16 July 2018

Financial Assurance Review
Queensland Treasury
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Submission on “Achieving improved rehabilitation for Queensland: addressing the state’s abandoned mines legacy Discussion paper”

This submission is provided on behalf of Australia ICOMOS.

ICOMOS – the International Council for Monuments and Sites – is a non-government professional organisation that promotes expertise in the conservation of cultural heritage. ICOMOS is also an Advisory Body to the World Heritage Committee under the World Heritage Convention.

Australia ICOMOS, formed in 1976, is one of over 100 national committees throughout the world. Australia ICOMOS has over 700 members across Australia in a range of heritage professions. We have expert members on a large number of ICOMOS International and National Scientific Committees, as well as on expert committees and boards in Australia.

We provide the attached comments to inform the Queensland Government, and we would be very happy to provide further information or to meet with representatives of the Queensland Treasury to discuss this submission.

Thank you for the opportunity to comment on a matter that has such important cultural heritage implications.

Yours faithfully

IAN TRAVERS
President, Australia ICOMOS
Discussion Paper on:
Achieving improved rehabilitation for Queensland: addressing the state’s abandoned mines legacy

16 July 2018

Submission by
Australia ICOMOS (International Council on Monuments and Sites)

ICOMOS, (http://www.icomos.org/en/), the International Council for Monuments and Sites is a nongovernment professional organisation that promotes expertise and professional practice in the conservation of cultural heritage. ICOMOS is an Advisory Body to the World Heritage Committee under the World Heritage Convention (the Convention Concerning the Protection of World Cultural and Natural Heritage), which was adopted by the General Conference of UNESCO on 16 November 1972 and to which Australia is a State Party.

Australia ICOMOS (AICOMOS) (http://australia.icomos.org/), formed in 1976, is one of over 100 national ICOMOS committees throughout the world. Australia ICOMOS has over 700 members across a broad range of heritage professions. The mission of Australia ICOMOS is to lead cultural heritage conservation in Australia by raising standards, encouraging debate and generating innovative ideas.

The goals of Australia ICOMOS (http://australia.icomos.org/about-us/australia-icomos/) include to:

- Ensure that the organisation retains a leadership role in conservation philosophy and practice for culturally significant places
- Promote an understanding of the cultural significance of places and raise conservation standards through education and communications
- Inform and influence key decision makers concerning Australia ICOMOS’ aims and approaches to conservation philosophy and practice.

In pursuing these goals Australia ICOMOS has developed a nationally and internationally recognised framework and a series of specific tools for ensuring that cultural heritage values receive appropriate identification, recognition and management. These tools include the Burra Charter (The Australia ICOMOS Charter for Places of Cultural Significance, 2013) (Australia ICOMOS, 2013), associated Practice Notes and a ‘Toolkit’ of other useful guidelines and resources.

Australia ICOMOS submits that:

1. Mining sites have important cultural heritage values for the Australian Community at a National, State/Territory and local level.

2. Mining sites with cultural values may also have potential as tourism and/or community assets.

3. The Queensland Heritage Act 1992 specifically provides for the conservation of Queensland’s cultural heritage for the benefit of the community and future generations. The Aboriginal Cultural Heritage Act 2003 provides recognition, protection and conservation of Aboriginal cultural heritage. These Acts should be referenced in policy and applied to the assessment of abandoned mines so that cultural heritage values of these sites are managed appropriately.

4. The Commonwealth Environment Protection Biodiversity Conservation Act 1999 (EPBC Act) specifically includes the ‘heritage values of places’ as part of the ‘environment’. Heritage values defined in the EPBC Act as including ‘the place’s natural and cultural environment having aesthetic,
historic, scientific or social significance, or other significance, for current and future generations of Australians’.

5. The provisions of the EPBC Act relating to Commonwealth lands\(^3\), and Commonwealth actions\(^4\), as well as identified World, National and Commonwealth Heritage places apply to mining sites with cultural heritage values.

Background history of abandoned mine management in Queensland

A ‘shaft capping/dam’ safety focus for the Queensland Abandoned Mine Land Program (AMLP), which has been the case for the last 13 years, will not yield good outcomes for cultural heritage or broader aspects of environmental management associated with abandoned mines in Queensland. This history provides an overview of abandoned mine management in Queensland as context for AICOMOS’ recommendations. Current weaknesses and biases to single discipline areas such as engineering, will provide a too narrow focus for effectively managing cultural heritage and the environment unless more significant changes are made to the program than those proposed in the Discussion Paper. The Discussion Paper reveals little difference in how sites are managed compared with the last 13 years, apart from a new funding regime (separate policy) and changing the names of mining legacies according to the date at which they become the responsibility of the State.

Placing abandoned mines in the hands of the QLD Department of Natural Resources, Mines and Energy (DNRME) in 2000 made sense at the time. Prior to 2000 and into the early 2000s there was environmental and cultural heritage expertise in the DNRME, largely because the department was the environmental regulator of mining - as the Department of Mines and Energy (DME), Department of Natural Resources and Mines (DNRM), Department of Natural Resources Mines and Water (DNRMW) and now DNRME. That environmental expertise is no longer evident within DNRME as environmental regulation of mining shifted to the Environmental Protection Agency (EPA) - which later became the Department of Environment and Heritage Protection (DEHP) and more recently the Department of Environment and Science (DES).

When the AMLP state-wide coordination was moved to a role under the Safety Commissioner (around 2005/6), this resulted in a narrower focus on safety to the detriment of a range of other risks and values that characterise abandoned mines. The larger more complex sites dominated by environmental impacts were viewed through a ‘safety lens’ where safety was paramount while the department sought mining companies to take over some of these sites with the hope of secondary mining. Apart from water management and treatment at Mount Morgan, which pre-dated this phase and needed to continue, all other aspects of abandoned mines were treated as of lesser importance. This submission does not deny safety is an important issue, nor that secondary mining is a potential source of local employment and value. Instead, this submission emphasises the need for a wide spectrum of issues to be addressed (both risks and opportunities – environment and heritage) and to be integrated and elevated in importance in a strategic plan for abandoned mines.

In 2007, the ‘Keliher Review’ by the ‘Service Delivery and Performance Commission’ reviewed the roles and responsibilities of three agencies (Queensland Government, 2007, p 8). This review found that key aspects of governance had not been adequately addressed following the Machinery of Government changes in 2000 when environmental regulation of mining was transferred from DME to the EPA. The relevant recommendation on abandoned mines is included below to illustrate this:

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**Recommendation 13**

It is recommended that the Directors-General of DME and EPA establish a senior executive level inter-departmental management committee by 31 December 2006 to:

- oversee the establishment, amendment and release of financial assurances for mining activities under the *Environmental Protection Act 1994*
- manage the inclusion of new sites in the abandoned mines program, and
- ensure that the technical advice and expertise of EPA and DME are applied to managing complex abandoned mine sites.

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\(^3\) Section 26 of the Environment Protection Biodiversity Conservation Act, 1999  
\(^4\) Section 28 of the Environment Protection Biodiversity Conservation Act, 1999
Among other things, this recommendation highlights the importance of using the technical advice and expertise of both the EPA and DME in managing complex abandoned mine sites. This means that environmental and cultural heritage expertise from DES must be integrated into the AMLP program with DME. This recommendation by the Keliher Review acknowledges the multi-disciplinary knowledge needs of these complex sites for them to be managed effectively and in line with stakeholder and community expectations. While the Queensland Government 2018 Discussion Paper includes a list of agencies on the front cover, the content of the paper does not adequately reflect the significance of environment and cultural heritage aspects that must also be managed if Queensland is to effectively manage its values, responsibilities and liabilities from abandoned mines.

On the subject of secondary mining (repurposing of abandoned mines), there are few, if any, examples of secondary mining having recommenced on major abandoned mines in Queensland in the last few decades. Identifying that use as the sole opportunity for the repurposing of abandoned mines limits the scope of sustainable solutions, particularly when environmental and cultural heritage aspects need immediate attention. This attention need not necessarily conflict with future development, but would help to manage risks and opportunities that may concern a future miner. Exploration and other leases granted or sustained on abandoned/legacy mines are known to persist for several decades with no beneficial outcome, other than their having been thoroughly evaluated. Some sites, like Mount Morgan, have had at least three evaluations since the early 1990’s (by companies: Perilya, Moonraker and Norton by Carbine Resources). None of these have yielded a project that the State has deemed acceptable, while in the meantime cultural heritage features and values have progressively deteriorated or been locked up (e.g. Fireclay Caverns). It is not clear how many more attempts will be made before the State accepts that site repurposing for secondary mining may not be viable where such large liabilities exist and where regulatory clarity for proponents of brown field redevelopment is absent. Another appalling example highlighted by the Queensland floods is the environmental harm from Mt Oxide which continues to be unresolved for the landowners (Queensland Floods Commission of Inquiry, 2012).

In parallel with this history, at a national level the Queensland government was actively engaged in developing the Strategic Framework for abandoned mines, yet no mention of this Framework or the process has been included in the Discussion Paper nor a commitment to implement the Strategic Framework for managing abandoned mines. [https://industry.gov.au/resource/Mining/Documents/StrategicFrameworkforManagingAbandonedMines.pdf](https://industry.gov.au/resource/Mining/Documents/StrategicFrameworkforManagingAbandonedMines.pdf)

There is also no mention in the Discussion Paper of the mining legacy working group of the Land Access for Resources Working Group under COAG on which Queensland is also represented. This group has been applying some attention to abandoned mines with a workshop and report (Noetic Solutions Pty Limited, 2016) and possibly also other discussions not yet publicly available. There is no evidence in the Discussion Paper that any national initiatives will be implemented in Queensland. [https://industry.gov.au/resource/Mining/Documents/LARWG-Abandoned-Mines-Workshop-Report.pdf](https://industry.gov.au/resource/Mining/Documents/LARWG-Abandoned-Mines-Workshop-Report.pdf) from this website [https://industry.gov.au/resource/Mining/Pages/Land-Access-and-Social-Licence-to-Operate.aspx](https://industry.gov.au/resource/Mining/Pages/Land-Access-and-Social-Licence-to-Operate.aspx)

In the context of this background history on abandoned mine management in Queensland and an understanding of what constitutes good cultural heritage management practice, AICOMOS makes some specific comments followed by ten recommendations.

### Specific comments on the Discussion Paper

A search of the term ‘heritage’ finds 5 entries in the Discussion Paper. They are reviewed as follows:

1. Page 7 - reference to Mount Morgan Mine ‘managing safety risks relating to heritage-listed infrastructure and stockpiles’. This is interpreted as the Department of Natural Resources, Mines and Energy (DNRME) seeing cultural heritage as a risk to human safety. This may be one of the challenges, but not the only aspect that requires management. There is no recognition in that statement of cultural heritage values that must be managed and funded.

2. Page 8 - historical mining disturbances, ‘Many of these sites are listed on the Queensland Heritage Register’. These historic mines are in fact a very important part of Queensland’s cultural heritage. To be included on the Queensland Heritage Register these sites have been assessed as having very high levels of cultural significance - to have met high thresholds against stringently applied criteria under the

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2 Note the Australian government Department of Industry and COAG Energy council webpages are being restructured (July) and currently some links are not functioning
Queensland Heritage Act 1992. To refer to them as ‘disturbances’ shows a lack of understanding. Queensland Government policy for AMLP must articulate how it will respect and conserve cultural heritage in the process of managing historic mines.

3. Two entries on Page 15 with reference to private sector requirements in repurposing of sites include ‘native title, cultural heritage and Aboriginal cultural heritage’. This statement implies the imposition of much wider responsibility for the management of sites by the private sector than the State is acknowledging as needed in its own management. That is, it appears to be applying one standard to the private sector and another narrower/reduced standard to the Government in managing these sites.

4. Page 21 - states that better environmental and community outcomes will result from the new policy for abandoned mines - ‘improved conservation of heritage values’, yet no evidence is provided in the Discussion Paper to support this.

Recommendations

**Recommendation 1:** An updated AMLP Policy Position for the reformed abandoned/legacy mine program must include management of cultural heritage in line with the Burra Charter (Australia ICOMOS, 2013).

**Rationale:** The Discussion Paper makes no reference to the relevant cultural heritage management Charter nor the relevant Queensland and national legislation (see the introduction to this submission, where the goals of AICOMOS, the Burra Charter and its toolkit are referenced).

**Recommendation 2:** Queensland Treasury, DNRME and the Financial Provisioning Scheme (FPS) Advisory Committee must engage the appropriate cultural heritage expertise (from consultants and/or DES) to ensure appropriate assessment, planning and management of cultural heritage aspects of abandoned/legacy mine management.

**Rationale:** AICOMOS would expect to see a program that manages abandoned/legacy mines have the appropriate cultural heritage expertise engaged in the program for evaluation and assessment processes from the very beginning. There is no evidence given in the Discussion Paper that this expertise is recognised as being important and intended to be integral to the program now, or in the future. Instead there is evidence of cultural heritage destruction resulting from the Abandoned Mines Lands Program (AMLP) works (Appendix A) that indicates a lack of cross-functional integration in government to utilise appropriate heritage expertise, knowledge and guidance to manage heritage values. Members are also aware of cultural heritage destruction through the Charters Towers shaft capping program in the past.

**Recommendation 3:** No further ‘safety works’ should be undertaken by DNRME without the appropriate site assessment and control measures for cultural heritage protection being in place (see Recommendation 2).

**Rationale:** The Discussion Paper refers only to the Mineral Resources Act 1989 as legislation guiding the management of abandoned mines. Concentrating solely on safety will not address the breadth and depth of management risks and/or values that abandoned mines pose, particularly if the 220 or so priority sites are the largest in the state. These are also probably the more complex sites that will require environmental and heritage assessment and management too. No data are made available in the Discussion Paper to reveal the nature of those 220 sites, their risks or opportunities, and so it is not possible to understand how their consideration informs the policy.
**Recommendation 4:** The Queensland Government must ensure the policy for management of abandoned mines in QLD includes the requirement that agencies managing abandoned/legacy mines adhere to relevant state and national legislation for environmental and cultural heritage management i.e. Queensland Heritage Act 1992, Aboriginal Cultural Heritage Act 2003 and EPBC Act 1999.

**Rationale:** There is mention in the Discussion Paper that legislation changes could be made to strengthen powers to ‘manage risks’ (p8), but there is no mention of legislation to support managing environmental, cultural heritage or other values. These too must be considered. There is no mention in the Discussion Paper of the relevant cultural heritage environmental legislation at either the State or Federal level. Australian government legislation, standards and guidance include: Australian and New Zealand guidelines for Fresh and Marine Water Quality (ANZECC/ARMCANZ, 2000)\(^6\), EPBC Act 1999, National Environmental Protection Measures NEPM, 2013\(^7\), and human health aspects of National Health and Medical Research Council guidance (NHMRC\(^8\)). This omission reveals significant oversights in the regulatory review process undertaken for the Discussion Paper.

**Recommendation 5:** The Queensland Government must ensure that policy and guidance is provided in advance of legislative reform, and then apply appropriate procedures for including cultural heritage values in site assessment and prioritisation processes to ensure those values are not harmed. DNRME can seek guidance on this from AICOMOS and the Department of Environment and Science (DES).

**Rationale:** The Department of Environment and Science (DES) is responsible for the management of heritage places at the state level\(^9\).

**Recommendation 6:** The DNRME site prioritisation and repurposing evaluation process must include cultural heritage values and involve the participation of appropriate expertise in this process. This should include wider stakeholder engagement and a more comprehensive analysis to develop beneficial uses.

**Rationale:** The Discussion Paper acknowledges some of the challenges for repurposing for further mineral extraction. However, very little information is given on the steps toward repurposing of abandoned/legacy mines for other beneficial uses. The absence of cultural heritage values in the ‘repurposing potential’ checklist on page 26 indicates that the only repurposing under consideration is further mining. This checklist must be broadened to encompass repurposing for cultural heritage conservation and related compatible uses (e.g. tourism, heritage trails, education, research, recreation).

**Recommendation 7:** In light of the difficulties the State Government has had in bringing together the knowledge of DNRME and DES for the management of complex abandoned mines since the Keliher Review, the State Government should consider whether the DES is the best agency to run the abandoned/legacy mine program rather than DNRME, or whether a jointly managed program with an advisory board which draws upon external expertise as required would be a better option.

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Rationale: It is 11 years since the Keliher Review (2007) with little evidence of progress in engaging the expertise of DES for the program since the loss of environmental expertise from DNRME to DES and elsewhere since 2000. DNRME lacks the environmental and heritage expertise to effectively assess and manage abandoned/legacy mines in QLD. The Discussion Paper draws attention to the 220 or so significant abandoned mines requiring attention. They are most likely to also have environmental and heritage challenges.

**Recommendation 8:** The Queensland Government policy for managing abandoned/legacy mines should commit to applying Australia’s Strategic Framework for Managing Abandoned Mines (2010) and learnings from the Land Access for Resources Working Group (mining legacy working group), as well as leading practice programs from elsewhere.

Rationale: There is no reference to the national Framework or cross-jurisdictional processes in the Discussion Paper, although both are processes in which Queensland DNRME has been engaged. There is also little evidence that DNRME have learnt and applied anything of best practice in relation to abandoned/legacy mine management, improved stakeholder engagement or determination of beneficial post-mining land uses.

** Recommendation 9:** The Queensland Government must recognise and apply the Burra Charter in its abandoned/legacy mine policy for management of the cultural heritage values of abandoned/legacy mines in Queensland.

Rationale: There is no mention of the Burra Charter (Australia ICOMOS, 2013) in the Discussion Paper. An integral part of applying the Burra Charter in the present instance is the need to engage appropriate cultural heritage expertise in regulatory reform for the management of abandoned mines. This expertise exists within government and the private sector. The Burra Charter (The Australia ICOMOS Charter for Places of Cultural Significance, 2013) and its associated series of Practice Notes provide a widely-recognised, best practice standard for managing cultural heritage places in Australia.

**Recommendation 10:** The Queensland Government must recognise and respect Aboriginal cultural heritage in the abandoned/legacy mine policy as integral to the management of abandoned/legacy mines and surrounding lands at all stages of site assessment, management and/or rehabilitation.

Rationale: There is no reference in the Discussion Paper to applying appropriate measures for Aboriginal cultural heritage management as part of the AMLP. Abandoned /legacy mine management may affect places containing Aboriginal cultural heritage (tangible and/or intangible). Potential Aboriginal values should be considered within the framework and consultative processes should include adequate provision for involvement of Traditional Owners and other Aboriginal stakeholders. The relevant governing legislation is the Aboriginal Cultural Heritage Act 2003. The appropriate guidelines for consultation with Aboriginal people are provided in “Ask First: A Guide to Respecting Indigenous Heritage Places and Values” (Australian Heritage Commission, 2002).
References


Appendix A: Example of damage to historic mine cultural heritage due to QLD abandoned mine land program