archived Land Court Tribunal Records
- increased access to e-trial technology for court hearings

- increased the appointment time from 30 minutes to 60 minutes for self-represented parties who require procedural assistance
- commenced work implementing the Land Court Reconciliation Action Plan
- completed the Aboriginal and Torres Strait Islander Australian Foundation Course (CORE Cultural Learning)
- completed the International Framework for Courts Excellence self-assessment

Work continues reviewing court processes and practices as an ongoing part of the way we do business.

In May 2022, we commenced a partnership with QCAT whereby we have been able to offer the use of our courtrooms and chamber courts to assist QCAT with their high caseload. This successful partnership has meant we have been able to exceed service delivery expectations which are aligned to the Courts Services Queensland 'Working as one' operating model.

Reconciliation Action Plan

Last year I reported that in February 2021, we wrote to Reconciliation Australia and Reconciliation Queensland to inform them that we were ready to participate in the reconciliation journey with the development of our first Reconciliation Action Plan (RAP)

The RAP journey has been one of self-discovery and continuous learning, developing cultural capability in relation to Aboriginal and Torres Strait Islander peoples for all staff and the judiciary.



In December 2021 we completed a yearlong online Core Cultural Learning program offered by Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS).

In June 2022 Reconciliation Australia formally endorsed the Land Court of Queensland Reconciliation Action Plan (Innovate).

Our journey has been two years in the making and I'm proud to have been a part of an amazing group of people who made the commitment to work together to make this a reality.

Our journey continues.

Finance

| Operating Expenses 2021-22 | Amount |
|---------------------------------|-----------------------|
| Employee expenses | \$1,328,511.45 |
| Supplies & Services | \$243,985.07 |
| Depreciation | \$0.00 |
| Total Operating Expenses | \$1,572,496.52 |

H.M. Campbell

Principal Registrar DM Campbell



Performance Reporting

Clearance rate

A key indicator of a Court's performance is its clearance rate. In 2021-22 it was 123.76%, an increase on last year's clearance rate of 119%. The very high clearance rates over the last two years are well above the rates of between 103% and 107% from 2016 to 2020. The explanation is the COVID-19 related reduction in the Court's case load.

Lodgements

There were 202 lodgements in 2021-22. While the Court's jurisdiction is diverse, the largest jurisdiction by volume is appeals against the valuation of land. In 2021-22, only 122 land valuation appeals were lodged.

The number of appeals is responsive to the statutory valuation program. The 2021 Valuation Program, which drives lodgements in 2021-22, was very small. Only 261,000 properties were valued, and these were nearly all outside major population centres. By contrast, the 2020 Valuation Program valued 825,000 properties, resulting in 400 appeals. Although the number of valuations is not the only factor that drives appeals, the scale of the 2022 Valuation Program suggests appeals will increase in 2022-23. In that program, the Valuer General valued 1.51 million properties, covering 87% of the State.

In other jurisdictions, the number of lodgements for mining resource cases has been steady for the past 2 financial years. Although exploration activity has picked up, that is yet to translate to applications before the Court. There have been fewer mining compensation

cases lodged in 2021-22. The Department and the Court have all but cleared a previous backlog of compensation cases. While case numbers are lower in this jurisdiction, the complexity of some mining cases means they are very resource intensive. Significant resources were allocated to the hearing of the applications by Waratah Coal Pty Ltd for a thermal coal project in the Galilee Basin. At the end of 2021-22, that case was part heard.

Acquisition of Land cases remain steady with around 10 cases filed each year. Like mining cases, these are resource intensive. Rating categorisation appeals increased but there is no clear trend in that jurisdiction.

Use of the ADR panel was consistent in the last 2 years. Enquiries appear to be increasing and use of the panel should increase as filings do.

Active caseload

At the end of 2021-22, the Court's active caseload was 70 cases, due to the low filings, high clearance rate and timeliness in disposition. Nearly 78% of cases were resolved within 6 months. The average number of days to resolution of those matters is 147.

Judgments

The number of judgments were low (28), but relative to the caseload. Timeliness in delivering judgments continued to improve. 99% of judgments were delivered within 3 months, with most within 1 month. Only one judgment was pending at the end of 2021-22 but has since been determined.



Appeals and Judicial Reviews

Six appeals were lodged in the Land Appeal Court in 2021-22. 4 were dismissed. 1 was upheld and remitted to the Land Court for reassessment of compensation. 1 is outstanding but is listed for hearing. There were no appeals from the Land Appeal Court.

One application for judicial review was lodged in 2021-22. It has recently been withdrawn.



Librarian's Report



The impact of COVID this year caused restrictions and staff absences, but work from home arrangements and strong reciprocal ties with other law libraries ensured continuity of library services.

The Court's *Judgment Style Guide*, managed by the librarian, continues to reflect best practice in legal citation and provides associates with a specialist resource to assist with their work.

Two sessions on preparing Court decisions for reporting in the *Queensland Land Court Reports* were delivered to Associates, who then assisted with proof reading of decisions for the volume in production.

The production on the *History Notes* booklet drew heavily on library resources and contacts, as well as published and unpublished materials, to ensure the history of the Court and the work of people who have served it are preserved.

This year saw the return of a royal coat of arms to the Land Court, where it is now displayed in

the Members' common room. The historic coat of arms pre-dates the granting of the Queensland coat of arms in 1893, and hung in various court rooms used by the Land Court, resided in the old Supreme Court building, and in recent times in the State Law Building.

Supreme Court Library partnership

Land Court is again partnering with the Supreme Court Library to make previously unavailable Queensland judgments accessible online through the Supreme Court Library's Caselaw database.

Land Court has a paper collection of decisions of the Queensland Mining Wardens Court from the 1970s until the jurisdiction was included in the former Land and Resources Tribunal in 1999. Most of these decisions have never been digitised, and work has commenced on scoping the project with Supreme Court Library staff with a view to commencing digitisation later in 2022.

Queensland Land Court Reports

The Court publishes annual volumes of the *Queensland Land Court Reports* in which selected decisions of the Land Court, all decisions of the Land Appeal Court, and reviews and appeals heard in superior courts are reported. The QLCRs have been produced continuously since 1974, and prior to that as the *Crown Land Law Reports*, the first volume of which covered the period 1859-1900.

This year, the Court prepared the 2019 volume for publication in which 28 cases are reported: 1 Court of Appeal decision, 5 Land Appeal Court decisions, and 22 Land Court decisions.

The decisions to be reported in the 2019 volume considered the following Acts in the proceedings listed:



| Act considered | Number of decisions |
|--|---------------------|
| <i>Aboriginal Cultural Heritage Act 2003</i> <ul style="list-style-type: none"> • Application for interlocutory injunction – 1 | 1 |
| <i>Acquisition of Land Act 1967</i> <ul style="list-style-type: none"> • Appeal from the Land Appeal Court – 1 • Claim for compensation payable – 1 • Determination of compensation – 1 | 3 |
| <i>Land Valuation Act 2010</i> <ul style="list-style-type: none"> • Appeal against land valuation – 3 • Appeals against objection decision – 2 • Appeal from the Land Court – 2 • Application for costs – 1 | 8 |
| <i>Local Government Regulation 2012</i> <ul style="list-style-type: none"> • Appeal from the Land Court – 2 • Appeal against categorisation decision – 1 | 3 |
| <ul style="list-style-type: none"> • <i>Mineral Resources Act 1989</i> • Appeal from the Land Court – 1 • Application for costs – 1 • Application for injunction – 1 • Application for mining lease and objections – 1 • Applications for non-party disclosure – 1 • Application for stay of proceedings – 1 • Application to strike out – 1 • Determination of compensation payable for renewal of mining lease – 2 • Hearing of application – 1 • Requests from experts for further information in Court Managed Expert Evidence process – 1 | 11 |
| <i>Mineral Resources Act 1989 & Environmental Protection Act 1994</i> <ul style="list-style-type: none"> • Objections to application for environmental authority and mining lease – 1 | 1 |
| <i>Transport Infrastructure Act 1994</i> <ul style="list-style-type: none"> • General application – 1 | 1 |
| TOTAL | 28 |



Organisation and Administration

Judicial support

The Executive Assistant and Associates provide support to the President, Members and Judicial Registrar of the Court.

In 2021-22, the Executive Assistant and the Associates of the Land Court were:

- Executive Assistant, Elise Biggs
- Associate to President Kingham, Nikolaos Papavasiliou (until 14 January 2022); Sienna McInnes-Smith
- Associate to Member Isdale, Dominic Bilton (until 14 January 2022); Owen Ginman
- Associate to Member Stilgoe, Lianna Lazzaretti (until 14 January 2022); Sophia Xian
- Associate to Member McNamara, Cara Scarpato (until 14 January 2022); Thomas Moore

Land Court Registry

The Land Court Registry provides administrative support to the Court, including budget and resource management.

In 2021-22, the Registry Officers of the Land Court were:

- Principal Registrar, Darren Campbell
- Senior Registrar, Business Operations, Nichole Padovan
- Senior Registrar, Court Management, Chris De Marco
- Deputy Registrar, Gregory Grodecki
- Deputy Registrar, Monica Oates
- Court and Administration Officer, Paulo Frutuoso
- Court and Administration Officer, Tyson Lee

Location and contact details

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Business hours

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Email

LandCourt@justice.qld.gov.au

Website

<http://www.courts.qld.gov.au/courts/land-court>