

Discussion paper – A review of coexistence principles and coexistence institutions

GFCQ Submission

February 2023



Summary

The GasFields Commission Queensland (the Commission) welcomes the Department's *Review of coexistence principles and coexistence entities* (the review) and appreciates the opportunity to provide a submission in response to the Discussion Paper. In this submission, the Commission provides information relating to its experience in the areas of land access and coexistence to assist the Department of Resources (Resources) in the further analysis of the coexistence principles and institutions.

Importantly, over the past three years the Commission has evolved its approach to achieving its purpose of *managing and improving sustainable coexistence of landholders, rural and regional communities and the onshore gas sector*. This has been in response to changing industry and community demands and a number of reviews of the Commission's functions and operations.

As a result, the Commission has focused its activities in three key areas:

- **facilitating** effective stakeholder relationships, collaborations and partnerships to support information sharing related to the onshore gas industry;
- **reviewing** effectiveness of implementation of regulatory framework related to the onshore gas industry; and
- **advising** ministers, government and the onshore gas industry on matters related to sustainable coexistence, leading practice and management of the onshore gas industry.

The Commission has positioned itself as a genuine leader in the conversation around the coexistence of the onshore gas sector, landholders and rural and regional communities. It has worked hard to facilitate an ongoing dialogue around complex coexistence issues and brought about change and improvements in policy, legislation, relationships and behaviour.

Given this focus, the Commission is well placed to make a positive input to the review. The Commission acknowledges that coexistence and land access matters extend beyond the gas sector, and a number of other industries share common coexistence characteristics and challenges with gas development. This includes other aspects of the resources sector such as mineral and coal developments, as well as emerging energy industries such as renewables (solar, wind and hydrogen) and greenhouse gas storage. In these areas there is a clear gap in terms of a lack of an independent entity that offers the value proposition of the Commission in terms of facilitation, review and advice.

The review presents an opportunity to more broadly apply the experience of the Commission in the coexistence arena across other resource commodities. The coexistence model developed by the Commission is robust, proven and could be adapted to suit other sectors with similar beneficial outcomes.

The Commission notes that whilst that the discussion paper relates to coexistence and land access, the focus of much of the content is on land access and the direct interactions between resource companies and landholders. Whilst land access is a vital aspect of coexistence, the practice of coexistence is much broader and relates to many aspects of the gas industry's interactions with rural and regional communities.

The Commission's remit, as described under *Gasfields Commission Act 2013* (the Act), is broader than just land access and, whilst information and education around land access is key focus, the Commission adds value in broader areas including facilitation, advice and review.

The Commission seeks to facilitate better relationships between landholders, regional communities and the onshore gas industry. This work involves bringing representatives from the broader community together to develop a more holistic approach to how gas activities are impacting regional

communities, and to identify opportunities where the gas industry can make a positive and enduring contribution.

In addition to the facilitation functions, the Commission undertakes the unique function to reviewing the effectiveness of government entities in implementing regulatory frameworks that relate to the onshore gas industry. To complement the review function, the Commission also has advisory functions under the Act to provide advice about coexistence matters relating to the onshore gas industry in Queensland.

This aspect of the Commission's work should be considered in any changes proposed to the structure of the coexistence entities.

In summary, the Commission's key points of feedback on this discussion paper are:

- the discussion paper focuses on coexistence between landholders and resource companies, however it is critical that any reform addresses a broader concept of coexistence for regional communities, including First Nations people, business, industry and local government;
- coexistence issues are similar across the gas, mineral, coal and small scale mining sectors (and in emerging industries such as renewable and greenhouse gas storage), however there is inconsistency in the jurisdictions of coexistence entities involved (i.e. onshore gas for the Commission, coal and gas for the Office of Groundwater Impact Assessment (OGIA) and all sectors for the Land Access Ombudsman (LAO));
- the model of an independent entity via the Commission's is proven in providing an independent voice to manage and improve coexistence outcomes in the gas sector – this is a gap in other areas of the resource sector and there are opportunities to address this by leveraging the model;
- there is an opportunity to continue to evolve the Commission's role to fulfill a concierge/single entry point service to assist stakeholders and community members in accessing information and navigating the complex environment;
- there is benefit in expanding the remit of the LAO to provide an independent avenue for a broader range of dispute resolution;
- however, the Commission does not believe that it is appropriate to merge the LAO with the Commission as dispute resolution is potentially incompatible with the information, education and engagement function of the Commission;
- the roles and functions offered by land access and coexistence institutions would benefit from being clarified and rationalised where overlapping functions exist;
- resourcing and funding will be a key challenge going forward – additional resources are required to provide the level of service demanded by regional communities, particularly for the Commission and LAO given potential jurisdiction reform;
- changing the governance and funding models for the coexistence institutions must carefully consider implications for perceived bias (i.e. levy funding, board structure); and
- any changes to the structure of entities needs to consider the historic context and justification used to establish the current structure of the coexistence entities to ensure that all relevant factors are considered and there are not unintended consequences.

In addition to this overarching summary, the Commission has provided detailed feedback in relation to each question posted in the discussion paper.

Foundations for sustainable coexistence

Q1. Are the four foundations reflective of the key requirements for sustainable coexistence?

The Commission supports the government's foundations for sustainable coexistence, however there are some opportunities to enhance the foundations.

A key missing element from the foundations is a mechanism to facilitate engagement and collaboration between stakeholders around sustainable coexistence. The "information and education" foundation should include an aspect of open conversation and dialogue between all stakeholders. It currently reads as only the provision of information and education at the landholder / company level from government or statutory bodies.

Coexistence is the minimum outcome. An enduring partnership between stakeholders should be the ultimate coexistence goal. Collaboration is fundamental to the formation of partnerships between stakeholders. The Commission currently operates in this space, working to facilitate conversations and collaboration between all stakeholders to achieve better outcomes for coexistence.

An example of this type of role the Commission plays is through its facilitation of its annual Community Leaders Council (CLC). The CLC brings together community leaders from government, the gas industry, the agricultural sector, and regional communities to build a shared sustainable coexistence goal and drive increased collaboration and strategic problem solving amongst key stakeholder groups. This forum provides a formal mechanism to identify current and emerging issues and trends and provides proactive advice and information to the respective state government agencies and other stakeholders.

In considering the above, the Commission considers that the foundation relating to "information and education" could be amended to "information, engagement and oversight" to reflect the type of activities undertaken by the Commission in terms of engagement and oversight.

The Commission strongly supports providing independent assessments that promote evidence based decision making via entities such as OGIA. Transparency is a critical part of this foundation to ensure stakeholders understand the basis upon which decisions are made, and the OGIA model has proven very effective in delivering coexistence outcomes around the complex matter of groundwater impacts.

The Commission also strongly supports the proposed regulation and compliance foundation. If ambiguity in the regulatory frameworks becomes apparent as new coexistence issues arise, it is essential that providing clarity to stakeholders is prioritised to promote sustainable coexistence.

Part A: Coexistence principles

Q2. In what ways could the principles be improved to deliver better coexistence outcomes?

The Commission supports the proposal to include the coexistence principles in the Land Access Code and notes the government's acknowledgement that the principles establish government's minimum expectations. Importantly, the inclusion of these principles in the Code, which is a statutory document, provides greater confidence that the principles are upheld by companies and other stakeholders.

To optimise coexistence outcomes, the coexistence principles would benefit from being supplemented with guiding material on leading practice as detailed in the response to Q3. The Commission and other entities will likely use these principles as a benchmark for whether companies and landholders are engaging appropriately. With this in mind, additional guidance

material would assist to make the measures less objective and therefore provide clarity around performance expectations for resource companies, landholders and regional communities. The Commission would be very keen to provide a leadership role in the development of these leading practice materials.

The Commission notes that the coexistence principles do not address how resource authority holders should interact with regional communities more broadly. This is a crucial aspect of coexistence that is not able to be addressed through the land access code and the government's expectations should be clarified through additional actions.

Specific Comments

Under the value "Be proactive and engage early", it is specified that a resource authority holder should "*provide landholders with the information necessary to inform negotiations and decision-making*". The Commission believes that an additional phrase should be added that relates to resource authority holders being responsive to information requested by landholders. In the past the Commission has found instances where resource authority holders are reluctant to provide certain information when requested by the landholder.

Under the value "*Interact respectfully and transparently*", the Commission recommends expanding the following resource authority holder principle to include the following bolded text: "Negotiate in good faith, **provide timely responses to requests for information** and ensure timely decision-making". Whether it's included in this value or the "Be proactive and engage early" value, this addition is critical to ensure that it's not only landholders who are expected to provide timely responses to requests.

Q3. Are there other ways in which the government could make its expectations about conduct of resource companies and landholders clear?

Developing a clear definition of sustainable coexistence as a policy statement could contribute to clarifying government expectations and add value. The interpretation of the term "coexistence" often varies along a broad spectrum among stakeholders, from simply existing in the same space at the same time to forming a prosperous and mutually beneficial partnership. The vagary of the term coexistence is the source of some contention. Clarifying the government's intent in relation to coexistence would provide greater certainty to resource companies, landholders, and regional communities, and more clearly set the government's expectations around the conduct of resource companies and landholders. The Commission is well placed to participate in this process.

There is an opportunity to provide greater clarity around expectations in terms of conduct between resource companies, landholders, and regional communities beyond land access. The discussion paper acknowledges the limitations of the coexistence principles to the behaviour between companies and landholders however, resource companies are also expected to engage more broadly with regional communities to meet community expectations and leave a positive and enduring community legacy.

The Commission could add value in this respect and lead collaborative work to provide greater clarity on expectations, such as the publication of leading practice case studies for examples of sustainable coexistence or a guide for building relationships with regional communities. In the current context, this work would be limited to the onshore gas sector, however in a future state could be broadened to cover other commodities.

Part B: Coexistence institutional review

Q4. What is working well with the current institutional arrangements and should be retained?

Independence is critical for the Commission, OGIA, and the LAO. Each of these entities depend on stakeholder trust, and independence of any perceived or real government or other influence. Each of these entities also have a unique role, brand and varying levels of trust with stakeholders. The potential implications of combining entities must therefore be carefully considered to avoid the erosion of trust and potential for conflict in functions.

A success of the current framework is that relevant independent entities work collaboratively and flexibly to meet stakeholder needs. The entities are able to be agile due in part to their relatively small size, focused remit and reduced complexity of structure. The Commission's small size, broad skillset, and strong networks across the gas and agriculture sectors provide a value for money entity to assist in developing sustainable coexistence.

In recent times the Commission has played a key role in bringing stakeholders together to have conversations and collaborate on complex coexistence issues. The ability of the Commission to do this is facilitated by its independence. The Commission has facilitated forums of structured engagement, such as the Community Leaders Council, state-wide Stakeholder Advisory Group, and targeted advisory groups such as the pilot Surat Stakeholder Advisory Group. These mechanisms have enabled the Commission to gather key information and intel around community issues and concerns, and facilitate dialogue conversations around views and solutions.

Examples of policy projects led by the Commission that have leveraged this facilitation function in recent years are the review of the *Regional Planning Interests Act 2014* (RPI Act), subsidence consequence project and regulatory review; and providing clarity around public liability insurance. The ability to facilitate conversations with stakeholders independent of government arrangements and directives allows the Commission to take a holistic approach and appropriately balance the interests of stakeholder groups without the constraint of working within a singular legislative framework.

Another advantage of the current arrangements is that the Commission is less jurisdictionally bound than other government entities and is therefore able to investigate coexistence issues where they span multiple jurisdictions. For example, in the issue of public liability insurance, no single government department had clear jurisdiction for the issue. In this instance, the Commission was able to coordinate across a range of government agencies and stakeholders and take carriage of the project and reach a balanced solution. Coal Seam Gas (CSG)-induced subsidence is another example of an issue with complex jurisdictional arrangements where the Commission has played a key role in leading the conversation and facilitating collaborative action through regulatory oversight and facilitating collaborative research.

All of the above examples are limited to gas sector interactions with regional communities in the coexistence space. The opportunity exists to deliver similar functions and services to regional communities coexisting or potentially coexisting with other resource commodities. In the Commission's engagement activities, coexistence issues with other sectors are often raised, however the Commission is in many cases constrained in assisting due to jurisdictional constraints.

Specific Suggestions

The Commission proposes that some minor amendments be made to the 'roles of entities' table in the discussion paper to reflect the current roles of entities.

The Conduct and Compensation Agreements (CCA) disputes and Make Good Agreements (MGA) disputes columns could be merged, as they have been for negotiation and development.

The ‘oversight’ function does not sit clearly with ‘information and education’ and should be split out. Many entities perform information and education roles, but oversight is unique to the Commission.

In line with the Commission’s response to question 1, “Information & Education” should be amended to “Information and Engagement” with the intent that education would form part of any ongoing engagement function. The Commission also considers that OGIA and the Department of Environment and Science (DES) have key roles in information and engagement.

The Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) is also not included in the roles table. The Commission considers that DSDILGP’s role in administering the RPI Act should warrant their inclusion and suggests their roles include “assessing and managing impacts” and “regulation and compliance”. Additionally, the Commission considers that “Assessing & managing impacts” should be general rather than being limited to groundwater.

	Assessing & managing impacts	Negotiating & developing CCAs & MGAs	CCA & MGA disputes	Information & Engagement	Regulation & compliance	Oversight
Resources		✓		✓	✓	
OGIA	✓			✓		
DES	✓			✓	✓	
DSDILGP	✓				✓	
Land Court		✓	✓			
LAO			✓			
GFCQ				✓*		✓*

* services offered for onshore gas activities only

Issue 1: The institutional arrangements need to provide support across all land access negotiations

Q5. Would it improve coexistence outcomes if the jurisdiction of the LAO was expanded to include other dispute resolution functions relating to resource company and landholder interactions, for example, when negotiating CCAs and MGAs?

The Commission considers there would be value in expanding the LAO’s remit to a broader range of dispute resolution services for issues arising between landholders and resource companies.

The Commission regularly receives enquiries from landholders seeking assistance in various stages of negotiations or engagements with gas companies relating to land access. In these instances, both the Commission and the LAO are unable to assist due to jurisdictional constraints. The Commission is also aware of a significant number of similar enquiries received by the LAO and relevant departments that struggle to be resolved due to similar jurisdictional constraints. There is a high level of frustration from community members seeking resolution as they feel there is no independent entity that can readily help them.

If the LAO were able to offer dispute resolution services during the negotiation of agreements, it may reduce the number of instances where lawyers are required to be “over engaged” to neither the benefit of the landholder or the resource company. This would reduce timeframes on negotiations and reduce the amount of money being paid in legal fees by resource companies and landholders. It would also likely reduce the perceived power imbalance and stress for landholders. All of this has the ability to reduce the level of uncertainty and increase confidence, when a landholder and a resources company negotiate an agreement.

Q6. If expanding the jurisdiction of the LAO were to improve coexistence outcomes, which interactions between resource companies and landholders should be included?

As mentioned above, the Commission considers that there would be great benefit if there was an independent dispute resolution entity that had powers to investigate all disputes between resource companies and landholders. The Commission believes this would greatly reduce confusion and stress for landholders by eliminating ambiguity on which entity or service provider to approach for assistance in the event of a dispute.

If it is not deemed possible for an entity to have such a broad remit in this regard, the minimum expansion of the LAO (from the Commission’s perspective) would be to include disputes occurring during the negotiation of CCAs and MGAs. It would also be beneficial to expand the capacity of services to facilitate the negotiations of alternative arrangements and mining compensation agreements.

It would also be beneficial for the remit of the dispute resolution entity to be expanded to include complaints relating to government or industry decisions such as determinations of whether an activity is deemed preliminary or advanced as well as compliance decisions. It’s acknowledged that if the remit was expanded to include this kind of service, there would need to be clear guidelines and expectations as to who could make a complaint (e.g. directly affected stakeholders).

Issue 2: Landholders do not feel empowered to engage in negotiations on land access, including CCAs and MGAs with resource companies

Q7. Are there other ways the coexistence institutions could help to empower landholders in their dealings with resource companies?

It has been noted that the Commission provides a range of functions around coexistence in the gas sector that are not available (in the same form) in other parts of the resources sector. Provision of these services in other sectors would provide additional assistance to empower landholders in their dealings with resource companies. This could be done either through expansion of the Commission’s remit or establishment of a separate independent entity dealing with other sectors.

The publication of information materials is an example of the type of services the Commission offers that would provide benefit beyond the onshore gas industry to assist landholders in dealings with resource companies. The Commission has published and maintains the Gas Guide which is a holistic self help guide for landholders in dealing or potentially dealing with gas exploration and development. It provides vital and simple information to empower landholders in their dealings with onshore gas companies.

Another potential opportunity is that the Commission could be formally made the main point of contact for incoming stakeholder enquiries and provide a concierge service to those stakeholders. This service would involve receiving stakeholder enquiries, guiding them to the appropriate information source or most appropriate contacts in government, industry or otherwise. The Commission also sees that this service could include a case management aspect, whereby the

Commission would check in with various parties at appropriate intervals and ensure that matters are being addressed. The Commission is engaged with a broad network of contacts across both industry and government and would therefore add value during the process.

This process could increase the number of landholders reaching out for assistance through the reduction of entry points for enquiries, reduce stakeholder frustration in trying to determine the correct entity to enquire with, reduce “advice shopping”, and increase the number of resolved enquiries. These outcomes would all contribute to improving coexistence.

Clear institutional arrangements would be required for the Commission to facilitate this role, as would additional resources. Jurisdictional limitations would also have to be addressed to make the service wholly effective.

Improving education and extension services available to landholders involved or potentially involved in negotiation with resource companies is a critical gap. The Commission is resource constrained in terms of delivering this type of activity and is currently exploring opportunities to partner with the resources and agricultural sector peak bodies to deliver this type of service. This proposal is along the lines of the successful AgForce CSG Landholder Support project which ran between 2011 - 2018. The program saw landholders acquire information and skills needed to negotiate with CSG companies and finalise mutually supported CCAs, and was jointly funded by government and the resources sector.

Whilst not an institution included in this coexistence review, the ability for landholders to access legal services through Legal Aid would empower landholders in their dealings with resource companies. The Commission understands that landholders have in the past been able to access a number of free, non-means tested hours of legal advice relating to land access issues at no cost.

The Commission’s view is that this service would empower landholders in their dealings with resource companies, assist in addressing the power and information imbalance, and alleviate stress associated with dealing with another industry in addition to a landholder’s core business. This service would also add value by filling a gap that currently exists whereby landholders have property-specific queries that cannot be adequately addressed by the regulators or coexistence entities because they are of a legal nature. Additionally, the Commission has observed a range of coexistence issues arising prior to (or in the absence of) negotiations between the landholder and resource company, which means that any legal advice and associated costs would be borne by the landholder in these instances and not covered by the company under the *Mineral Energy Resources (Common Provisions) Act 2014*.

The Commission sees merit in facilitating an expansion of [Legal Aid Queensland’s Farm and Rural Legal Service](#) to provide, for example, a limited number of hours of free legal advice for landholders in areas of gas (and/or any resource) development.

An additional initiative that could be undertaken by a coexistence institution would be the accreditation of service providers. An example of this would be the accreditation of landholder advocate services where an entity provides a list of landholder advocates who are accredited against a service delivery criterion in their ability to effectively provide services. This would give landholders in particular more confidence in approaching a professional for assistance. Further, it would provide certainty to a resource company that the landholder’s advocate will assist with progressing negotiations and not hinder meaningful engagement.

Q8. Would a coexistence institution focussed on providing information and educational support to key stakeholders help to empower landholders in negotiating CCAs and MGAs?

The Commission develops and publishes a range of fact sheets and guidelines relevant to coexistence and the onshore gas sector along with facilitating and hosting information and education sessions in the regions tailored to the needs of individual communities.

It is noted in other parts of the resource sector that this role is filled by government agencies, largely Resources, or there are gaps. The Commission believes there would be benefit in considering a single entity responsible for these activities, along with regulatory oversight and advisory functions.

It should be noted that given the size of the gas industry and geography of gas regions, the Commission is resource constrained in delivering this existing function. The current focus of the Commission's activities has been the mature gas fields of the Surat and Bowen basins, and even within these being targeted in our engagement activities due to resourcing constraints. However, it is important to engage outside of these regions in new and emerging areas. Additional resources are required within the Commission's current remit to be more effective in the space and, if similar services are delivered in other resource activities and areas, significant resource investment will be required.

The overlap between the Commission and the engagement and compliance functions in Resources and DES further complicates this space in some ways as stakeholders do not know which entity to contact. Where collaboration between each of these entities occurs, the current arrangement works well, however still creates a barrier to landholders and community members trying to determine who to engage with. A single entity, with clear responsibility in terms of information dissemination and education, would assist in resolving some of the confusion.

Q9. What information and independent assessments are required to empower landholders in negotiations with resource companies?

The Commission has prepared many information documents for landholders in its time and attempted numerous formats, from fact sheets to detailed guides and attempts at developing templates for agreements. The Commission has found that the problem is often not gaps in information and assessments, but rather an overwhelming amount of information that is at times contradictory and often not collated, in plain English and potentially no longer contemporary.

If one topic were to be singled out, landholders most often contact the Commission seeking to understand their rights and resource company obligations. This is also reflected in the popularity of sessions held in the regions by various landholder advocates and lawyers on the topic of landholder rights. Building on a resource such as the GasGuide, and seeking new and innovative ways to deliver this type of information, would be of value, particularly if pursued in a context broader than just onshore gas.

There is a lot of existing information and independent assessments, however there remains a perceived imbalance between resource companies and landholders because the regulatory framework is so complex that it is difficult to navigate. The framework is daunting for a landholder approaching it for the first time while resource companies are generally experienced and have hired appropriately qualified professionals to undertake the numerous roles that the framework requires to be administered. The Commission's proposal of a formalised concierge service and/or the accreditation of landholder advocates, as described in question 7, can assist in this space.

It is important to note that OGIA is identified as a key player in terms of the independent assessment function in the coexistence foundations. The OGIA model of independent scientific

body, coupled with the science-based groundwater regulatory framework under Chapter 3 of the *Water Act 2004*, have been a great success in achieving coexistence outcomes. Recent work around CSG-induced subsidence has seen the issue of legislative remit identified in relation to OGIA's ability to offer scientific expertise in relation to a coexistence issue.

Therefore, government should be cognisant that by narrowing the type of information and assessments an entity can provide has, in some circumstances, been detrimental for coexistence outcomes. Therefore, an entity charged with the independent assessment function would need to have its jurisdiction defined in such a manner that it can cover the breadth of coexistence issues that require an 'independent' assessment input.

Issue 3: The institutional arrangements need to capture the entire resources sector and could be expanded to include renewable energy projects and other emerging industries

Q10. How could the design of institutional arrangements be future-proofed to accommodate emerging coexistence issues and new industries?

The Commission believes that there is an opportunity to leverage its proven model and provide expanded coexistence related services for other existing and emerging industries. The Commission is currently limited in its ability to provide coexistence services beyond the onshore gas industry because of jurisdictional constraints.

The emerging activities associated with hydrogen and carbon capture and storage are the two areas that are most closely related to the Commission's current onshore gas remit. However, the Commission is aware of issues arising among regional communities in close proximity to mineral exploration and mining activities, and new multi-user facilities associated with critical mineral exploitation. Issues range from air and noise pollution, concerns relating to health to incompatible land use constraints. There could be merit in a coexistence entity providing assistance in this space.

The Commission's exposure to issues of coexistence with the renewables industry is rapidly increasing during its business-as-usual activities, as the projects occupy an exceedingly overlapping space with the current onshore gas industry. The shared landscapes of rural and regional communities dealing with a broad range of energy developments (gas, coal, renewable, hydrogen etc) is an emerging challenge that needs to be addressed in a broader holistic coexistence context.

Issue 4: Independence and branding are particularly important and there is a risk of perceived bias if dispute resolution services and broader industry engagement or advocacy roles are combined

Q11. Why is it important to have an independent ombudsman to assist in resolving disputes on coexistence matters?

The discussion paper describes the importance of independence and the perceived importance of the ombudsman title from the perspective of the public.

As noted by Scott in the '*Review of the Gasfields Commission, July 2016*' report, the role traditionally undertaken by an ombudsman is that of investigating complaints against government agencies. In this sense, the LAO is a dispute resolution entity rather than an ombudsman. It may be important to consider the difference between a dispute and a complaint. The Commission considers that there could be value in an independent ombudsman that deals with complaints made about government decisions. This was discussed in the Commission's response to Question 6.

Q12. Could the current functions of the LAO be delivered by a different dispute resolution entity?

The only other dispute resolution entity currently available in this process is the Land Court. The LAO could be aligned more closely with the Land Court, including better alignment with the panel of ADR providers if a broader jurisdiction was given.

The Commission believes that dispute resolution services would best sit separate from the information, engagement, oversight, and impact assessment functions. Each of the coexistence entities have established brands and varying levels of trust, which should be a key consideration in contemplating any merger of the coexistence entities. Independence from government and the resource industry is critical to the effective operation of all coexistence entities.

Issue 5: The land access space is crowded, with each entity performing slightly different (yet sometimes overlapping) roles and functions

Q13. Are there too many institutions in the coexistence space or would clarifying the roles and functions of the current institutions assist stakeholders in understanding where to go for relevant information and services?

The Commission exists in a complex environment that includes a range of government and statutory entities that have roles and responsibilities that relate to the onshore gas industry and, in some cases, the resource sector more generally.

They all, to some extent, have roles and responsibilities that relate to coexistence. Key agencies and entities relevant to coexistence include Resources, DES, DSDILGP, the Department of Regional Development, Manufacturing and Water (DRDMW), Resources Safety and Health Queensland (RSHQ), OGIA, the LAO, and the Land Court of Queensland.

The Commission has identified that the issue is not necessarily the number of coexistence entities, rather the inconsistencies, overlaps and gaps that exist in the jurisdiction and the provision of coexistence services to stakeholders.

This results in scenarios where stakeholders are often confused as to who they should contact in relation to enquiries and complaints. It also has resulted in scenarios where issues are unable to be addressed due to the limited remit of the entities, for example disputes between a landholder and a company prior to the execution of a CCA or MGA, and disputes with landholders neighbouring gas operations where there is ambiguity around impact.

These scenarios create frustration and confusion among stakeholders seeking resolution, not because of the number of entities, but because of the gap in service delivery and ambiguity around which entity is ultimately able to address an issue.

From observations, stakeholders and landholders do not always see a clear distinction between the various government agencies and statutory bodies. From experience, stakeholders say all they see is “government” and expect that whoever they contact, despite the departmental nuances, the matter will be addressed or efficiently referred to the agency that can address the issue.

The Commission therefore believes that clarifying the roles and functions of the current institutions would go a long way to understanding where to go for relevant information and services. In addition, where functional overlaps are identified, it is critical that these are addressed and streamlined.

The Commission is well placed to provide a single entry point/concierge service for stakeholders and community members. This type of service would minimise confusion for stakeholders in

determining which entity to approach and provide a case management process to reduce the number of instances where there is an inadequate conclusion. This service is discussed in more detail in the Commission's response to question 7.

Together, the clarification of roles and provision of a mechanism to assist people in navigating the government structures and regulatory frameworks would likely contribute to positive outcomes.

Q14. Would a single land access entity that included dispute resolution, information and education services and impact assessment and management functions be an effective and efficient arrangement to promote coexistence?

There are benefits in streamlining and simplifying land access entities and function, however the resulting entity would have a significant and complex jurisdiction given the complexity of issues across the resource sector.

The Commission believes the main benefits to this arrangement is that it provides stakeholders and community members with a 'one stop shop', making them more likely to reach out for assistance. It would also facilitate greater collaboration and coordination across the functional areas.

Information, education, and impact assessment functions align well, however the Commission is of the belief that dispute resolution is less aligned and would sit better with the Land Court or an expanded LAO. The Scott Review provided justification for why the Commission as an entity should be separate from dispute resolution processes.

Q15. What would be the barriers to such an arrangement, if any?

Merging all coexistence entities would be a significant change process requiring comprehensive legislative reform and organisational restructuring.

One of the main barriers to such an arrangement would be the work and resourcing required to undertake the relevant legislative amendments, the interests of the different entities potentially becoming competitive if they were merged under a single entity, and the scope of knowledge that would be required to govern such a body. A comprehensive analysis process would be required to determine whether this is in the public interest.

Governance for a much larger and more complex entity would need to be a key consideration. Currently, each entity has their own governance model and management structure. The ability of such an entity to remain flexible in its ability to meet stakeholder needs may also be reduced. The Commission is currently able to be agile due to its small size and governance structure. This agility would be reduced in a larger organisation with a broader mandate.

Resourcing requirements for a merged entity with much broader jurisdiction would be a key consideration and additional significant resourcing would certainly be required across the range of entities involved.

Some of the Commission's stakeholders have expressed that a "coexistence commission" would lead them to feel the Commission was being watered down through the combination of functions and loss of the single gas industry' focus.

Funding of the institutional arrangements

The Commission supports consideration of whether levy funding would be appropriate. Moving to a levy funding model would bring the Commission into line with other institutions such as OGIA and RSHQ. The Commission's governance via a Board of Commissioners mitigates risks of potential bias (perceived or real) that may arise if the Commission were to be funded through an industry levy and would likely increase the Commission's independence from government.

Q16. Would you be supportive of a revised institutional arrangement that required greater levels of funding but provided better coexistence outcomes?

A cost benefit analysis and measures of coexistence would be required to determine whether a revised institutional arrangement as described in this question is in the public interest. Key performance indicators may be important to demonstrate that greater levels of funding translate to better coexistence outcomes.

The Commission believes that the expansion of its remit to include additional resource commodities could represent a cost-effective method to improve coexistence outcomes across the resource sector. The Commission delivers a broad range of functions and outputs considering its relatively small size. The Commission's existing structure and corporate knowledge could be leveraged. Some additional funding and staffing would be required, the scale of which would depend on the scope of expansion.

