



Queensland Government Consultation Report

Abandoned Mines and Associated Risks

Discussion Paper

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Contents

Executive Summary.....	4
Purpose	5
Background	5
Stakeholder feedback.....	5
Queensland Government Response to Submissions.....	6
Appendix A List of external stakeholder presentations and meetings	10
Appendix B Questions from the discussion papers	11
Appendix C The Queensland Government’s response	13



Executive Summary

On 31 May 2018, the Queensland Government released two discussion papers for public consultation in response to the Queensland Treasury Corporation (QTC) review of Queensland's financial assurance framework. The papers were as follows:

1. *Achieving improved rehabilitation for Queensland: other associated risks and proposed solutions* (the associated risks discussion paper), proposed reform ideas relating to care and maintenance (C&M), changes in the control of resource authorities (RAs), and disclaiming mines.
2. *Achieving improved rehabilitation for Queensland: addressing the state's abandoned mine legacy* (the abandoned mines discussion paper), proposed reform ideas relating to abandoned mines.

During the consultation period, the Queensland Government received a total of 25 submissions. Queensland Government representatives also held meetings and information sessions with stakeholders including landholders, indigenous groups, industry groups, environmental groups, local governments and mining companies.

Stakeholders were generally supportive of:

- enhancing the monitoring and reporting regime for sites in C&M
- the intent of the proposed indirect transfer reforms, to ensure the Queensland Government can scrutinise indirect transfers
- the intent of the proposed reform idea to return disclaimed mines to productive use, where appropriate
- increasing the State's transparency and ability to manage abandoned sites.

In response to stakeholder feedback, the Queensland Government is proceeding with an amended version of the reform ideas presented in the discussion papers.



Purpose

The purpose of this report is to summarise the results of public consultation on the associated risks discussion paper and the abandoned mines discussion paper.

This report outlines the key themes raised during consultation as well as specific feedback and the actions or responses to each.

Background

In 2016, the Government commenced an assessment of Queensland's financial assurance framework including engaging QTC to review and make recommendations to Government to manage Queensland's exposure to the financial and environmental costs of managing land disturbed by resource activities. The review also identified that the Queensland Government's abandoned mine program could be expanded. In total, six key matters were identified by the review for reform. Three of these matters are addressed in the *Mineral and Energy Resources (Financial Provisioning) Act 2018* (MERFP Act), which commenced on 1 April 2019.

On 31 May 2018, the Queensland Government released the associated risks discussion paper and the abandoned mines discussion paper for public consultation in response to two of the matters identified for reform by the QTC review.

Stakeholder feedback

During the consultation period, the Queensland Government representatives held meetings and information sessions with stakeholders including landholders, indigenous groups, industry groups, environmental groups, local governments and mining companies (see Appendix A).

A total of 25 submissions were received from 21 different stakeholders. Eleven submissions focussed on the abandoned mines discussion paper, nine on the associated risks discussion paper, and five that addressed both papers.

The following sections outline the high level issues raised by submitters. Appendix B specifies the questions posed to stakeholders in each paper. Detailed feedback is provided at Appendix C.

Care and maintenance – other associated risks and proposed solutions paper

Stakeholders were supportive of implementing a framework to introduce a monitoring and reporting regime for projects in C&M. Stakeholders were generally aware of the risks that may arise from mines in C&M, particularly those that are eventually abandoned. Industry stakeholders focused on: whether any timelines could be attached to C&M reform; improvements to current reporting of mines in C&M; and, how Department of Natural Resources, Mines and Energy (DNRME) will assess Later Development Plans (LDP) submitted by resource companies in C&M.

Submitters also raised issues including: the ability of progressive rehabilitation and closure plans (PRCPs) to manage rehabilitation obligations for mines in C&M; transparency of resource site development plans and LDPs; and, the frequency of reporting for mines in C&M.

Change of control – other associated risks and proposed solutions paper

Stakeholders generally supported reforms to ensure the Queensland Government can scrutinise indirect transfers. Industry, however, required more detail to understand how any change of control assessment would work and raised concerns regarding the interaction with federal legislation (e.g. the Corporations Act) and the Australian Securities Exchange (ASX). Further information was also sought regarding how the scheme manager's risk assessment would identify/anticipate any changes in control.

Stakeholders also raised indirect transfer scenarios that weren't considered in the associated risk discussion paper, such as board changes and hostile takeovers. The reforms proposed in the discussion paper would not be able to properly address these types of scenarios. Concerns were also raised that a change of control test would introduce sovereign risk for large deals, if the deal failed to progress due to a Queensland Government test.

Disclaimed mines – other associated risks and proposed solutions paper

The associated risks discussion paper proposed a high-level idea to facilitate rehabilitation and/or remediation works, and more easily return disclaimed mines to a productive use. This idea centred on the establishment of a 'holding entity' that would 'warehouse' a resource authority (RA) before they were terminated, thereby allowing sites to be more readily returned to a productive use. The discussion paper also suggested that these sites would be managed under the existing Abandoned Mine Lands Program.

Although stakeholders generally supported the intent of the discussion paper's idea, they raised issues with the *Corporations Act 2001*, and the standard to which disclaimed mines should be rehabilitated.

Abandoned mines – addressing the states abandoned mine legacy paper

The abandoned mines paper posed several questions about managing abandoned mines, with a focus on returning them to a productive use (see Appendix B). Most respondents did not directly address the questions posed, rather, the issues raised were relevant to multiple questions which have been addressed within Appendix C.

Queensland Government Response to Submissions

After considering stakeholder feedback, the Queensland Government is proceeding with an amended version of the reform ideas presented in the discussion papers. The Queensland Government will progress implementation of the below mentioned processes and conduct further consultation where necessary.

Care and maintenance

The Queensland Government will undertake the following actions to mitigate the risks of resource projects that enter C&M:

- The scheme manager (under the financial provisioning scheme) will advise the Department of Environment and Science (DES) and DNRME when the scheme manager is notified by resource authority holders that a site has ceased production (section 43 notification under the MERFP Act).
- Upon receiving advice from the scheme manager DNRME will investigate whether the RA holder has complied with their regulatory obligations under all relevant legislation such as the:
 - i. *Mineral Resources Act 1989* (MR Act);
 - ii. *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act);
 - iii. *Mining and Quarrying Safety and Health Act 1999*;
 - iv. *Coal Mining Safety and Health Act 1999*.

- Upon receiving advice from the scheme manager DES will use its existing legislative powers to manage any change in environmental risk as a result of the site ceasing production.

The Queensland Government will also amend the MR Act to include a requirement for certain mineral mining lease holders to have a development plan in place. Currently only mining leases for coal are required to have a development plan under the MR Act. These plans will provide a mechanism for DNRME to ensure appropriate stewardship of the resource, and be satisfied that best practice techniques are being upheld while sites are in C&M.

Change of Control¹

The Queensland Government acknowledges the risks arising from transfers of resource authorities and will strengthen the oversight of processes relating to both indirect and direct transfers.

Mitigating risk from indirect transfers

The Queensland Government proposes the following measures to mitigate risk from indirect transfers:

- Ensure that the scheme manager (under the financial provisioning scheme) notifies DNRME and DES when there is a change in the control of the RA holder, as provided by the MERFP Act.
- Following advice of an indirect transfer, DNRME will:
 - i. investigate whether the RA holder has fulfilled their regulatory obligations under the MR Act and the P&G Act
 - ii. assess the financial and technical capability of the new holder to comply with RA conditions
 - iii. if necessary, DNRME will propose additional conditions to the RA to mitigate risk.
- Following advice of an indirect transfer, DES will utilise its powers provided by existing legislation to manage any change in environmental risk.

Mitigating risk from direct transfers

Although direct transfers were not raised as an issue in the associated risks discussion paper, the Queensland Government has developed a proposed process to further reduce their risk.

- The seller, prior to lodging an application for the Minister's approval to register an assessable transfer, must provide the buyer with an up-to-date estimated rehabilitation cost (ERC) that is appropriate to the costs at the point of transfer, and an up-to-date DNRME-endorsed LDP.
- The buyer, prior to lodging an application for the Minister's approval to register an assessable transfer, will have applied to the scheme manager to conduct a changed holder review and received an indicative risk category allocation notice.
- When assessing a buyer's financial and technical capability to comply with the RA, the Minister may consider the cost of complying with the up-to-date ERC and any other relevant information shared by the scheme manager.
- If the Minister approves the assessable transfer registration, the transfer will not be registered until the buyer has mitigated risk (i.e. by paying surety or contributing to the FPS fund as determined by the scheme manager) in accordance with the FPS (as provided by section 20A of the MERC Act).

Reviewing the financial and technical capability guide

To complement the abovementioned processes to mitigate risk from indirect and direct transfers, DNRME will review its financial and technical capability guide. This will provide additional information on the information that the Department will consider when assessing a company's ability to comply with RA conditions. The review of the financial and technical capability guide was flagged in the associated risks discussion paper.

¹ Note that the reforms described in this section aim to mitigate risk from the transfer of production RAs, and exploration RAs with an ERC greater than \$100,000. They do not aim to capture the direct transfer of smaller exploration RAs, or RA applications.

Disclaimed mines and Abandoned mines

Through the reforms in the MERFP Act, the Queensland Government is, amongst other things, ensuring sufficient funds are provided to the State to manage environmental issues from resource activities on sites that have not been fully rehabilitated by the relevant resource entity and that progressive rehabilitation occurs during the life of the mine. These vital reforms will better protect the State and the community from the risk of abandoned mine sites going forward.

However, where abandoned mines occur, the Government is committed to improving the management and remediation of these sites and where practical, facilitating a future productive use. The Government is also committed to improving the transparency and accountability of the State's management of existing and any future abandoned mines.

Facilitating improved site management and remediation

DNRME is responsible for managing abandoned mines throughout Queensland. DNRME assesses the risks of these sites, and prioritises available funding to manage and mitigate risks to community safety and health, the environment and property.

To meet improved site management and remediation, the Queensland Government will:

- amend resources legislation to broaden DNRME's site management powers to manage and remediate all former resources operations
- improve interdepartmental processes to prevent delays.

Facilitating the productive use of former mines

There are several reasons why it is in Queensland's best interests to return former mine sites to a productive use:

- There are direct economic and social benefits (e.g. employment, royalties, taxes).
- It provides an economic option to reduce site impacts and reduce risks to the State from abandoned mine sites.
- There are potential benefits to the environment and community from minimising the former mine footprint, assisting with remediation, and reducing site impacts.

To facilitate returning former mines to a productive use, the Queensland Government will:

- publicly release more detailed information about former mine sites (e.g. residual resources, site condition, remnant infrastructure) to help the market identify commercial opportunities.
- gather more information from resource operations prior to cessation of production, to reduce assessment requirements after they are abandoned.
- consolidate and publish available data on former mines, to enable interested parties to identify commercial opportunities.
- assess private sector proposals on a case-by-case basis to determine whether the Coordinator-General's powers may be appropriate to facilitate development at former mine sites.



Increasing site management transparency and accountability

To increase site management transparency and accountability, the Queensland Government will:

- formalise and publicly release a decision-making framework to risk-assess abandoned mine features, and to prioritise remediation activities.
- publicly release and report on a forward work program for managing abandoned mines, and the outcomes of site management and remediation.
- improve the content and public accessibility of a dataset of all known abandoned mines, including information on site priority and remediation activities.

Finalising and communicating abandoned mines policy

The Queensland Government is committed to improving communication of information on abandoned mines. As such, the Queensland Government will publish an overarching, whole-of-government policy statement for managing abandoned mines.

Appendix A List of external stakeholder presentations and meetings²

Table 1: External consultation

Date	Location	Stakeholder ³
13-Jun-18	Brisbane	Environmental Defenders Office Lock the Gate Mackay Conservation Group Queensland Conservation Council World Wildlife Fund Landholder near an abandoned mine site
14-Jun-18	Brisbane	Australia Pacific LNG Australian Petroleum Production & Exploration Association BHP Billiton Glencore Jellinbah Queensland Resources Council
22-Jun-18	Brisbane	Mitsubishi Development
25-Jun-18	Rockhampton	Capricorn Conservation Council Central Highlands Regional Resources Use Planning Cooperative Limited Department of Aboriginal and Torres Strait Islander Partnerships Department of Agriculture and Fisheries Regional Development Australia Fitzroy and Central West Rockhampton City Council
28-Jun-18	Cairns	AARC Environmental Solutions Australian Mining and Exploration Title Services Cape York Land Council CJ Larkin and Associates North Queensland Land Council Peter Wilson – NQMA member
2-Jul-18	Brisbane	Adaro/Kestrel Coal Resources
3-Jul-18	Brisbane	Association of Mining and Exploration Companies
4-Jul-18	Brisbane	Clark Oil and Gas Southern Gulf Catchments
5-Jul-18	Brisbane	Allens Arrow Energy Ashurst Idemitsu Metallica Minerals Origin Queensland Resources Council
13-Jul-18	Brisbane	Landholders next to two operating coal mines that are in the process of sale

² Note that some meetings focussed on the abandoned mines discussion paper, some focussed on the associated risks discussion paper, and some focussed on both.

³ For a given date, not all stakeholders necessarily attended the same meeting.



Appendix B Questions from the discussion papers

The associated risks mines paper and the abandoned mines paper both asked for general community feedback.

Identifying and managing community risks when resource operations enter care and maintenance

1. Are the current provisions for regulators and obligations on lease holders and EA holders adequate for a proportionate response to managing sites in C&M?

Assessing the financial and technical capabilities of resource authority holders when an ownership transition results in a change in control

2. Would the change in control assessment provide sufficient regulatory oversight to ensure resource authority holders maintain sufficient financial and technical capabilities to operate in Queensland?
3. Is the proposed change of control test appropriate and broad enough to capture indirect resource authority transactions that may affect the holder's financial and technical capabilities?
4. What information should the financial and technical capability assessment consider, for example the capacity to undertake rehabilitation?

Reducing risks to the state and community when liquidators disclaim resource authorities

5. Are the current provisions for dealing with disclaimed mines adequate? What would be an appropriate response to deal with disclaimed mines?

Associated risks paper

Reducing risks to the state and community when liquidators disclaim resource authorities

1. Are the current provisions for dealing with disclaimed mines adequate? What would be an appropriate response to deal with disclaimed mines?

Abandoned mines paper

General questions

1. Do you support the proposed reforms to the management of legacy mines, pre-commencement terminated mines and historical mining disturbances? Briefly explain why.
2. How do you think the proposed reforms could be improved?

Repurposing abandoned mines

3. The introduction of an abandoned mine tenure declaration will require amendments to existing legislation. Any activity undertaken under this tenure will ultimately be aimed at mitigating safety and health risks, impacts to the surrounding community, and promoting an alternative productive use of the site. Do you think the introduction of a new tenure is needed to encourage activity on previously mined areas? Do you have other options or solutions?
4. Do you have an interest in repurposing an abandoned mine (i.e. a legacy or pre-commencement terminated mine) for an alternative use? If so, briefly characterise the opportunity you see. Also, you may wish to provide examples for clarification.
5. What facilitation mechanisms (new or existing) approach do you think would best support the repurposing program (e.g. competitive tender, market-led proposal)?
6. What other options could the Government consider in repurposing mines?
7. Are you aware of any initiatives or examples either within Australia or overseas that the Government could consider in designing this program?

Criteria for prioritising abandoned mines

8. Is the draft criteria and indicators provided (in Appendix 1 of the abandoned mines paper) suitable? Is there any additional criteria or indicators that should be added?

Appendix C The Queensland Government's response

Care and Maintenance (C&M)		
Issue ⁶	Issue description	Response
1. Require notice to sell C&M sites	Require that a C&M site operator must provide the Queensland Government with appropriate notice that it is about to commence negotiations for the sale of the site. This is in addition to the optional 'indicative transfer' process noted in the <i>MR Act</i> .	All direct transfers, including sales relating to sites in C&M, will be subject to a new process so that all parties involved are aware of the estimated rehabilitation cost and the financial provisioning requirements. Due to the complexities involved in indirect transfers, it would be challenging to include any additional requirements. Therefore, the risk from indirect transfers will be mitigated after the transfer takes place.
2. Require declaration to enter into C&M	Mining companies should have to notify the Queensland Government when they plan to enter C&M. This requires a formal definition of C&M, and a single notification across all pieces of legislation. The definition of entering C&M should be different to the six-month cessation-of-production timeframe in the Mineral and Energy Resources (Financial Provisioning) Bill, but could be related to scheme manager decision making.	Under section 43 of the MERFP Act, a resources project must notify the scheme manager if production ceases, and the RA holder does not expect it to restart within six months or if production has not been carried out for six months. The section 43 notification requirement will capture any projects that would otherwise have been captured by a separate C&M definition. The scheme manager will notify DNRME and DES when this occurs, so they can mitigate risk. As a result, there is no need for a separate definition and notification process.
3. Progressive rehabilitation for C&M sites	The Queensland Government should require progressive rehabilitation of C&M sites, not just sites that are operational.	All resource projects with an environmental authority have rehabilitation requirements regardless of the status of the mine. The new progressive rehabilitation and closure plans will apply to EAs issued from a site-specific application relating to a mining lease.
4. PRCPs may be insufficient	DES already has powers to regulate rehabilitation implementation mandated through EAs. The proposed PRCPs are not substantively different from the current system. It may lead to an increased area of land under rehabilitation, but provides no guarantee that any rehabilitation will be appropriate, or will minimise risks in the long term.	PRCPs will include a statutory schedule of rehabilitation that must occur throughout the life of the mine. The schedule includes milestone criteria that specifies the standard to which the rehabilitation must be undertaken in order for the land to achieve a post-mining land use. If rehabilitation is not undertaken within the timeframes in the schedule or to the standard outlined in the milestone criteria, DES is able to take compliance action against the holder.
5. Upon entering into C&M, companies should make updated development plans public	Updated development plans should be made public in order to inform local communities as to when and under what circumstances the mine may re-open.	DNRME will assess and address risks based on the information contained in updated development plans. The Queensland Government will not require these plans to be made public, due to commercially sensitive information contained within the plans.

Care and Maintenance (C&M)		
Issue ⁶	Issue description	Response
6. Additional reporting/ review of C&M sites	There should be an annual status report justifying the status of sites in C&M. Every two years, sites in C&M should be subject to an independent review by QTC to determine whether they should be permanently closed and rehabilitated.	The Queensland Government will monitor and manage sites in C&M through development plans and PRCs. This will help to prevent companies from ceasing production indefinitely under the guise of legitimate C&M.
7. Achieve C&M policy objectives with other mechanisms	Rather than using the C&M management processes suggested in the policy paper, the Queensland Government should achieve the policy objectives through existing mechanisms like the MR Act and the financial assurance and rehabilitation framework.	Noted. The Queensland Government will primarily use existing legislative powers in the MERFP Act, the MR Act, the P&G Act and the <i>Environmental Protection Act 1994</i> (EP Act) to limit risk, and ensure appropriate rehabilitation of sites in C&M.
8. Rethink concept of 'depleted orebody'	The concept of a 'completely depleted orebody' is likely more complex than it seems. E.g. a company may be primarily targeting copper, but there may be a viable gold reserve. A better definition may be that a project has reached the end of its mine-life.	Noted. DNRME will assess a LDP after a project notifies the scheme manager that it plans to cease production, or has ceased production for six months. As part of this assessment, DNRME will holistically consider whether the project is developing its resources appropriately, including whether it has reached the end of its mine life.
9. Limit the time a mine can be in C&M	There is not currently a defined endpoint for a site in C&M. Can companies indefinitely submit amended development plans to justify ongoing C&M? A timeframe was explicitly opposed by one submission, because deciding when a mine should come out of C&M is a complex process.	The Queensland Government will assess sites that have ceased production on a case-by-case basis, rather than defining a fixed term that a site can be in C&M.
10. C&M should be prohibited unless situations meet specific eligibility criteria	C&M should be prohibited unless there is evidence-based, exceptional circumstances.	Noted. It is impractical to define all possible scenarios where C&M is an appropriate action. Instead, the Queensland Government will assess sites that have ceased production on a case-by-case basis.
11. C&M management should reflect risk	Not all mines in C&M pose the same amount of risk to the Government. The Government should regulate C&M based on this risk profile, perhaps as part of the existing regulatory framework (e.g. later development plans, PRCs or Scheme Manager consideration of financial soundness).	The Queensland Government will monitor, consider risks and impose conditions on C&M sites on a case-by-case basis.
12. Clarify how the framework will apply to petroleum tenures	How is it envisaged that the framework will practically apply to petroleum tenures? Are there conventional or unconventional petroleum sites currently in C&M? If an individual RA has not produced for six months, but other tenements in the project continue to produce, is the notification triggered?	The Queensland Government is proceeding with an amended version of the reform idea presented in the associated risk discussion paper, which applies to mining and petroleum. This will not include a definition of C&M, but rather a 'cessation of production' trigger. This will be based on each RA, rather than a 'project-wide' basis for P&G projects, noting that some P&G RA/EA can cover a wide area with lots of wells.

⁶ The description of each issue summarises stakeholder sentiments. The views expressed by stakeholders are not the views of the Queensland Government. When multiple stakeholders have expressed a similar view, ideas may be grouped into a single issue. Some issues overlap multiple themes. Where this is the case, they have been presented under only a single theme.

Care and Maintenance (C&M)		
Issue ⁶	Issue description	Response
13. Amend the MERFP Bill to allow greater operational flexibility re. PRCP amendments	Extending a C&M project's rehabilitation timeline will generally constitute a major amendment, meaning public consultation. This may allow opponents of mining to provide submissions and delay operations. This issue may be currently causing companies to include protracted rehabilitation milestones to avoid this hassle.	Noted. The Queensland Government considered this when finalising the MERFP Act.
14. Clarify requirements to update PRCP	If a proponent adheres to their rehabilitation milestones, would they need to update their plan of operations/PRCP when entering C&M?	If a company is ceasing production, then it is likely that the plan of operations and, where applicable, the PRCP will need updating. However, this may vary from case to case.
15. The discussion paper did not accurately reflect the regulator's role relating to LDPs.	The discussion paper said that the Government would 'ensure' production from a C&M site would recommence in accordance with their LDP. The Government can monitor progress and ask questions of an RA holder, but it cannot ensure that a proponent recommences production.	DNRME has a range of compliance tools available to ensure RA holders comply with their LDP. DNRME will use these tools so that RA holders develop resources in the State's best interest.
16. The Government may not have the capacity to consider commercial details	The details impacting a proponent's decision to enter C&M are likely to include technical, commercial-in-confidence information. Will this information factor into DNRME's decision to approve an LDP?	When deciding whether to approve an LDP, the Queensland Government will consider all relevant information to ensure that the State's resources are being developed appropriately.
17. The discussion paper does not consider 'near end of life sites'	The State could incentivise primary operators to facilitate third-party re-processing activities for 'near-end-of-life' sites. This would reduce the risk that they would become future C&M sites, or become disclaimed. A new third-party tenure (without a notification/objection process) may be appropriate.	Noted. There are substantial complexities related to the creation of new tenures and this will not be pursued at this time.
18. An area may not be available for rehabilitation if there is overlapping tenure	The Mine Land Rehabilitation Policy considers disturbed land associated with mining activities to be available for rehabilitation with four exceptions. These four exceptions don't consider the issue of overlapping tenures or easements. In these scenarios, the overlapped tenure holder may have immediate plans to operate in that area before rehabilitation.	Each party in an overlapping tenure scenario will have their own obligations as they pertain to rehabilitation. The existence of overlapping tenure does not remove rehabilitation obligations on either party. Overlapping tenure parties may decide to create a formalised agreement to optimise the rehabilitation activities at their own discretion and integrate this into their plans.
19. Requiring an LDP duplicates a plan of operations	There is duplication if an RA holder requires an LDP when they suspend production. The plan of operations will already address the appropriate issues. The term, 'LDP', is not appropriate for RA holders without an initial development plan.	The LDP is an update of the future mine development plan / plan of operations for the site given the changed circumstances (suspension of operations due to market conditions and / or operational conditions). This information will assist Queensland Government to monitor the ongoing management of the site under C&M and also ensure that production and progressive rehabilitation recommences when circumstances improve.

Change of Control		
Issue ⁷	Issue description	Response
1. Interaction with Federal legislation and the ASX	This proposal brings up questions about interactions with Corporations law. For public companies, what defines a change of control and how can a minority shareholder be forced to comply (or even know about) these provisions? An example would be someone who purchases 19.9% of a company thereby not triggering the compulsory bid requirements under the Corporations Act/ASX listing rules. How would the notification of the 'proposed change' work around ASX rules?	In response to stakeholder feedback, the Queensland Government is no longer pursuing the process proposed in the associated risks discussion paper. The Queensland Government has developed a new approach to mitigating risk from indirect transfers.
2. Ability of policy to deal with different types of change of control transfers	Have the following scenarios been considered in the development of the Government's transfer proposals? These scenarios are effectively transfers of ownership outside DNRME's control: <ul style="list-style-type: none"> • A tenure was held by an individual and that person died and left the tenure in their will to be passed onto someone • Change of control at Board level • Hostile takeovers • A change of control at an overseas parent company 	In response to stakeholder feedback, the Queensland Government is no longer pursuing the process proposed in the associated risks discussion paper. The Queensland Government has developed a new approach to mitigating risk from indirect transfers.
3. Design an alternative change of control process	The discussion paper outlined a process under which a change of control would be an assessable dealing. A number of stakeholders identified issues with the process, and suggested an alternative process was needed. Suggestions included 'pre-accrediting' entities, amending the EPA, and using an 'indicative transfer' process.	In response to stakeholder feedback, the Queensland Government is no longer pursuing the process proposed in the associated risks discussion paper. The Queensland Government has developed a new approach to mitigating risk from indirect transfers.
4. Change of control assessment should have checks on directors/owners	The change of control assessment should consider the behaviours and performance of the directors/owners of the new company, rather than just the company itself.	These factors will be considered during the review of the financial and technical capability guide.
5. Change of control rules should take into account Traditional Owners and cultural value	When a mine is closing or changing owners, Traditional Owners, the cultural landscape, cultural sites and objects of significance should be taken into account.	For a company to receive a resource authority, it must engage with Traditional Owners, and formalise agreements relating to cultural heritage and Native Title. If there is a change of control, the new controlling entity must still comply with prior commitments made to Traditional Owners.
6. DES should conduct the part of the change of control assessment considering capacity to undertake rehabilitation	It is unclear why a possible criterion for assessing financial and technical capability is the capacity to undertake rehabilitation. If it is a criterion, then DES should conduct the assessment. However, this should not open up EA conditions, nor should DES be able to stop the tenure from transferring.	DNRME will consider the cost of complying with financial provisioning (which is based on the estimated rehabilitation cost, as approved by DES) when assessing a company's capacity to comply RA conditions. This will ensure that companies can afford to develop their resources in an appropriate manner, while protecting the state from contingent environmental liability.



Change of Control		
Issue ⁷	Issue description	Response
7. Change of control assessments should consider compliance and environmental history	To adequately capture environmental risks, the government should assess a new controlling entity's environmental track record and compliance history in Australia and overseas.	This idea will be further examined during the review of the financial and technical capability guide. Note that the scheme manager considers this issue from a financial perspective.
8. Change of control assessment should be open, transparent and subject to review/appeal	All capability assessments for sale or transfer of control should be made public and be subject to the full suite of review and appeal mechanisms.	Noted. The change of control review will not be made public to protect commercially confidential information. Existing review and appeal mechanisms will apply.
9. Change of control assessments should be consistent with tests used for tenure applications	The information required and the criteria to be satisfied should be consistent with the requirements that apply for the grant of tenure. This is currently prescribed under s10(2)(b) of the Mineral and Energy Resources (Common Provisions) Regulation 2016 (MERCPR Regulation), and includes that the proposed transferee has the human, technical and financial resources to comply with the conditions of the resource authority.	The new mechanism for direct transfers prevents a direct transfer from happening unless the buyer mitigates financial risk in accordance with the financial provisioning scheme, and complies with s10(2)(b) of the MERCPR Regulation. DNRME will make the same assessment of human, technical and financial resources after an indirect transfer takes place, and may re-condition the RA to manage any additional risk caused by the transfer.
10. The change of control policy (for indirect transfers) should cover ML applicants	The discussion paper framed the change of control policy around MLs. However, the same change of control consideration should be given to an entity that is acquiring a ML application.	Noted. Queensland Government will consider this during detailed policy development on this issue.
11. Share information with landholders	Details of the financial and technical resources of a mining lease applicant, and of an intended substitute owner should be made available to affected landholders. Landholders have a right to know more about the company that affects their land use.	Noted. Much of this information is commercial-in-confidence and as such, the Queensland Government does not intend to mandate disclosure to affected landholders.
12. Regulatory and investment uncertainty	The need to gain further approval on a transaction and the regulatory uncertainty this poses. This could inhibit funding of a project as the investor may no longer be willing to go through with this process. Existing tenures might be seen as devalued by this new scrutiny. There is also a risk of stranded assets if funders are scared away.	In response to stakeholder feedback, the Queensland Government is no longer pursuing the process proposed in the associated risks discussion paper. The Queensland Government has developed a new approach to mitigating risk from indirect transfers. The new process will help the state to manage risk without creating excessive uncertainty.

⁷ The description of each issue summarises stakeholder sentiments. The views expressed by stakeholders are not the Queensland Government's. When multiple stakeholders have expressed a similar view, ideas may be grouped into a single issue. Some issues overlap multiple themes. Where this is the case, they have been presented under only a single theme.

Government's role in maintaining and repurposing recently disclaimed mines

Issue ⁸	Issue description	Government response
1. Close the <i>Corporations Act 2001</i> loophole	All states and territories need to engage with the Australian Government to amend the Corporations law to prevent mine sites from being disclaimed.	Noted. The Queensland Government is focussing its efforts on managing mines once they are disclaimed.
2. An independent entity with mining expertise could manage disclaimed sites	Disclaimed sites, including valuable assets (e.g. processing plants) could be maintained differently. There may be an opportunity for sites to be managed by an entity with operational mining experience.	The Queensland Government will continue to assess each site, and engage expert contractors as appropriate.
3. Consider alternative options to deal with disclaimed mines	The Queensland Government should consider alternative options to achieve the same policy objectives as the framework in the discussion paper. The Queensland Government may be better off: improving the Land Court objection process; speeding up existing approvals processes; and/or removing the need for pre-requisite tenure in specific situations.	Noted. The Government is committed to finding opportunities to improve the efficiency of assessment processes, whilst balancing the opportunities for stakeholders to have their say.
4. Clarify the standard to which a newly disclaimed mine is rehabilitated	If a site has financial assurance and a PRCP, and it becomes disclaimed, then the discussion paper suggests that it will be rehabilitated to the standard of an abandoned mine, rather than to the standard highlighted in the PRCP. This is inappropriate.	<p>If a site is disclaimed after it has transitioned to the FPS, then its financial provisioning will be aligned with an ERC that reflects the cost to Queensland Government of rehabilitating the site to the standard agreed in the PRCP.</p> <p>In the event the surety is insufficient to rehabilitate the site to the standard described in the approved PRCP schedule, it will be rehabilitated to the highest standard allowed by the amount of surety, before being treated as part of the broader portfolio of abandoned mines.</p> <p>In the event a site had been paying a fund contribution before being disclaimed, it will be managed as part of the broader portfolio of newly abandoned mines covered by the FPS.</p>
5. Clarify how site management is paid for	Who covers the cost of sites managed by the Queensland Government while in transition to a new owner? Will this be drawn from the mine's surety or the FA pool? Will a new owner be required to make up any shortfall in the pool or surety?	<p>Whilst a site is being managed by the Queensland Government, funds from the FPS may be used to pay for any activities provided by the MERFP Act. Other activities must be funded separately.</p> <p>Any new RA holder will be required to pay appropriate financial provisioning, consistent with the MERFP Act.</p>

⁸ The description of each issue summarises stakeholder sentiments. The views expressed by stakeholders are not the Queensland Government's. When multiple stakeholders have expressed a similar view, ideas may be grouped into a single issue. Some issues overlap multiple themes. Where this is the case, they have been presented under only a single theme.



Government's role to manage and repurpose abandoned mines		
Issue	Issue description	Government response
1. Consult industry when finalising prioritisation criteria	The Queensland Government should consult with industry before finalising the criteria for prioritising abandoned mines.	Noted. Targeted consultation will be undertaken.
2. Incentivise repurposing by sharing risk	The Queensland Government should incentivise the repurposing of abandoned mine sites. To decide how, and to what extent the Queensland Government should incentivise private sector investment, the Queensland Government could put a dollar value on the risk of each abandoned site. This risk is currently held by the Queensland Government. Quantifying the risk would provide a framework for decision making.	The Queensland Government will release information about site risk prioritisation and mitigation as part of the transparency measures. It is envisaged that information that may stimulate investment will also be released where appropriate.
3. Fast-track non-tenure approvals	For an abandoned mine to be repurposed, a proponent will often need approvals in addition to tenure. In order to incentivise private sector investment, 4 submitters explicitly endorsed a process to fast-track non-tenure approvals. However, 2 submitters explicitly opposed this idea on the basis that 'shortcuts' would prevent appropriate assessment and consideration.	The Queensland Government will assess repurposing/re-commercialisation project proposals on a case-by-case basis. When it is in Queensland's best interests, the government will consider using the Coordinator-General existing powers to facilitate former mine sites being returned to a productive use.
4. Facilitate alternative uses for currently operating mines	Some alternative mine site activities are easier to set up and/or conduct while the mine is still in operation, and/or has not been dismantled. However, it can be difficult for alternative-use proponents to gain access or approvals while a mine is operating.	Noted.
5. Provide information on risks for each site, sites available for repurposing, and learn from repurposing projects	The Queensland Government should analyse the risk of each site, list the sites available for repurposing, detail the potential productive uses, release other relevant information to market, and communicate learnings from existing repurposing projects. Providing the private sector with this information may help to stimulate investment, and ultimately lead to an improved rehabilitation outcome. Information could be published (for example) on the QREX website, MyMines Online or the Queensland Globe.	The Queensland Government will publicly release more detailed information on abandoned mines. This will increase site management transparency, and provide the market with information that may stimulate investment. Information on abandoned mines will be integrated into the Queensland Government's geospatial platforms.
6. Consider a new role: Resource Repurposing Commissioner	The Queensland Resources Investment Commissioner plays a key role in matching project partners. A 'Resources Repurposing Commissioner' could play a similar role for abandoned mines, and help governments and companies to collaborate on repurposing projects.	Noted. The scale of the issue does not warrant a separate commissioner. The Queensland Resources Investment Commissioner and the Geological Survey of Queensland will continue to promote Queensland's resources. Publishing additional information on abandoned mines will help to encourage repurposing and/or re-commercialisation projects.

Government's role to manage and repurpose abandoned mines

Issue	Issue description	Government response
7. Broaden the definition of repurposing	There are a range of alternative uses that the Queensland Government may not have considered. These include: using waste as aggregate or smelter slag, education, tourism, renewable energy. Sites could also be repurposed for non-commercial reasons (e.g. community benefit).	<p>The Queensland Government acknowledges that there are a wide range of activities that could return a former mine site to a productive use.</p> <p>The Queensland Government will focus on collecting and publishing data relevant to the types of productive use that appear most likely for a given site. As part of its website update, the Queensland Government will publish contacts for proponents interested in finding out more about a site.</p>
8. All priority high-risk sites and abandoned mine tenures should have an environmental authority with conditions	An EA should be attached to all sites that DNRME classifies as high priority. Any company applying for an abandoned mine tenure should also need to apply for an EA.	<p>Noted. There are substantial complexities related to the creation of an abandoned mines tenure and this will not be pursued at this time.</p> <p>The Queensland Government will manage abandoned mines using the legislative powers within the resources legislation, in a manner that lowers risk according to a risk assessment and prioritisation framework.</p>
9. Notify the public when a company applies for an abandoned mine tenure	The public should be made aware when a company applies for an abandoned mine tenure and associated EA. The notification should have a plain English explanation of the application.	There are substantial complexities related to the creation of an abandoned mines tenure and this will not be pursued at this time. However, the existing framework for repurposing abandoned mines will be further explored by the government to determine the most appropriate way to achieve its policy objectives. Any changes to this framework will include processes to maintain transparency and public awareness.
10. Ensure staff and resourcing are appropriate	There is a risk that there may be insufficient funding or staff expertise in order to properly meet the objectives of the abandoned mines paper.	<p>Noted. The FPS has been designed to facilitate the progressive assessment and remediation of abandoned mines. The FPS fund will increase over time, thereby increasing the funding available to remediate abandoned mines.</p> <p>The Queensland Government will also recruit and train staff appropriately to meet its objectives. Where the necessary expertise is not within Government, opportunities to contract that expertise from the private sector will be explored as appropriate.</p>
11. Raise additional funding for rehabilitation	There were several suggestions for alternative funding models for abandoned mine rehabilitation. These included: a temporary (20 year) industry levy (ramping up from 15c per tonne, to 60c per tonne for coal and minerals production), a trust model (similar to the FPS), and a model similar to the Superannuation Guarantee Scheme.	Noted. The Queensland Government believes the FPS is an appropriate and sustainable long-term funding mechanism to progressively assess and remediate Queensland's abandoned mines.



Government's role to manage and repurpose abandoned mines

Issue	Issue description	Government response
12. Establish a State Development Area, and/or allow other applications to be progressed while mining tenure is still in place	The Queensland Government could establish a state development area that covers high priority repurposing sites supported by a development scheme. Alternatively, the Queensland Government could allow applications for development approvals and environmentally relevant activities to happen while mines were still operating, which would reduce the risk of the mine being disclaimed, and the state holding risk before a repurposing proponent took over the site.	<p>The Queensland Government will assess abandoned mine sites on a case-by-case basis to determine whether to use the Coordinator-General's powers (including the power to establish a state development area) to facilitate development.</p> <p>The FPS will mitigate risk to the state from mines being disclaimed in the future. The existing framework for processing approvals is appropriate.</p>

Government accountability and transparency

Issue	Issue description	Government response
1. Prescribe methodology for appropriate land use and rehabilitation management in regulations	The regulations established under the <i>Minerals and Energy Resources (Financial Provisioning) Bill 2018</i> should prescribe the methodology for how appropriate land uses and rehabilitation/management outcomes for abandoned mines should be determined. Engagement and other requirements should be similar to how companies will be required to determine appropriate post-mining land uses and rehabilitation.	The Queensland Government will formalise its management objectives as part of a public-facing, overarching policy for managing abandoned mines. Enshrining these objectives in legislation is unnecessary.
2. Be transparent about taxpayer funds	The Queensland Government should communicate any activities related to rehabilitating/re-purposing/re-mining an abandoned mine that require explicit (e.g. funding) or implicit (e.g. day-to-day resourcing, or project management) taxpayer funding.	Noted. The Queensland Government will increase the transparency and accountability (including on funding) of how the State's abandoned mines are managed and remediated.
3. Greater data transparency	Data on rehabilitation progress should be collected by independent organisations. It should be publicly available, and could be shared in real time. A public dashboard could include a range of metrics, relevant to different departments.	<p>Remediation progress will be included as part of the broader information releases.</p> <p>There will also be improved public reporting on how funding is allocated, and the success of remediation works.</p>
4. Define safe, secure, durable and productive in legislation	Since DNRME is responsible for managing abandoned mines, 'safe', 'secure', 'durable' and 'productive' should be defined in the MR Act. Further, the act should include an objective along the lines of: "manage abandoned mines environment risks to render them safe, secure and durable".	These definitions will be included in the overarching policy for managing abandoned mines. Defining them in legislation is unnecessary.

Government accountability and transparency		
Issue	Issue description	Government response
5. Ensure that Queensland's approach builds on accepted national standards and best practice, and is consistent with existing legislation	Queensland needs a strategic abandoned mines framework that builds on existing best practice and reflects accepted standards. It should reflect current and historical developments across jurisdictions. It should also be consistent with existing state and federal legislation (e.g. the <i>Queensland Heritage Act 1992</i> , the <i>Environment Protection and Biodiversity Conservation Act 1999</i> , the <i>Aboriginal Cultural Heritage Act 2003</i>) and guidance (e.g. National Environmental Protection Measures, the Strategic Framework for Abandoned Mines, Australian and New Zealand Environment and Conservation Council (ANZECC) & Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ), NHMRC guidance, and Council of Australian Governments policies).	Noted. The Queensland Government complies with existing legislation when it manages abandoned mines. The Queensland Government will formalise its management objectives as part of a public-facing, overarching policy for managing abandoned mines.
6. Develop a legal obligation for the state to address abandoned mines	Currently, the EP Act does not address abandoned mines. An amendment could be made to give an abandoned mines unit standing in legislation, including strengthened investigation and enforcement powers. A legal platform could be developed that outlines revenue streams for rehabilitation, timeframes etc., and could include standardised reform processes (i.e. MERFP).	Noted. Currently the abandoned mines framework is set out in the MR Act. An analogous framework for abandoned operating plant has recently been included in the P&G Act. The MERFP Act also ensures sufficient funds are provided to the State to manage environmental issues from resource activities on sites that have not been fully rehabilitated by the relevant resource entity and that progressive rehabilitation occurs during the life of the mine. This will better protect the State and the community from the risk of abandoned mine sites going forward. The Queensland Government will also amend resources legislation as necessary to facilitate improved site management and remediation.



Miscellaneous issues relevant to an overarching abandoned mines policy		
Issue	Issue description	Government response
1. Simplify categories of abandoned mines	There should be two, rather than three categories of abandoned mines. These categories could be something like 'small scale/non-mechanised (i.e. historic)' and 'all others'. This is simple, transparent and avoids the possibly misleading impression of the scale of the problem.	Noted. The Queensland Government will publish information on the different categories of abandoned mines.
2. Rename 'post-commencement terminated mine'	'Post-commencement terminated mine' is an unnecessarily complicated term.	As part of the commitment to enhance transparency and accountability, the Queensland Government will clearly explain all terminology related to abandoned mines management.
3. Consider a role for government departments other than DNRME	DNRME may not be best placed to manage all aspects of abandoned mines. For example, the DES may be better placed to focus on rehabilitation, as it administers the EP Act, which could be amended to include the management of abandoned mines. Similarly, Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) may be better placed to take on a project management role relating to commercial agreements for repurposing. This issue was raised by several stakeholders, with the majority advocating for greater DES involvement, with a greater focus on rehabilitation.	Noted. The website update will outline the roles of different Queensland Government departments in relation to remediating, rehabilitating, repurposing and re-commercialising abandoned mines.
4. Focus more on rehabilitation, including higher standards	The suggested reforms do not place enough emphasis on rehabilitation (and place too much emphasis on repurposing and re-mining). There should be a greater focus on rehabilitating abandoned mines to a higher, recognised standard (e.g. to a 'no environmental harm' hurdle).	The new abandoned mines policy will explain the Queensland Government's management objectives and overarching risk assessment and prioritisation framework.
5. Prioritise the training and employment of Indigenous Australians	Conducting rehabilitation and repurposing activities in regional areas provides opportunities to up-skill and employ locals, including Indigenous Australians.	Noted. The State's new abandoned mines policy will consider these topics. Details will be finalised during implementation, and will be consistent with overarching Queensland Government policies.
6. Require local content providers	Local content should be a requirement for both planning and implementation procurement, including local Aboriginal and Torres Strait Islander suppliers.	

Miscellaneous issues relevant to an overarching abandoned mines policy		
Issue	Issue description	Government response
7. Provide greater consideration to indigenous heritage	The abandoned mines policy should include measures to ensure that indigenous cultural heritage is respected as part of site assessment, management and/or rehabilitation. This should include provisions to involve Traditional Owners and other indigenous stakeholders in consultative processes.	Noted. The State's new abandoned mines policy will consider these topics. Details will be finalised during implementation, and will be consistent with overarching Queensland Government policies.
8. Provide greater consideration to cultural and mining heritage	The Queensland Government should give greater consideration to cultural and mining heritage when it deals with abandoned mines. This could include, for example, amending the EP Act; delaying works on abandoned mines until they have been assessed for heritage value, and protected as necessary; and applying the Burra Charter to abandoned mines policies.	
9. Make clear the effect on the petroleum and gas industry	The Queensland Government should clarify how the abandoned mines reforms will affect petroleum and gas operations.	The Queensland Government has amended the P&G Act to insert provisions that allow for the management of abandoned operating plant. The new abandoned mines framework will apply to all resource activities in Queensland.
10. Residual risk needs to be progressed	Acceptable residual risk levels need to be determined. In doing this, the Queensland Government will need to answer questions of the scale of risk and its temporal characteristics.	This is out of scope for this discussion paper. DES has consulted separately on residual risk.