

INQUIRY INTO BENEFICIAL AND PRODUCTIVE POST- MINING LAND USE

Organisation: Property Council of Australia

Date Received: 28 June 2024



28 June 2024

The Hon. Emily Suvaal MLC
Chair, Standing Committee on State Development
Beneficial and productive post-mining land use
NSW Legislative Council

By email: State.Development@parliament.nsw.gov.au

Inquiry into beneficial and productive post-mining land use

Dear Ms Suvaal,

The Property Council of Australia welcomes the opportunity to provide comment on the inquiry into beneficial and productive post-mining land use.

The Property Council champions the interest of more than 2200 member companies that represent the full spectrum of the industry, including those who invest, own, manage and develop in all sectors of property. The property industry shapes the future of our cities and regions – we have a deep long-term interest in seeing them prosper as productive and sustainable places.

Background

The Property Council of Australia, Hunter Chapter, supports the NSW parliamentary inquiry into innovative approaches to post-mining land use. The Hunter region has been synonymous with mining for generations, playing a vital role in its economic scale and significance. As we plan for the future use of mining sites, it is crucial to ensure ongoing opportunities for investment in the Hunter to support the economic diversification of communities that have relied on coal-related industries. Post-mining land adaptation will allow existing infrastructure to be repurposed for other compatible uses, driving economic growth and maintaining employment opportunities.

Given the scale and proximity of mining operations and the financial benefits that have been extracted from our region in the form of royalties, separating the mining industry and its related industries from the Hunter's communities and economy should be a matter of national significance. The extensive integration of mining with the local communities has created a complex economic web that supports not only direct mining activities but also ancillary industries. As such, the transition away from a mining-based economy requires

careful management and support at state and national level to ensure that the economic and social impacts on the Hunter community are appropriately addressed. Governance and transparency in decision-making and resource allocation are essential to ensure planning for post-mining land use happens *with* the Hunter, not *to* the Hunter.

Mine closure is one of six stages of the mining lifecycle. These stages are:

1. Exploration
2. Project evaluation – studies phase, which includes the Environmental Impact Statement (EIS)
3. Mine construction
4. Mine operation
- 5. Mine closure**
6. Post-closure – including using mined land for alternative purposes, such as grazing, native habitat/wildlife corridors, renewable energy and tourism.

During Stage 2 project evaluation of the mining lifecycle, mining companies engage with stakeholders such as local communities and regulatory authorities to identify suitable final land use domain. This is documented in the Mine Closure Plan (MCP), which is submitted as part of the EIS for regulatory approval. Once approved, the final land use becomes a condition of the mining lease or consent.

Depending on the mine, these final land uses could include uses such as native ecosystem, agricultural – grazing, agricultural – cropping, rehabilitation biodiversity offset area, industrial, water management areas, water storage (excluding final void), heritage area and infrastructure.

Problem

Given the age of many mining leases in the Hunter, the approved final land uses are or will likely be inconsistent with the objective to drive economic growth and maintain employment. A change in the approved final land use necessitates a long modification process, creating significant resistance due to potential reopening of consents under contemporary standards.

If a change in the approved final land use is needed, the mining company must initiate a modification process that includes further stakeholder consultation, preparation of a revised or supplementary EIS to assess the impacts of the proposed change, and submission of a modification application to the relevant regulatory authority. The application undergoes rigorous review and, if approved, the mine closure plan is updated to reflect the new final land use, with ongoing monitoring to ensure compliance and successful implementation.

Currently, there is a disconnect between mining operations and the transition to new economic activities on mining sites. The current approval pathways under the Mining Act 1992 (Mining Act) and Environmental Planning and Assessment Act 1979 (Planning Act) are

separate and linear, requiring a site to be fully relinquished under the Mining Act before unconditional approval for a new use under the Planning Act. Current requirements vary between underground and open-cut mining, but typically range from 10-15 years, which is a deterrent to investors and does not support timely economic transition for mining communities. This disjointed process results in substantial repetition and time delays. Additionally, relinquishment requirements often involve works that would be reversed for new uses, such as the removal of infrastructure and services, leading to unnecessary costs. The ambiguity in transferring ownership and risks, along with the lack of public access to Final Land Use plans, further complicates the process.

As stated in the NSW Government publication – *Achieving Rehabilitation Completion (Sign-Off)* (July 2021), lease holders are responsible for complying with the conditions of any other approval related to rehabilitation. These may include:

- The conditions of a development consent granted under the *Environmental Planning and Assessment Act 1979*.
- An environment protection licence under the *Protection of the Environment Operations Act 1997* regulating noise, air, water and waste.
- An Aboriginal heritage impact permit under the *National Parks and Wildlife Act 1974*.
- Licences or approvals under the *Water Management Act 2000* or the *Water Act 1912*, for activities or works that take, divert or use water.
- Approvals under the *Heritage Act 1977* for the management of heritage items associated with an operation.
- Approvals for actions likely to have a significant impact on a matter of national environmental significance under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*.

A primary risk for mining companies is the potential reopening of their consents, many of which were granted under less stringent requirements. Any modifications could subject these companies to contemporary standards, creating significant resistance to change.

Solution

To address these issues, the Property Council proposes the establishment of a formal planning approval pathway, potentially through a State Environmental Planning Policy (SEPP), allowing mining companies to transfer site ownership for alternative land use well before relinquishment. This proactive approach would expedite transitions and enable immediate reuse of infrastructure. Legislative changes to the Planning Act and State Environmental Planning Policies would provide a clear consent pathway for post-mining land use.

Recommendations

1. **Integrated approval pathways:** Streamline the approval processes under the Mining Act and Planning Act to eliminate repetition and delays. This could involve concurrent approvals and streamlined documentation requirements.
2. **Flexible relinquishment requirements:** Develop alternative arrangements for relinquishment, particularly when it occurs parallel with rezoning or Development Application (DA) processes, to avoid costly and reversible works.
3. **Clear transfer processes:** Ensure a well-understood and consistently applied process for transferring ownership and associated risks, drawing from successful examples to establish best practices.
4. **Public access to final land use plans:** Create a central repository for Final Land Use plans, preferably in a mapped format, to enhance transparency and enable better planning and community engagement.
5. **Addressing legacy sites:** Provide NSW Government support, including resources and funding, to document and integrate historical mine sites into urban planning, particularly in the Lower Hunter Region.

Conclusion

The Property Council of Australia, Hunter Chapter, advocates for efficient and innovative approaches to post-mining land use. By addressing the slow transition processes and establishing a clear planning approval pathway, the opportunity for former mining sites to continue providing economic benefits to our communities can be maximised.

Thank you for the opportunity to provide input into this important inquiry. We look forward to the positive outcomes that will arise from this consultation and welcome the opportunity for further engagement. Should you have any questions, please do not hesitate to contact me on _____ or _____

Yours sincerely,

Amy De Lore

Hunter and Central Coast Regional Director
Property Council of Australia