

# Managing Residual Risks in Queensland

## *Discussion Paper Summary*

### Background

- In Queensland the resources industry operates under environmental authorities (EAs) requiring operators to manage risks to the environment and to rehabilitate disturbance.
- EA holders can apply to surrender their EA following the completion of resource activities provided all conditions and requirements – including rehabilitation – have been met.
- Once the application to surrender the EA is approved, the resource company is generally no longer responsible for maintaining the condition of the site.
- However, following surrender there may be ongoing requirements to monitor aspects of the site and to manage engineered structures so that they continue to meet their design function—for example to ensure that a waste rock encapsulation feature remains stable, safe and non-polluting over time.
- There may also be a need to rectify any subsequent failures of rehabilitation that occur after the surrender has been approved.
- The Queensland Government therefore needs to ensure it has sufficient funds to undertake this work, should it be necessary or desirable to do so.
- The *Environmental Protection Act 1994* (EP Act) provides authority for the State to request a payment at surrender in relation to the residual risks of the site.
- The EP Act provisions relating to residual risk sit in the surrender framework for EAs under Division 6, and in the progressive certification provisions.



# Discussion paper proposals

The discussion paper contains a number of proposals for public consultation. Key proposals include:

- Removing the consideration of **residual risk at progressive certification**

Until the EA is surrendered, the holder is responsible for any works and expenditures on activities, including environmental management and rectifying rehabilitation failures, for progressively certified areas.

- Key principles for a **consistent environmental risk assessment methodology** for all resource activities

These principles include:

- identification of 'credible risk events';
- identification of ongoing management requirements; and
- assessment of likelihood and consequence.

The discussion paper proposes that consistent documentation is needed to support efficient and consistent assessment. The paper recommends that the risk assessment result in a risk register, and a risk profile.

- Principles around **determining the residual management cost estimate**

These principles include the cost estimate encompassing consideration of two components:

- ongoing post-surrender monitoring and maintenance costs; and
- risk costs associated with credible risk events.

**Ongoing post-surrender monitoring and maintenance costs** will occur where the rehabilitated areas need periodic monitoring, for example to ensure waste encapsulation systems have not degraded. The residual management cost will include the cost of activities beyond what would be considered 'normal land management practices'.

The **risk component** needs credible risk events to be identified, as well as an estimation of the likelihood and consequence of these credible risks (i.e. cost to remediate). Credible risk events would generally be related to geotechnical, geochemical, or revegetation failures associated with post-surrender landforms.

The estimation of costs will consider the likelihood of each event occurring, and the cumulative effect of all the credible risk events occurring. Modelling or an algorithm would need to be used to estimate the amount of money necessary to address the likely consequences of multiple credible risk events at the site, but not necessarily occurring all at once.

Other proposals include costs being considered over a **100 year timeframe**, and discounted using accounting principles to determine a final figure (net present value).

- The discussion paper proposes two options to assist **estimating post-surrender management costs**:
  - » Development of a **'simple' calculation tool** as the 'default method' for estimating costs. This tool would be based on site 'features' and take into account factors identified as contributors to residual risk. This tool would be publicly available.

- » Using an **expert panel** as a secondary method to assess the risks onsite and estimate residual management costs, where the calculation tool is not able to assess a site's characteristics. The discussion paper proposes an expert panel is likely to be required when there are one or more factors present such as:

- » a site is particularly complex
- » the residual management costs are likely to be of high value
- » a cost estimate decision cannot be agreed
- » the risk assessment methodology or cost estimate cannot adequately consider the onsite risks
- » the government considers an expert panel is valuable to support community confidence in the framework.

- **Requirement for a post-surrender management plan** to be developed by the EA holder and submitted as part of surrender requirements. This plan would include all future land management and monitoring requirements and restrictions on the site. The plan should remain associated with the land and be accessible to current and future land holders.
- The discussion paper identifies the roles, responsibilities and functions that would be associated with managing surrendered sites. The paper suggests that a **new government role** may need to be created, to monitor and maintain a portfolio of surrendered sites across Queensland, as well as undertake repairs on failed rehabilitation.
- The discussion paper confirms that as per the current policy, payments will need to be provided in **cash and at surrender** to the State.
- The discussion paper outlines Queensland Treasury Corporation's recommendations regarding **fund administration** including:
  - » all payments should be **pooled** to help manage the collective risk to the State; and
  - » all funds received to cover residual management costs should be managed by the same entity administering the financial provisioning scheme under the reforms introduced by the Mineral and Energy Resources (Financial Provisioning) Bill 2018.This approach is desirable as it uses the existing scheme fund framework, and the expertise of a qualified and experienced entity. The discussion paper supports these proposals.
- The discussion paper proposes **further work and stakeholder engagement be undertaken** to refine the draft environmental risk assessment methodology and the residual risk cost estimate tool.
- The discussion paper also proposes that legislative amendments will be needed to implement some proposals. It is unlikely that transitional arrangements will be required.