



Environmental
Defenders Office

Submission on the review of Queensland's financial provisioning scheme

30 September 2026

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 40 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

www.edo.org.au

Submitted to:

Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development

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Acknowledgement of Country

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past and present and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations Cultural Heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises the right to self-determination of First Nations peoples, including their right to freely determine their own political status and freely pursue their economic, social and cultural development. This extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

A note on language

We acknowledge there is a legacy of writing about First Nations peoples without seeking guidance about terminology. We also acknowledge that where possible, specificity is more respectful. For the purpose of this submission, we have chosen to use the term First Nations. We acknowledge that not all First Nations peoples will identify with that term and that they may instead identify using other terms or with their immediate community or language group.

First Laws is a term used to describe the laws that exist within First Nations. It is not intended to diminish the importance or status of the customs, traditions, kinship and heritage of First Nations in Australia. The EDO respects all First Laws and values their inherent and immeasurable worth. EDO recognises there are many different terms used throughout First Nations for what is understood in the Western world as First Laws.

Executive Summary

Environmental Defenders Office (**EDO**) welcomes the opportunity to comment on Queensland Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development's (**Department's**) review of Queensland's Financial Provisioning Scheme regulated under the *Mineral and Energy Resources (Financial Provisioning) Act 2018* (**MERFP Act**).

The Financial Provisioning Scheme is a critical component of managing the risks posed by the resources and energy industry in Queensland. Its primary purpose is to ensure that resource companies (including coal, minerals, and petroleum and gas operators) provide sufficient financial security to ensure that any rehabilitation costs are not met by the public, should industry fail to meet their environmental management and rehabilitation obligations.

While Queensland's rehabilitation framework has been strengthened since the Financial Provisioning Scheme was first introduced under the MERFP Act, this review presents an opportunity to further improve its effectiveness. EDO considers the primary assessment of the success of the Financial Provisions Scheme should be whether it adequately protects the public and government resources from rehabilitation liabilities and impacts and ensures positive environmental outcomes that are safe for communities. Any consideration of interjurisdictional competitiveness or changing industry dynamics and investment models should only be assessed with respect to these concerns as the purpose of the Scheme. The review should also consider the unique environmental, social and economic features of Queensland.

Summary of Recommendations

1. The review into the Financial Provisioning Scheme be conducted with consideration of the public interest at its centre and there should be no watering down of financial provisioning requirements.
2. ERC values must be calculated with realistic, evidenced-based estimations that account for the real cost of undertaking the rehabilitation activity and account for contemporary costs of resource activities, including from climate change impacts.
3. Improve the corporate accountability for rehabilitation costs by introducing trailing provisions to ensure that corporate entities that have significantly financially benefited from a project are accountable for rehabilitation costs.
4. To ensure transparency and accountability of decision making, allow information underlying ERC determinations to be made public and publish the methodology for risk category decisions.
5. Strengthen progressive rehabilitation requirements, improving industry compliance with progressive rehabilitation obligations, ensuring full transition to progressive rehabilitation and closure plans, and better regulation of proponents relying on 'care and maintenance' to defer rehabilitation obligations.
6. Public consultation and expert advice be required in determining an entity's risk category, pool or surety, to ensure this important assessment is informed by all relevant information available including those communities directly affected.
7. Introduce a costs recovery mechanism from existing operators to assist in covering the costs of existing and future abandoned mines.

Introduction

Since its introduction in 2018, the Financial Provisioning Scheme has improved protections to taxpayers from rehabilitation liabilities resulting from extractive industries. This review presents a valuable opportunity to strengthen those protections and ensure that resource activities are not costly to taxpayers in the future.

Review must be conducted with consideration of the public interest at its centre

The review into the Financial Provisioning Scheme must be conducted with the overriding objective of ensuring the public interest is served and that taxpayers are not footed with the bill for rehabilitation costs. A desire for ‘competitiveness’ with other jurisdictions should not outweigh the Queensland Government’s responsibility to its electorate to ensure appropriate fiscal and risk management with respect to resources activities. Any consideration of approaches taken in other jurisdictions, should be tempered with due regard to the fact that Queensland:

- is the most biologically diverse state or territory in Australia;¹
- contains five World Heritage properties, including the only place on Earth where two World Heritage places meet and the largest sand island in the world;²
- contains the world-renowned Great Barrier Reef;
- is the State most impacted by natural disasters (which will be exacerbated by climate change);³
- has the largest beef sector in Australia, comprising nearly half of the national herd;⁴
- receives more income from tourism than any of the jurisdictions listed as “competitors” by the Government, having the second highest Gross State Product from tourism in Australia in 2023-24; and ⁵
- has long had the highest rate of land clearing in the country.⁶

Any changes to the Financial Provisioning Scheme must account for these unique features/sensitivities.

While EDO would support proposals to improve efficiencies in the system (for example reducing administrative burden, or unnecessarily complicated regulation), ‘competitiveness’ should not justify the removal of important environmental safeguards. Centering the public interest in the review is all the more important as recent reforms have removed the requirement for an independent public interest evaluation where new mines propose to have non-use management areas (**NUMAs**). NUMAs pose a significant cost risk to Queensland and its taxpayers as they are required to be managed in perpetuity beyond the surrender of a proponent’s tenure.

¹ See: <https://www.museum.qld.gov.au/learn-and-discover/queenslands-environments-and-biodiversity/>.

² See: <https://www.business.qld.gov.au/industries/science-it-creative/science/biodiscovery/qld/>.

³ Queensland Government, ‘2023 State Disaster Risk Report’ (Executive Summary, 2023) 6 (available at: https://www.disaster.qld.gov.au/_data/assets/pdf_file/0028/436069/2023-State-Disaster-Risk-Report-Executive-Summary.pdf).

⁴ See: <https://www.dpi.qld.gov.au/news-media/campaigns/data-farm/livestock>.

⁵ See: <https://www.tra.gov.au/en/tourism-industry-analysis/tourism-satellite-accounts/state-tsa>.

⁶ Wilderness Australia, ‘Drivers of deforestation and land clearing in Queensland’ (Report, May 2025) 5 (available at: https://wilderness.org.au/images/uploads/WEB_Drivers-of-Deforestation_2025-Report-V2.pdf).

Recommendation 1:

The review into the Financial Provisioning Scheme be conducted with consideration of the public interest at its centre and there be no watering down of financial provisioning requirements.

Estimated rehabilitation costs must be based on actual costs of undertaking the relevant rehabilitation activity

Any proposed reforms resulting from this review must be underpinned by the polluter pays principle. In particular, estimated rehabilitation costs (**ERCs**) must reflect the real and complete cost of undertaking rehabilitation activities. As identified in the Financial Provisioning Scheme 2025–26 Annual Report (**Annual Report**), a key risk underlying the financial provisioning scheme fund continues to be ‘the insufficiency of the ERC value to meet actual costs to the state when a resource site becomes an abandoned site’. The Annual Report cites the example of plugging an abandoned petroleum or gas well which costs significantly more than the ERC value. To prevent Queenslanders from bearing the costs for resource activities, this inconsistency must be remedied.

The ERC value must also factor in risks arising from climate change. As recognised by the Queensland Government, mining activities are vulnerable to a range of climate hazards including:

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- impacts to mining infrastructure and staff productivity from extreme weather events such as heatwaves, cyclones, bushfires and floods;
- changes to landform stability during mining operations and in maintenance of tailing dams and site rehabilitation from air and water pollution or increased erosion from changes to wind and rainfall patterns (both increased dry periods and increased intensity and duration of rainfall event); and
- challenges with establishing revegetation due to altered regional climactic conditions.

Failure to appropriately account for these challenges will lead to underestimating operating costs and also difficulties in realising rehabilitation requirements.

The systemic underestimation of ERC amounts, either undervaluing ERC costs or from failing to account for climate change, places pressure on the effective operation of the financial provisioning scheme fund and risks the costs of rehabilitation falling on the taxpayer, or the mine simply not being rehabilitated at all.⁸

Recommendation 2:

ERC values must be calculated with realistic, evidenced-based estimations that account for the real cost of undertaking the rehabilitation activity and account for contemporary costs of resource activities, including from climate change impacts.

⁷ Queensland Government, Queensland Future Climate: Developing Climate Resilient Mines, available [here](#).

⁸ Queensland Government, *Financial Provisioning Scheme 2025–26 Annual Report*, available [here](#), p 10.

Improved protections needed regarding mine transfers and corporate accountability

The review should consider introducing trailing provisions such as those under section 587A(2B) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth). Under that section, corporate entities that have significantly profited from offshore petroleum and gas over the life of a project can be required to cover the costs of decommissioning infrastructure should it become apparent the titleholding proponent cannot fulfil its decommissioning obligations. The bulk of rehabilitation costs are realised at the end of a project's life, and it is not uncommon for mines to have multiple owners over the course of the life. Enabling trailing liability will mitigate against proponents selling mines to avoid rehabilitation obligations once they fall due.

Recommendation 3:

Improve the corporate accountability for rehabilitation costs by introducing trailing provisions to ensure that corporate entities that have significantly financially benefited from a project are accountable for rehabilitation costs.

Greater transparency and accountability are needed under the Financial Provisioning Scheme

Public transparency and accountability in decision-making processes are crucial to ensure quality decision making. The management of the risks faced by the State by resource activities is a public interest matter and must be treated as such, with provision for public scrutiny and involvement in decision making.' The *Right to Information Act 2009* (Qld) has exemptions limiting the application to sensitive commercial and risk data – financial records and corporate data that is given to the Scheme Manager is protected and exempt from public disclosure under right to information requests. Effective exemptions are needed in this context to enable public participation in the operation of the Financial Provisioning Scheme.

The Scheme Manager should also be required to publish assessment methodology and relevant considerations underlying risk category decisions should also be made public. This would enable the public to be satisfied that proponents and projects are being consistently dealt with, build public confidence and demonstrate that the Financial Provisioning Scheme is effectively managing risk and protecting the public from rehabilitation liabilities.

Greater accountability under the ERC process is all the more important as the Queensland Government currently proposing to significantly limit objections rights with respect to mining leases (and in some instances remove those rights entirely). This will further limit the capacity the public will have to participate and challenge decision making regarding rehabilitation obligations in the first instance.

Recommendation 4:

To ensure transparency and accountability of decision making, allow information underlying ERC determinations to be made public and publish the methodology for risk category decisions.

Progressive rehabilitation is essential to minimising rehabilitation liability

We note that review of rehabilitation requirements is explicitly excluded from the scope of the review.⁹ However, progressive rehabilitation requirements are intrinsically linked to the functioning of the Financial Provisioning Scheme. The gap between land disturbed by mining and that which has been rehabilitated continues to grow. This gap in turn increases the potential costs associated with rehabilitating sites, or managing unrehabilitated areas, that may fall on the Queensland Government, and taxpayers across the state.

Effective progressive rehabilitation prevents the cumulative liability of disturbed land from growing. Progressive rehabilitation also brings forward in time proponents' restoration costs that, under typical accounting practices, would otherwise be deferred to the end of the mine lifecycle.¹⁰ Discounted costs analysis of this kind can 'discount away' future costs for long-term works like rehabilitation or potential future costs like climate change.¹¹

As at 2023, no coal mines in Queensland have been formally closed, and we are not aware of any mines that have fulfilled their rehabilitation obligations to date.¹² On global scale there are few, if any, examples of effective rehabilitation of complex mines. In light of this, effective progressive rehabilitation is essential.¹³ Placing mines in care and maintenance presents a similar and related issue whereby proponent's rely on mines being in care and maintenance to defer rehabilitation obligations.

Recommendation 5:

Strengthen progressive rehabilitation requirements, improving industry compliance with progressive rehabilitation obligations, ensuring full transition to progressive rehabilitation and closure plans, and better regulation of proponents relying on 'care and maintenance' to defer rehabilitation obligations.

Public consultation and expert advice on proponent risk category allocation

As a matter of public interest, the public should be afforded an opportunity to comment on decisions regarding an entity's risk category. This consultation must include effective and meaningful engagement with First Nations peoples and their representative organisations through targeted consultation and participation, including opportunities for First Nations peoples to participate in this process on Country if requested. Such a determination should also be based off objective evidence, informed by expert advice. Inclusion of both public contributions, and expert advice, will strength decision making and ensure integrity in the scheme.

⁹ Terms of reference, p. 3.

¹⁰ J.A. Purtill¹, Professor A. K. Littleboy, *More And Better Mine Rehabilitation – Lessons from Queensland*, World Mining Congress 2023, available [here](#), p 5.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

Recommendation 6:

Public consultation and expert advice be required in determining an entity's risk category, pool or surety, to ensure this important assessment is informed by all relevant information available including those communities directly affected.

A costs recovery mechanism for abandoned mines is needed

It is estimated that there are over 15,000 abandoned mines across Queensland, including 120 'complex' mines.¹⁴ Conservative estimates from the Queensland Audit Office estimate the liability for abandoned mines to be at least \$1 billion (as at 2012).¹⁵ To this day, mines continue to be abandoned including most recently, Bowen Coking Coal's Bluff coal mine which left the Queensland Government with over \$12 million in estimated rehabilitation costs.

To fund the rehabilitation of current and future abandoned mine liabilities, the Financial Provisioning Scheme should introduce a modest levy on current operators. Such a levy should not be considered as punitive on existing operators, but rather for funds to cover the risk that existing operations may also be abandoned in the future.

Recommendation 7:

Introduce a costs recovery mechanism from existing operators to assist in covering the costs of existing and future abandoned mines.

*Thank you for the opportunity to make this submission.
Please do not hesitate to contact our office should you have further enquiries.*

¹⁴ Queensland Government, Abandoned Mines Management Policy, available [here](#).

¹⁵ Queensland Audit Office, Environmental regulation of the resources and waste industries, Report 15 : 2013–14, available [here](#).