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Sent: Thursday, 31 March 2022 3:47 PM
To: CHA_Review
Subject: Submission on the Cultural Heritage Review Options Paper

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Dear Sir/Madam,

Please find below, Aurizon's submission on the Cultural Heritage Review Options Paper. Please do not hesitate to contact me on the details below if any aspect requires further discussion or clarification.

Proposal 1

Replace the current Duty of Care Guidelines with a new framework that requires greater engagement, consultation and agreement making with the Aboriginal party or Torres Strait Islander party to protect cultural heritage.

Framework Development

Aurizon is supportive of a framework which builds upon the Duty of Care Guidelines and leads to improvements in the accurate identification of cultural heritage. It is important that development of any such framework involves Aboriginal or Torres Strait Islander parties, and be founded on knowledge, understanding and respect.

Cultural Heritage Mapping

Aurizon can interface with cultural heritage during the maintenance, renewal and upgrades of its Central Queensland Coal Network rail corridors, including during recovery of rail incidents. As part of Aurizon's Cultural Heritage Governance Framework, all land within 500m either side of the rail corridor is treated as being "high-risk" from a cultural heritage standpoint, except those areas which have been subject to previous cultural heritage field assessments, and those areas over which Aurizon has an existing cultural heritage agreement with an Aboriginal party. Aurizon is supportive of the creation of reliable mapping of cultural heritage areas. It is recommended that any such mapping focus on areas adjacent and external to existing disturbed transport routes (e.g., rail corridors, State controlled roads) and ports to facilitate improved awareness of specific locations of cultural heritage items and landscape features. In order to give focused feedback to this proposal, Aurizon would like to understand more about how the mapping methodology will be applied, specifically:

- at what scale will the mapping be undertaken (i.e. will it be a regional overlay similar to remnant vegetation mapping, or will the mapping be more specific, targeting specific locations, or a combination of both);
- how this mapping may draw on, or otherwise utilise information obtained from existing reports created during previous cultural heritage investigations over surveyed and documented areas;
- how the mapping interfaces with the terms of existing Cultural Heritage Agreements; and
- what mechanisms will exist to amend the mapping in the event of errors or updates (including to account for specific cultural heritage investigations / reports undertaken for targeted locations in the future)?

Excluded Activities in High-Risk Areas

Aurizon supports the need for a careful and well considered approach when dealing with activities in high risk areas. However this needs to be balanced with business continuity and certainty for all parties undertaking activities in high risk areas, particularly activities required to be undertaken arising from an emergency event.

On that basis, it is suggested that incident recovery be considered, under certain conditions, as an excluded activity in high-risk areas. Derailments and other rail related incidents can cause significant disruption to supply chains, consequently impacting a wide range of stakeholders and having an impact on the Queensland economy. It is not uncommon for such incidents to take place during, or in the wake of, extreme weather events (e.g. floods, storms, cyclones) and also during periods when access to many services is restricted (e.g. weekends, public holidays, Christmas closures etc.). In some circumstances, the incident may impact areas and/or require activities to be undertaken external to the rail corridor (e.g. rolling stock recovery, access road establishment, equipment laydown etc.).

Given it is not possible to identify when an incident may occur, consideration must be given to allowing recovery activities to progress in High-Risk activities (i.e. outside the rail corridor) in the absence of consultation, provided that:

- all existing, publicly available information and other relevant accessible information (such as previous cultural heritage field surveys held by organisations and accessible to Aurizon) is to be utilised when planning the required recovery activities (“**Publicly Available Information**”);
- all areas or items of cultural heritage identified in the Publicly Available Information are avoided;
- specialist cultural heritage consultants are engaged for advice;
- impacts to ground surfaces (including vegetation clearance) are minimised; and
- at the first available instance, the appropriate Aboriginal party is notified, briefed on the work undertaken and consulted on future steps.

In addition to the above, it is agreed that **excluded activities** should include clearing along a fence line, maintaining existing cleared areas around infrastructure or clearing regrowth to maintain infrastructure.

Consultation Protocols

It is important for the Queensland government to address the existence of lawful cultural heritage agreements between Aboriginal parties or Torres Strait Islander parties and third parties. Development of the consultation protocols will need to ensure this is effectively managed.

It is acknowledged there is a need for flexibility when developing consultation protocols with each Aboriginal and Torres Strait Islander party to support each party’s particular concerns and resource availability. Notwithstanding this, to provide certainty for business, there should be some commonality among protocols including, but not limited to:

- current contact details;
- established response timeframes;
- established costs (i.e. a scale of hourly and daily rates) for consultation; and
- provisions for incident recovery (see previous submission on ‘excluded activities’).

Development of a New Assessment Framework

If a new assessment framework is developed, Aurizon supports this work being led or else involving an appropriate representative First Nations advisory group. Specifically, Aurizon would support inclusion of representatives of Aboriginal parties on whose land the CQCN is established, or adjoins.

Aurizon would like to understand more in relation to how existing Cultural Heritage Agreements would be incorporated into any new assessment framework, in order to provide an informed position to the Department.

Proposal 2

Integrate cultural heritage protection and mapping into land planning to enable identification of cultural heritage at an early stage and consideration of its protection.

It is acknowledged that, conceptually, it makes sense to incorporate the preservation of cultural heritage into land planning. However, in the absence of information regarding the mapping methodology, specifically the scale, accuracy, and options available to amend or update the mapping (as we have indicated in our submission to Proposal 1), it is difficult to establish a position regarding this proposal.

In addition, further information needs to be provided regarding the legislative mechanism anticipated to be used to incorporate the mapping, more specifically would this:

- be built into local government planning schemes to guide land use planning applications; or
- be, like remnant vegetation mapping, administered by the State government and triggered under the Planning Act 2016?

Whilst the proposal seems to be appropriate, further details regarding the delivery mechanism would be required to understand how it interfaces with existing land use planning processes.

Proposals 5 & 6

Require mandatory reporting of compliance to capture data and support auditing of the system.

Provide for greater capacity to monitor and enforce compliance.

Proposal 5 proposes a mandatory reporting system, capturing all land use, agreements, and consultations undertaken. It also proposes storage arrangements of this information.

Proposal 6 proposes a regime to strengthen monitoring and enforcement capacity in terms of compliance with the legislative requirements.

Aurizon recognises the merit in broadening the scope of orders that may be issued, including those based on restorative justice in parallel with pecuniary orders. Whilst we appreciate the merit in these proposals, it is unclear how this would operate in practice.

These proposals suggest creation of an additional State government department, or else Unit of an existing State government department. The wording used in the Options Paper seems to lean quite heavily into a Penalty Infringement Notice System, including penalising proponents who have not caused harm to Cultural Heritage (for example, failure to report consultations). This, coupled with the mandatory reporting and auditing system, does not necessarily seem directed at preserving Cultural Heritage but, instead, seems directed at reactive management and the creation of enforcement processes. The Framework does not seem, in its current format, to demonstrate how existing processes which proactively identify and limit potential for impact to Cultural Heritage are further supported and/or celebrated.

Conclusion

It is concerning that the proposals directed at identifying and preserving Cultural Heritage seem to be high level concepts with little detail regarding execution, whereas the monitoring, auditing and enforcement proposals seem quite detailed. A suggested improvement is for the Queensland government to focus on development of a more detailed Cultural Heritage Assessment Framework that enables industry and the public to provide more informed and considered statements of support (or otherwise), which may lead to more practical suggestions for improvements.

Kind regards



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