

Public Interest Bonding Strategy

What We Heard

Public Engagement Report

September 2022



MALATEST

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INTRODUCTION

The objective of the Public Interest Bonding Strategy is to ensure that owners of industrial projects, not the people of British Columbia, pay the full costs of environmental clean-up and reclamation, even if projects are abandoned. On April 13, 2022, the Province released a [discussion paper](#) on the Public Interest Bonding Strategy's preliminary considerations with respect to strengthening the financial assurance strategy in British Columbia. The paper was designed to promote discussion and gain feedback to help inform effective and efficient solutions to deliver on the Ministry's mandate commitment.

Broad engagement on the Public Interest Bonding Strategy discussion paper took place from April 13 to May 28, 2022 and utilized the EngageBC platform to collect feedback via an online survey form and an open call for written submissions from Indigenous peoples, industry, non-governmental organizations, the general public, and other parties. In addition, six virtual public engagement sessions were conducted between April 20 and May 5, 2022. A total of 16 formal written and five email submissions, along with 67 online feedback forms were received between April 13 and May 28, 2022. This report reflects the findings from the public engagement process. Section 4 provides an overview of engagement feedback and Section 5 provides a summary.

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1 BACKGROUND & RATIONALE

1.1 Background

The Ministry of Environment and Climate Change Strategy, on behalf of the Government of British Columbia (the Province), is seeking input and feedback on the Public Interest Bonding Strategy. The strategy was created to address the Minister's 2020/2022 mandate commitment on bonding (also referred to as financial assurance):

"With support from the Minister of Energy, Mines and Low Carbon Innovation, take steps to ensure owners of large industrial projects are bonded moving forward so that they – not British Columbians – pay the full costs of environmental cleanup if their projects are abandoned."

The objective of the Public Interest Bonding Strategy is to ensure that owners of industrial projects, not the people of British Columbia, pay the full costs of environmental cleanup and reclamation, even if projects are abandoned.

The Public Interest Bonding Strategy involves a comprehensive two-phased review:

- Phase 1 (2021 – 2024) – Review of financial assurance mechanisms under the *Environmental Management Act* and the *Mines Act*, focusing on foreseen cleanup and reclamation costs for existing active and new projects that pose high environmental and financial risk.
- Phase 2 (2024 – 2026) – Review of financial assurance mechanisms for foreseen and unforeseen cleanup costs under a broader range of statutes (including the *Land Act*, *Forest Act*, and *Environmental Assessment Act*), with the aim of improving co-ordination of financial assurance across ministries.

1.2 Purpose of Public Engagement

The Public Interest Bonding Strategy aims to establish financial assurance mechanisms for existing active and new projects that pose high environmental and financial risks, with the goal of protecting the Province and British Columbians from foreseen cleanup costs.

Financial assurance (e.g., bonds) can be used as an incentive to reduce environmental risks and hold industry accountable for cleanup, as the funds are not returned until the cleanup is complete. If a project is abandoned or a company does not fulfil their obligations, the Province can access the funds to ensure cleanup and reclamation.

While most companies properly manage their environmental risks, some industrial projects in B.C. have lacked sufficient financial assurance (e.g., bonds) to cover the cost of environmental cleanup and reclamation. This has resulted in taxpayers covering the cleanup costs.

On April 13, 2022, the Province released a [discussion paper](#) on the Public Interest Bonding Strategy's preliminary considerations with respect to strengthening the financial assurance strategy in British Columbia. The paper was designed to promote discussion and gain feedback to help inform effective and efficient solutions to deliver on the ministry's mandate commitment. Comments were sought on nine areas of discussion organized into three broad categories:

- **LEGAL FRAMEWORK** – Clear statutory obligations for regulated entities meant to ensure environmental protection, mitigation, and cleanup and reclamation of industrial sites;
- **STATUTORY LIABILITY TOOLS** – Sufficient to hold companies’ responsible for the costs of environmental cleanup and reclamation; and
- **FINANCIAL ASSURANCE MECHANISMS** – Sufficient to guarantee companies can and will pay for foreseen liabilities and to backstop liability tools.

Broad engagement on the Public Interest Bonding Strategy discussion paper took place from April 13 to May 28, 2022 and utilized the EngageBC platform to collect feedback from Indigenous peoples, industry, non-governmental organizations, the general public, and other parties. In addition, six virtual public engagement sessions were conducted between April 20 and May 5, 2022. This report reflects the findings from these three forms of public engagement.

The Province retained Naut’sa mawt Resources Group to organize, host, and facilitate five virtual engagement workshops with Indigenous peoples and organizations. A separate What We Heard report for the Indigenous engagement workshops will be publicly released.

2 METHODOLOGY

2.1 Engagement Approach

This public engagement was designed and hosted by the Ministry of Environment and Climate Change Strategy, which is responsible for the Public Interest Bonding Strategy, in collaboration with the Government Digital Experience Division (GDX) of the B.C. Ministry of Citizens' Services. Analysis of engagement data and reporting was conducted by R.A. Malatest & Associates Ltd. (Malatest).

The public engagement consisted of three elements: an online survey form hosted on the EngageBC website, an open call for written submissions on the Public Interest Bonding Strategy discussion paper via email submissions, and virtual engagement sessions.

2.1.1 Online Feedback Form

The online feedback form was used to collect feedback from a broad sample of British Columbians. The survey was developed by the Ministry of Environment and Climate Change Strategy and hosted by the Province on its public engagement platform at <https://engage.gov.bc.ca/govtogetherbc/consultation/public-interest-bonding>. Stakeholders, interest groups, citizens of B.C, Indigenous Nations, and Indigenous organizations were invited to complete the feedback form between April 13 and May 28, 2022.

The feedback form asked 12 questions about the nine desired outcomes defined in the discussion paper. The feedback form also asked two demographic questions:

- Area of residence; and
- Self-identification with interest groups.

A copy of the feedback form is included in **Appendix A**.

2.1.2 Written Submissions

Formal written submissions were accepted as part of this engagement. These documents were submitted by email or mail. Submissions were reviewed and analyzed for themes, and the qualitative feedback was incorporated into this report.

2.1.3 Public Engagement Sessions

A total of six virtual public engagement sessions were held between April 20 and May 5, 2022. Four were open to the general public, one was for BC Council of Forest Industries, and one was for the Business Council of British Columbia. In addition to members of the general public and representatives/members of the above-mentioned Councils, other attendees included university students, representatives from industry, and other non-government organizations (not specified). The sessions provided an overview of the Public Interest Bonding Strategy discussion paper followed by an opportunity for participants to ask questions. Participants were instructed to provide feedback via the online feedback form or through a written submission.

2.2 Analysis of Feedback

Open-ended responses in the online feedback form (i.e., comment fields) were qualitatively coded with up to three codes each, based on coding frameworks for each question developed by Malatest researchers. A copy of these coding frameworks is available in **Appendix B**.

Written submissions were qualitatively coded using an inductive, iterative approach supported by the software package NVivo. The coding framework developed for the open-ended responses in the online feedback form was used as a basis for the development of the coding for the written submissions. This coding framework was refined as submissions were reviewed; every time a code was added or revised in the coding framework, previously coded content was reviewed to identify whether changes to coding were required in those documents.

As noted previously, public engagement session participants were instructed to submit feedback via the online feedback form or a written submission. As such, transcripts from the public engagement sessions were reviewed but not analyzed for inclusion in this report.

2.3 Limitations and Caveats

There are some limitations and caveats to the research that should be considered while reading this report.

The format of the engagement (an online feedback form) requires engagement participants to be Internet users. While B.C. has high rates of access to the Internet among its population, as of 2016 approximately 8% of British Columbians were not Internet users, most likely in the remote and northern regions of the province.¹

The voluntary nature of the online feedback form, which required participants to be aware of the engagement and navigate to the website – rather than more respondent-passive approaches such as being reached by phone or email and asked to participate – may result in a self-selection bias where those who hold particularly strong views about the topic (whether for or against) were more likely to respond to the engagement than those with neutral or no opinion. Due to the anonymous nature of the feedback, and the inability to conduct follow-up with those who chose not to participate, it is not possible to assess to what extent this may have impacted the results.

Written submissions were received from several industry groups on behalf of their members. Depending on the organization, these submissions potentially represented dozens of firms or hundreds of people from across the province. The reader should consider that comments from such organizations reflect many voices as compared to the feedback forms that were submitted online by a single individual.

¹ Based on findings of the 2016 General Social Survey (Canadians at Work and Home) conducted by Statistics Canada. <https://www150.statcan.gc.ca/n1/pub/11-627-m/11-627-m2017032-eng.htm>

3 FINDINGS – SUMMARY OF PARTICIPANTS

3.1 Written Submissions

A total of 16 formal written and five email submissions were received. Of these, five submissions came from members of the general public (five emails), six came from various natural resource sector companies (companies), five from industry and trade associations, four from non-governmental organizations, and one from the First Nations Energy and Mining Council (Table 3.1). Written submissions from members of the public were grouped together with feedback from online form responses for the purposes of this report. It is important to note that written submissions were provided by industry associations on behalf of their members which, depending on the organization, represents dozens of firms or hundreds of people. Feedback from written submission provided by industry associations and companies, environmental organizations and the First Nations Energy and Mining Council were reported separately from online feedback form responses and comments from the general public.

Table 3.1: Written Submissions and Emails Received, by Interest Group

Interest Group	Submissions Received
Companies and Supporting Industries	6
Industry and Trade Associations	5
NGOs	4
First Nations Energy and Mining Council	1
Total formal written submissions	16
General Public (5 emails)	5
Total submissions	21

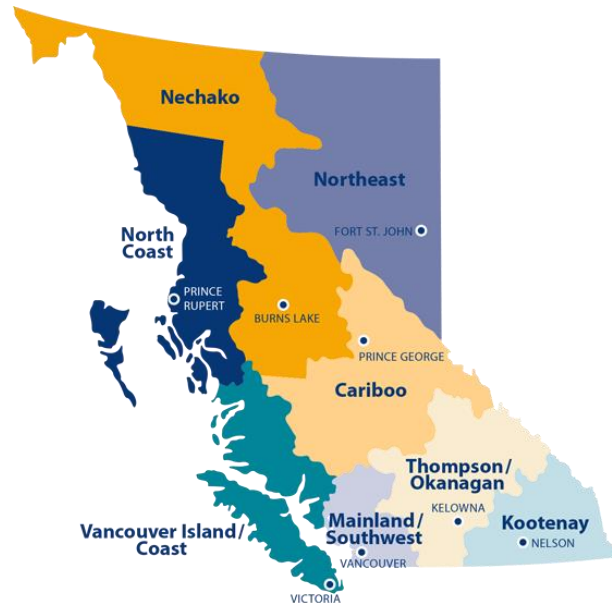
3.2 Online Feedback Form Response

In addition to the formal written feedback from industry councils/associations and other non-governmental organizations, a total of 67 online feedback forms were received from individuals between April 13 and May 28, 2022. An additional five email submissions from members of the general public were included with the online feedback forms for a total of 72 responses.

3.2.1 Online Feedback Form Response by Region

The feedback form asked engagement participants (respondents) to identify what region of B.C. they lived in. **Figure 3.1** below illustrates the regions within B.C. respondents were asked to choose from.

Figure 3.1: Map of British Columbia Regions



Source: Trade and Invest British Columbia.

<https://www.britishcolumbia.ca/about-british-columbia-canada/regions/>

Among the 71 individuals providing feedback, regional representation was highest in the Lower Mainland/Southwest (30%) and Vancouver Island/Coast regions (25%).

Table 3.2: Online Respondents, by Region

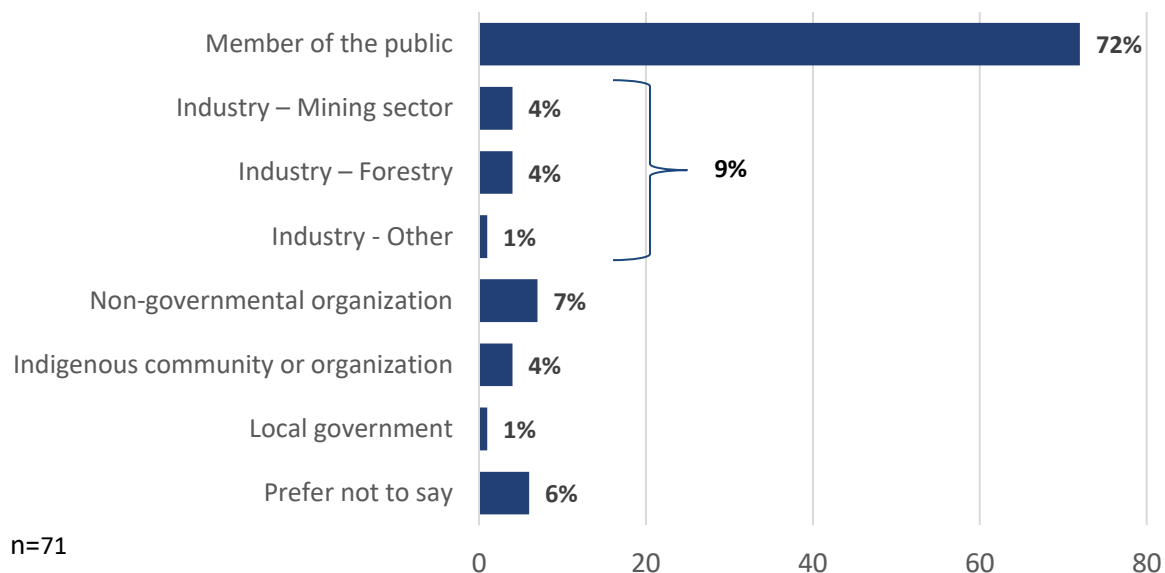
Region	Respondent <i>n</i>	Respondent Proportion
Vancouver Island / Coast	21	30%
Lower Mainland / Southwest	18	25%
Kootenays	7	10%
Thompson-Okanagan	5	7%
Cariboo	4	6%
Nechako	3	4%
North Coast	3	4%
Northeast	--	--
Outside of B.C.	6	8%
Prefer not to say	4	6%
Total	71	100%

Question: What region of B.C. do you live in? Respondent proportions may not add to 100% due to rounding. Total includes 5 email submissions from BC citizens.

3.2.2 Online Feedback Form Response by Interest Group

The feedback form also asked respondents to indicate what interest group they represented. The majority (72%) of the 71 individuals responding were members of the public, followed by those indicating they were associated with various natural resource industries (9%), those associated with non-governmental organizations (NGOs) (7%), Indigenous communities or organizations (4%), and local government (1%). Approximately 6% choose not to indicate their interest group.

Figure 3.2: Graph of Online Feedback Form Respondents, by Interest Group



Question: 1. What best describes your connection to/interest in the Public Interest Bonding Strategy? Respondent proportions may not add to 100% due to rounding. Total includes 5 email submissions from B.C. citizens.

4 FINDINGS – WHAT WE HEARD

Over the course of the public engagement sessions and through the online feedback form and written submission guidelines, engagement participants were introduced to the Public Interest Bonding Strategy discussion paper and asked to provide feedback on nine discussion areas, or desired outcomes, relating to improving the financial assurance strategy in British Columbia. This section provides an overview of each desired outcome and presents the analyzed feedback by written submissions and online feedback form responses.

4.1 **Outcome 1: Improved Environmental Cleanup and Reclamation Requirements Regarding Closure and Decommissioning of Industrial Projects**

Outcome one is intended to consider requirements to ensure that the owners of industrial projects pay for the decommissioning, and environmental cleanup and reclamation needed because of a project. Respondents were asked what key elements for defining environmental cleanup and reclamation were most important to them, their industry or organization. Respondents were also asked what they felt were the most important considerations when determining which industrial projects should require a closure plan.

4.1.1 **Key Elements in Defining Environmental Cleanup and Reclamation – Written Submissions**

Industry associations, companies, NGOs, environmental organizations, and the First Nations Energy and Mining Council were generally in support of the Public Interest Bonding Strategy and its Guiding Principles (refer to the discussion paper for an overview of the Guiding Principles). While many offered suggestions as detailed below, all called for additional opportunities to provide input into the development of a financial assurance strategy for British Columbia.

Associations and companies involved in the forestry industry identified several key elements to be considered when defining environmental cleanup and reclamation requirements. These included: limiting requirements to anticipated and direct consequences of a permitted or authorized activity; limiting cleanup to within an existing industrial facility property, and including a threshold to limit reclamation to a standard that allows for a similar land use. They also suggested that circumstances within the scope of the *Environmental Management Act*, Contaminated Sites Regulation (Contaminated Sites Regulation) should not be included in the definition of environmental cleanup and reclamation requirements.

Associations and companies involved in the mining, oil, gas, and energy sectors noted that they already comply with several regulations, policies and Acts that define environmental cleanup and reclamation requirements and manage their environmental liabilities. They suggest that the Public Interest Bonding Strategy look to existing tools such as the Major Mines Reclamation Security Policy (Interim), the Comprehensive Liability Management Plan, the Health, Safety and Reclamation Code, the *Mines Act*, and the *Environmental Management Act* as they contain existing terms and definitions for environmental cleanup and reclamation specific to their industries.

Several mining, oil, gas, and energy sector associations and companies also recommended that the Province consider the formation of an advisory committee comprised of industry experts to provide input on the development of the Public Interest Bonding Strategy with respect to the design of a risk assessment framework, identifying appropriate mechanisms for financial assurance, estimating liabilities, and defining environmental cleanup and reclamation requirements.

Like the views expressed by mining associations and companies, a few environmental organizations recommended the Public Interest Bonding Strategy follow the guidelines set out in the Major Mines Reclamation Security Policy (Interim). Other environmental organizations were explicit in stating that cleanup and reclamation activities should restore areas to their original state or as close to original state as possible. As such, they stressed that reclamation be defined using ecosystem-based restoration outcomes that focus on restoring habitat for sensitive, critical and/or threatened species. They also recommended that the development of restoration outcomes and the subsequent restoration activities be monitored with the involvement of Indigenous Nations.

The First Nations Energy and Mining Council suggested that the Public Interest Bonding Strategy explore the use of “state of the art environmental practices” and “green reclamation technologies” as key elements for environmental cleanup and reclamation. Implementation and monitoring of such practices and technologies should be developed in co-management governance structures with Indigenous Nations.

4.1.2 Key Elements in Defining Environmental Cleanup and Reclamation – Online Feedback Form Responses

Approximately 47% of respondents that provided a comment felt that the owners of industrial projects should be entirely responsible for all cleanup and restoration costs with no cost to taxpayers. This sentiment was expressed mainly by members of the public from all regions of the province as well as those who reside outside of B.C and a few individuals from an NGO and the mining sector. Respondents identified several key elements in defining requirements for environmental cleanup and reclamation, these included:

- Prioritizing the restoring and protecting of ecosystems and wildlife (mentioned by 32% of those providing a comment);
- Ensuring there are strict requirements for cleanup and reclamation, and that they are strictly enforced and monitored (mentioned by 20% of those providing a comment);
- Ensuring cleanup plans and funds are established prior to project approval (mentioned by 16% of those providing a comment);
- Seek input/review from qualified individuals (e.g., scientists, Indigenous leaders) (mentioned by 14% of those providing a comment); and
- Definitions and any legislation should be broad enough to apply to many industries and land uses (mentioned by 10% of those providing a comment).

Those associated with industry mentioned all the above with the exception of ‘Ensuring there are strict requirements for cleanup and reclamation, and that they are strictly enforced and monitored’. Those associated with an Indigenous community or organization mentioned ‘Ensuring there are strict requirements for cleanup and reclamation, and that they are strictly enforced and monitored’ and ‘Seek input/review from qualified individuals’. Comments from those associated with an NGO or local government were in support of closure plans for all industrial projects.

4.1.3 Most Important Considerations When Determining Which Industrial Projects Should Require a Closure Plan – Written Submissions

Industry associations and companies were in favour of using a risk-based approach to individually assess whether a project or operation requires a closure plan, as some indicated that an industry wide approach may not be appropriate for their industry. They noted that all projects should be assessed for both financial risks (i.e., risk of failure to meet cleanup obligations) and the risk to environment using a standard assessment criterion across all industries.

It was also suggested that tiered closure plan requirements be established based on project risk levels (financial and environmental). Projects assessed as a low risk could be considered as a tier 1 and require less onerous closure plans, while medium and high-risk projects would be required to develop increasingly detailed plans as per the tier level in which they are assigned following their risk assessment.

One organization noted that the Public Interest Bonding Strategy should ensure industrial projects require well defined closure plans including regular reporting of ongoing cleanup and reclamation activities. In addition to providing transparency, this would also help to increase the willingness of surety companies to support the various industry sectors with their bonding requirements. Some energy sector companies indicated that having transparency about their cleanup, reclamation and abandonment liabilities will help them to develop long term plans and have a level of certainty with regards to their existing and future assets.

Industry associations and companies identified specific criteria they felt should be considered when determining which industrial projects should require a closure plan, including:

- Location of project (e.g., located near residential areas, on crown or public land, on or near environmentally sensitive areas, etc.);
- Financial strength of project owners and operators;
- Nature of the project (e.g., type of operations, length/lifespan of project, size of project, etc.);
- Compliance history of owners and operators; and
- Ability of owners and operators to perform ongoing cleanup and reclamation.

Environmental organizations and the First Nations Energy and Mining Council explicitly stated that all industrial projects should require a closure plan. They noted that there should be clear, measurable, and enforceable objectives and timelines associated with each closure plan. They also felt that Indigenous authorities and local communities should be involved in determining the cleanup required so that it reflects the needs and values of those using and living near the site of the project. This would include co-management of reclamation. One organization suggested that a baseline environmental study be conducted to help assess the pre-disturbance conditions of the soil, water, air, flora, and fauna prior to the start of a project. A follow up study would then be conducted to assess and compare the post-project conditions to pre-disturbance conditions. Closure plans could then be strengthened based on the study results.

4.1.4 Most Important Considerations When Determining Which Industrial Projects Should Require a Closure Plan – Online Feedback Form Responses

Among individuals providing online feedback to this question, 39% felt that all industrial projects should require a closure plan. This was mentioned mainly by members of the public along with a few individuals representing local government, NGOs, and an Indigenous community or organization. An equal proportion (39%) indicated that the potential of risk or damage to the environment or nearby communities should be considered when determining which industrial projects should require a closure plan (mentioned most frequently by members of the public and individuals associated with industry and an Indigenous community or organization).

Less frequently mentioned considerations when determining which industrial projects should require a closure plan (mentioned by 18% of those providing a comment) included:

- Ensuring the owners of industrial projects have adequate funds available or set aside to address cleanup and reclamation; and
- Making closure plans mandatory for industrial projects that use or produce contaminants and pollutants.

Several respondents re-iterated the importance of ensuring there is adequate monitoring, oversight, and enforcement of closure plans. Several members of the public felt that the owners of industrial projects should seek the input of qualified individuals and Indigenous leaders when developing their plans and/or have closure plans reviewed by such individuals prior to approval of a project.

4.2 Outcome 2 – Improved Tools to Support Transparent and Accountable Financial Assurance Decisions

Outcome two considers opportunities for improving the legal framework around financial assurance requirements. Such opportunities could include improving legal tools to require financial assurance for specific types of industrial projects, setting the amount and form of financial assurance to be required, and confirming the level of liability required against which financial assurance is collected. Respondents were asked for feedback on how to support transparent and accountable financial assurance decisions. One individual suggested that the closure plans should be part of a public registry, while another suggested that the closure plans should also address impacts on the affected workforce (such as potential alternative employment opportunities).

4.2.1 Overall Feedback on Supporting Transparent and Accountable Financial Assurance Decisions – Written Submissions

All written submissions acknowledged the importance of ensuring that financial assurance decisions be transparent and that companies are held accountable for their impacts on the environment and people. Most industry associations, companies, environmental organizations and the First Nations Energy and Mining Council called for public reporting on or public access to financial assurance decisions, closure plans and cleanup activities. They felt that such reporting should include information on estimated cleanup costs, financial assurance amounts collected, and remaining liability. Many indicated that reports should be produced on an annual basis or at minimum when major project milestones occur such as during expansion or additional construction, permit amendments, or after climatic events that severely impact the operation or surrounding environment.

Industry associations, companies, environmental organizations and the First Nations Energy and Mining Council all agreed that a standard approach to financial assurance is needed and that such an approach should be well defined, measurable, and enforceable. One industry association suggested the use of a risk matrix to help determine the level of risk, define financial ratios, and determine the amount of financial assurance required.

Industry associations also pointed to several existing tools and regulations that ensure the owners of industrial projects are held accountable for cleanup and reclamation. These include a Comprehensive Liability Management Plan and the Permittee Capability Assessment (PCA) program for the oil and gas industry, a bonding calculator for the mining industry as part of the Major Mines Reclamation Security Policy (Interim), the Contaminated Sites Regulation, and intensive due diligence and prequalification requirements as part of the surety risk selection process for surety bonds.

Environmental organizations and the First Nations Energy and Mining Council called for policies such as the Major Mines Reclamation Security Policy (Interim) be formalized into legislation and for financial assurance standards to be put into regulation and not merely as guidelines. They also suggest that monitoring and enforcement of financial assurance requirements be done by trained professionals and with oversight or co-management with Indigenous Nations.

Although supportive of a standard formula or approach to determining and assessing the level of financial assurance required for an industrial project, several industry associations and companies felt that there should be some discretion allowed in prescribed circumstances for government decision-making that considers deviations from full bonding requirements. Environmental organizations, while acknowledging that there may be circumstances for which such scenarios could be considered, called for discretionary decision-making to be strictly limited and explanations for such decisions be made transparent to the public.

4.2.2 Overall Feedback on Supporting Transparent and Accountable Financial Assurance Decisions – Online Feedback Form Responses

Among those providing feedback on supporting transparent and accountable financial assurance decisions, 43% were explicit in stating that such information should be made publicly available to help ensure there is transparency around financial insurance decisions. Such comments were expressed by members of the public from all regions of the province and those outside of B.C. except for those residing in the North Coast. A few respondents associated with industry and an Indigenous community or organization also expressed this sentiment.

Other feedback for supporting transparent and accountable financial assurance decisions included:

- The development of strict regulations and a government agency to determine the amount of financial assurance required for industrial projects, and to provide oversight and enforcement (mentioned by 28% of those providing a comment including mainly members of the public, individuals associated with an NGO, and the mining, and forestry industries);
- The use of an independent third party to determine the amount of financial assurance required for industrial projects, and to provide oversight and enforcement (mentioned by 24% of those providing a comment including members of the public and an individual associated with industry);
- Project approval withheld until financial assurance has been paid up front, set aside in a trust or a pre-payment schedule has been developed (mentioned by 17% of those providing a comment including members of the public, individuals associated with an NGO, an Indigenous community or organization, and the mining industry);
- Ensuring regular communications about financial assurance decisions and annual reporting by the owners of industrial projects and the Province with estimated reclamation costs, amount paid or collected by the Province, and outstanding liability (mentioned by 9% of those providing a comment including members of the public, and individuals associated with an Indigenous community or organization).

Other individual comments included making freedom of information requests free of charge, establishing a provincial reclamation fund subsidised by fees charged to project owners, making all federal/provincial payments and tax breaks retroactive and conditional upon successful cleanup and reclamation, and developing a global assurance program whereby everyone pays and there is no need for project-specific assurance.

4.3 Outcome Three: Additional types of financial assurance

Outcome three considers the use of pooled funds as an additional form of financial assurance. Pooled funds could potentially be used to support a more efficient use of fees and interest, as an alternative payment option, and a means to make payment options more affordable. Respondents were asked for feedback on how pooled funds be used as a tool to support the Guiding Principles of the Public Interest Bonding Strategy.

4.3.1 Overall Feedback on How Pooled Funds Be Used as a Tool to Support the Guiding Principles of the Public Interest Bonding Strategy – Written Submissions

Feedback varied on the use of pooled funds for foreseeable environmental impacts. Some respondents cautioned the Province to consider whether pooled funds place undue burden on responsible operators, provide a means for unwilling operators to avoid cleanup costs or restrict the use of other forms of financial assurance. They noted that a pooled fund may require a more complicated risk formula or discourage the use of less harmful practices and technologies. Environmental organizations and the First Nations Energy and Mining Council noted that if a pooled fund was not sufficient to cover cleanup or reclamation costs, then this would create a burden for B.C. residents.

Environmental organizations and the First Nations Energy and Mining Council, while generally cautious of pooled funds for foreseeable environmental impacts, strongly suggested that a pooled fund be created for disasters and unforeseen liabilities. They feel that the lack of financial assurance for unforeseen events creates a liability gap which is not being addressed. While acknowledging that this issue will be addressed as part of Phase 2 of the Public Interest Bonding Strategy, these organizations advocated the need for pooled funds to address historic issues as well as future catastrophic failures and environmental disasters, indicating that action should be taken sooner rather than later to address these issues.

Some companies were supportive of pooled funds for companies with multiple facilities or projects, noting that a pooled fund would provide the financial resources necessary to manage closure costs for some of their facilities while allowing ongoing facilities or projects to remain viable and investable. They also recommended that companies be allowed to pay into the pooled funds in lieu of traditional forms of financial assurance.

Several industry associations and companies recommended that the Province consider a variety of financial assurance options such as the use of fixed assets as security for bonding, surety-backed financial guarantees or demand instruments, sinking funds and investment trusts, and permitting financially credible multi-site companies to self-insure or self-bond. In their opinion, having a variety of options would help ensure that financial assurance mechanisms reflect the risk profile of projects and considers the various characteristics unique to each industry.

4.3.2 Overall Feedback on How Pooled Funds Be Used as a Tool to Support the Guiding Principles of the Public Interest Bonding Strategy – Online Feedback Form Responses

Among respondents providing feedback online about the use of pooled funds, one-third were against the use of pooled funds. Reasons given for their opposition included perceptions that the company causing the destruction should be responsible for the cleanup, unfairly shifting the burden to companies that pose less risk, concerns that pooled funds would act as a dis-incentive for companies to use or develop less impactful processes and technologies, concerns that companies would look to pooled funds as a way to circumvent

cleanup costs, and questioning if pooled funds are an effective tool (suggesting instead the use of qualified environmental trusts, investment in green initiatives to generate income for cleaning up abandoned sites, and increased taxes for the relevant industry sectors). Most of these comments were from members of the public, and an individual associated with the mining industry.

Among respondents supporting the use of pooled funds, reasons for their support included using funds to cleanup and reclaim areas that have been abandoned, targeting funds to higher need areas, help to diversify the risk associated with businesses declaring bankruptcy, to support the vetting of companies and/or projects, to support monitoring and administration of financial assurance, using interest and carrying costs from pooled funds to cover unforeseen reclamation costs, and making a portion of pooled funds available to Indigenous communities affected by environment impacts caused by industry. Most of these comments were from members of the public, and individuals associated with an Indigenous community or organization, and the mining industry.

4.4 Outcome 4: Improved Liability Tools

Outcome four considers how liability tools could establish legal responsibility to allow the Province to recover public funds spent fulfilling environmental cleanup and reclamation obligations. Respondents were asked what key considerations were most important to them, their industry or organization in determining the required frequency of updates or triggers for updating financial assurance. Respondents were also asked what recommendations they had for strengthening the Province's ability to collect financial assurance that is required but has not yet been received, and/or is required but the responsible party has become insolvent.

4.4.1 Key Considerations in Determining the Required Frequency of Updates and/or Triggers for Updating Financial Assurance – Written Submissions

Written submissions from industry associations and companies recommended that financial assurance calculations should be updated every five or 10 years depending on the nature of the project or industry. They also recommended that owners and operators should be allowed to request an earlier review under certain circumstances, as changes in activities or project scope may result in less risk to the environment. With respect to the Province's discretion to undertake an earlier review of a facility's financial assurance, one industry association recommended that this be limited to specific situations, for example, when there is a change in ownership or operator, if the company's financial condition has changed and this change results in an increased financial risk, or if the company or facility has been non-compliant.

Environmental organizations made specific recommendations with respect to the mining industry, recommending that financial assurance be reassessed or updated at major milestones in a mine's life cycle. For example, during permit amendments, expansion, or the development of new tailing facilities, or following climatic events that could impact cleanup or reclamation.

4.4.2 Key Considerations in Determining the Required Frequency of Updates and/or Triggers for Updating Financial Assurance – Online Feedback Form Responses

Respondents offered several suggestions for determining the required frequency of updates and/or for determining when additional updating of financial assurance should be performed, these included:

- Suggesting specific timeframes for re-evaluations and updates to financial assurance ranging from every three months to every five years or developing a timeline based on industry and community

input (mentioned by 44% of those providing a comment; vast majority were members of the public and an individual associated with Indigenous community or organization);

- The requirement to provide secure funds and/or documentation, such as detailed site closure and reclamation plans prior to project start. In addition, consideration of the type of industrial project and the risks, permit applications or amendments, regular inspections of industrial sites, and changes in environmental conditions not caused by industry could also be causes for re-evaluation of financial assurance requirements (mentioned by 37% of those providing a comment including members of the public and an individual associated with industry);
- Stricter monitoring and enforcement of financial assurance requirements (mentioned by 15% of those providing a comment including members of the public and an individual associated with industry);
- Ensure transparency and make information publicly available (mentioned by 15% of those providing a comment including members of the public and an individual associated with Indigenous community or organization); and
- The use of experts and professionals to establish, monitor, re-evaluate and update financial assurance requirements (mentioned by 12% of those providing a comment who were members of the public).

4.4.3 Recommendations for Strengthening the Province's Ability to Collect Financial Assurance – Written Submissions

Few written submissions provided feedback with respect to how the Province could strengthen its ability to collect financial assurance. Industry associations reiterated several tools and regulations noted previously in Section 4.2.1 that require companies to meet their liability obligations. A few companies referred to the use of a risk-based approach as the best method to ensure financial liability is secured and indicated that for those projects deemed as low risk, existing statutory powers were sufficient to ensure the owners of industrial projects meet their financial assurance obligations. One company recommended that the Province consider the use of different types of financial assurance tools or instruments and offer alternative methods for dealing with insolvency.

One environmental organization suggested that the Province make shareholders and company directors or board members responsible for providing financial assurance. The First Nations Energy and Mining Council stated the only way to ensure the owners of industrial projects are held liable is to require financial assurance in a form that does not fluctuate in value or become unavailable and to require companies to pay their financial assurance in full before a project can commence. They also state that a company's financial health should not influence the amount of financial assurance required for a project when environmental risk is foreseeable.

4.4.4 Recommendations for Strengthening the Province's Ability to Collect Financial Assurance – Online Feedback Form Responses

Online respondents provided recommendations for strengthening the Province's ability to collect financial assurance, including:

- Ensuring adequate financial assurance is secured before the start and/or approval of a project (mentioned by 27% of those providing a comment including members of the public and individuals associated with industry);

- Implementing changes to strengthen and/or create legislation, regulations, and policy (mentioned by 24% of those providing a comment including members of the public and an individual associated with industry);
- Holding corporations and their directors responsible, including fines and imprisonment (mentioned by 24% of those providing a comment including members of the public and individuals associated with industry); and
- Restricting the ability of a company to operate if financial assurance obligations are not met (mentioned by 20% of those providing a comment including members of the public and an individual associated with an Indigenous community or organization).

Other recommendations included the use of pooled funds and third-party oversight or involvement (mentioned by fewer than 5% of respondents).

4.5 Outcome Five: Improve Risk-Based Decisions to Prioritize Financial Assurance Requirements

Outcome five considers the development of a risk-based tool or mechanism to identify and prioritize industries and projects with the highest potential risk. Respondents were asked what key elements were most important to them, their industry or organization when defining environmental and financial risk criteria for a project.

4.5.1 Key Elements in Defining Risk Criteria – Written Submissions

Industry associations and companies agreed that a risk-based approach is the best method for prioritizing projects with the highest potential for risks. Forest industry associations and companies stated that both environmental and financial risks should be considered and that no one factor be a sole determinant of risk. Like the criteria to be considered when determining which industrial projects should require a closure plan, recommended criteria for determining risk included location of project or facility, age and condition of facility, compliance history, company's ability to meet financial obligations for cleanup and reclamation, and calculating risk based on the operations of individual facility or project and not on industry-wide calculations. They also recommended that financial assurance requirements not impede the ability of a company to sell its industrial project and that a simple process be established to allow the financial assurance to be transferred to another owner.

Recommendations offered by mining, oil, gas and energy associations and companies echoed that of the forestry sector. Additionally, they state that the criteria should be applied to all industrial sectors with a consideration for the unique circumstances of each industry and individual projects. They also recommended that the owners of industrial projects be subject to a corporate means test (to demonstrate assets versus liabilities) and have proven track record for compliance and ability to meet their environmental obligations.

Written submissions from environmental organizations recommended that risk criteria should include the potential cumulative impacts on the environment, risks to nearby communities, and the prevalence for climate events such as floods or wildfires. They also recommended that risk should be assessed on both a short timeframe and over an extended period such as 100 years.

The First Nations Energy and Mining Council reiterated their recommendation that the owners of industrial projects be required to provide full financial assurance for foreseeable environmental impacts. They also stated that allowing different standards or types of assurance based on a company's financial health increases the financial risk to the people of British Columbia. They also suggested the following:

- A phased implementation approach or transition periods to allow the owners of existing projects time to secure the funds necessary to meet new financial assurance requirements; and
- The application of a risk premium when calibrating financial assurance requirements for instances where actual reclamation costs may exceed estimated reclamation costs.

4.5.2 Key Elements in Defining Risk Criteria – Online Feedback Form Responses

Online respondents identified key elements they felt were most important to consider when defining risk criteria, including:

- Identification of all risks that may impact the environment (including ecosystems, wildlife, water quality, and biodiversity) (mentioned by 45% of those providing a comment including members of the public and individuals associated with industry, NGOs, and Indigenous communities or organizations);
- Identification of all risks that may impact communities or individuals (including health risks, drinking water, property rights, impacts to Indigenous communities and use of lands) (mentioned by 29% of those providing a comment including members of the public and individuals associated with industry, NGOs, and Indigenous communities or organizations);
- Identification of high-risk companies/projects and those more likely to become insolvent (mentioned by 18% of those providing a comment who were members of the public); and
- Ensuring closure plans are developed and financial assurance secure prior to project approval (mentioned by 13% of those providing a comment including members of the public and individuals associated with industry).

Other elements for defining risk criteria included potential for reduction in project scope, challenges with terrain, size and duration of operation, residual property value, commodity value, company's performance history with respect to ongoing reclamation, and ensuring project risk and cleanup and reclamation costs are not underestimated (mentioned by fewer than 5% of respondents).

4.6 Outcome Six: Improvements to Policies and Procedures

Outcome six considers opportunities for improving the overarching legal framework for financial assurance. This could include the development of policies and procedures to guide government decision-making, internal processes, ensure efficient use of time and resources, and support consistent and transparent outcomes. Respondents were asked what tools or guidance they would recommend to support transparent and accountable financial assurance decisions.

4.6.1 Recommended Tools and Guidance to Support Transparent and Accountable Financial Assurance Decisions – Written Submissions

Most written submissions acknowledged the importance of having transparent and accountable financial assurance requirements that include annual reporting that is publicly available. Industry associations and companies called for fair and equitable policies applied consistently across all industries. Associations referenced several policies and regulations already in existence as examples for the Public Interest Bonding Strategy to consider such as the Major Mines Reclamation Security Policy (Interim), the Contaminates Sites Regulation, and the Comprehensive Liability Management Plan. These associations and companies also offered recommendations for tools and guidance to support financial assurance decisions including:

- The use of a risk matrix to determine the level of risk posed by companies and projects;

- Objective criteria and formulas for calculating the amount of financial assurance required;
- Clear guidance around the types of information companies must provide to assess and calculate their level of risk and amount of financial assurance required;
- Clear explanation of how risk levels and financial assurance amounts are determined; and
- Considerations for a range of financial assurance instruments and tools based on the risk level and specific circumstances of a project.

Similarly, environmental organizations and the First Nations Energy and Mining Council explicitly stated that the any policies arising from the Public Interest Bonding Strategy, along with the Major Mines Reclamation Security Policy (Interim) (the policy) should be made into regulations. They are encouraged by the changes the policy has made with respect to financial assurance for the mining industry and recommend that the Public Interest Bonding Strategy adopt similar guidelines. Additionally, they echo previous recommendations to include annual reporting that is publicly available to ensure financial assurance decisions are accountable and transparent.

4.6.2 Recommended Tools and Guidance to Support Transparent and Accountable Financial Assurance Decisions – Online Feedback Form Responses

Like the feedback provided in the written submissions, regular reporting² and strict enforcement of financial assurance requirements³ were recommended by feedback form respondents as ways to support transparent and accountable financial assurance decisions. Other recommendations were also in line with the results from the written submissions, and included:

- Regular reporting and decisions made available to the public (mentioned by 19% of those providing a comment including members of the public, and individuals associated with industry and Indigenous communities or organizations);
- Strict regulations and enforcement to ensure accountability (mentioned by 17% of those providing a comment including members of the public, and individuals associated with industry and Indigenous communities or organizations);
- Independent oversight and monitoring (mentioned by 15% of those providing a comment including members of the public, and an individual associated with an Indigenous community or organization); and
- Clearly articulated payment requirements and financial assurance calculation methods applicable to all industries (mentioned by 9% of those providing a comment including members of the public, and an individual associated with the mining industry).

Other recommended tools or supports included pooled funds, free freedom of information requests, assessing and reassessing cleanup costs throughout life of project, and ensuring that Indigenous Nations are actively involved in decisions (mentioned by fewer than 5% of respondents).

² Regular reporting and decisions made available to the public were mentioned by 19% of those providing a comment including members of the public, and individuals associated with industry and Indigenous communities or organizations

³ Strict regulations and enforcement to ensure accountability were mentioned by 17% of those providing a comment including members of the public, and individuals associated with industry and Indigenous communities or organizations

4.7 Outcome Seven: Approaches to Minimize Financial Burden on Industry while Upholding Polluter Pays Principle

Outcome seven considers potential financial assurance mechanisms that could mitigate costs to industry while ensuring that industry pay the full costs of environmental cleanup and reclamation. This could include using a variety or combination of tools as well as consideration of a transition period for companies with existing projects to secure funds for financial assurance. Respondents were asked what they would recommend for how the Public Interest Bonding Strategy can ensure financial assurance mechanisms meet the polluter pays principle, while limiting the negative financial impacts on industry and on the economy.

4.7.1 Approaches to Minimize Financial Burden on Industry while Upholding Polluter Pays Principle – Written Submissions

Most frequently mentioned approaches recommended by industry associations and companies for minimizing their financial burden while upholding the polluter pays principle included:

- Implementing a flexible approach that recognizes different risk levels and uses tiered closure plan requirements to ensure that where financial assurance is required, the level of assurance reflects the actual risk;
- Assessing financial assurance cost estimates that are reasonable and accurately reflect financial risk and cleanup or reclamation costs;
- Regular review of the accuracy of any cost estimates provided by the Province;
- Consideration of a variety of financial assurance instruments depending on risk level and duration of project;
- Allowing the use of company or project assets to form a portion of the required financial assurance. This would include businesses that generate value and are in the public interest to be accounted for as an asset in bonding calculations; and
- Consideration for phased implementation of new financial assurance requirements to allow the owners of existing industrial projects time to develop their closure plans and for financial planning.

NGOs and the First Nations Energy and Mining Council explicitly recommended that no form of incentive or other mechanism that uses project value or financial health be considered when determining risk level, need for a closure plan, or amount of financial assurance required. They state that all companies should be required to provide full assurances. Further, the use of incentives or reduced fees would act as a deterrent and increases the risks for taxpayers.

4.7.2 Approaches to Minimize Financial Burden on Industry while Upholding Polluter Pays Principle – Online Feedback Form Responses

Feedback form responses regarding approaches to minimize financial burden on industry while upholding the polluter pays principle were like those suggested by written submissions from NGOs including:

- Ensuring that negative financial impacts to industry are not prioritized over impacts on environment and people (mentioned by 35% of those providing a comment including members of the public, and individuals associated with industry and NGOs);
- Ensuring that businesses can pay for cleanup costs before project is approved (mentioned by 33% of those providing a comment including members of the public, and individuals associated with industry, NGOs, and Indigenous communities or organizations);

- Strick enforcement to ensure adherence to policy/regulations (mentioned by 13% of those providing a comment including members of the public, and individuals associated with local government and Indigenous communities or organizations);
- Stricter risk assessment, high risk projects not allowed (mentioned by 13% of those providing a comment including members of the public, and individuals associated with industry); and
- Holding companies and executives responsible (including fines and/or imprisonment) for cleanup and destruction of environment (mentioned by 9% of those providing a comment who were members of the public).

Fewer comments (less than 5%) mentioned using a precautionary principle, deferring to experts, use of pooled funds, and consideration of an incentive or benefit for those who perform well/better than planned and/or use greener initiatives.

4.8 Outcome Eight: Improved Liability Cost Estimates

Outcome eight looks at ways to ensure that environmental cleanup and reclamation liability cost estimates accurately reflect the full liability of an industrial project over its entire life cycle. This could include revisions and updates on cost estimate information requirements for environmental cleanup and reclamation liability along with improved tools for estimating environmental cleanup and reclamation costs. Respondents were asked what they would recommend for improving environmental cleanup and reclamation cost estimates to ensure they accurately reflect liability.

4.8.1 Improved Liability Cost Estimates – Written Submissions

Feedback from written submissions by industry associations and companies stressed the need for consistency in assessing risk and liability costs. They recommended that the Province consider the financial capacity of a company or owners of a project along with the profile of the facility/project (e.g., size, condition of facility or infrastructure, processes used, compliance record, etc.), project location, and the ecosystem in which it operates. One company also suggested the Province consider revising or reviewing cleanup cost estimates as a project enters or nears closure, and develop a standard rate sheet for common reclamation and cleanup activities to provide a standard set of assumptions that could be used across industries. Finally, associations and companies involved in the oil, gas and energy sectors suggested that the Province reference processes and models used by other Canadian provinces and regulators when developing liability cost estimates for the Public Interest Bonding Strategy. Specific mentions included, the Abandonment Cost Estimate process held by the Canada Energy Regulator, Alberta's upstream oil and gas Licensee Liability Rating (LLR) program, and Saskatchewan's upstream oil and gas Licensee Liability Rating Program.

Environmental organizations recommended that liability cost estimates be calculated and/or vetted by a multidisciplinary team of experts (e.g., engineers, mineral economists, geochemists, geotechnical engineers, forestry experts, climate experts, surety professionals, and reclamation specialists). Environmental organizations also stressed the importance of including Indigenous Nations and local communities to review and consent to environmental cleanup and reclamation plans, associated liability estimates, and financial assurance requirements.

The First Nations Energy and Mining Council re-iterated the importance of the development of a baseline environmental study to be conducted prior to any disturbance of the land. The findings from such a study would be referenced when calculating the cost estimates and again as comparison to a post-project or periodical environmental studies to assess the actual extent of disturbance and further define liability costs.

4.8.2 Improved Liability Cost Estimates – Online Feedback Form Responses

Suggestions for improved liability cost estimates from online respondents included:

- Involvement of qualified individuals and experts and/or independent third parties to determine cost estimates and associated amount of financial assurance (mentioned by 48% of those providing a comment including members of the public, and individuals associated with industry and local government);
- The liability cost estimates account for increases in costs over time (mentioned by 33% of those providing a comment including members of the public, and individuals associated with mining);
- Ensure financial assurance amounts are more than sufficient to cover potential cost increases or environmental impacts (mentioned by 27% of those providing a comment including members of the public, and individuals associated with industry, and Indigenous communities or organizations); and
- Develop industry specific costing plans that include true cost estimates (mentioned by 15% of those providing a comment including members of the public, and individuals associated with the mining industry).

Other suggestions included allowing the auditor general to determine liability cost estimates, taking all factors including historical cleanup into consideration when developing liability cost estimates, and pooling funds to reduce red tape (mentioned by less than 5% of respondents).

4.9 Outcome Nine: Improve Data Management Systems and Tools

Outcome nine proposes new or updated information systems and tools to improve transparency for how environmental cleanup and reclamation liabilities are determined and improve how the Province manages environmental cleanup and reclamation liabilities and the required financial assurance to back these liabilities. Respondents were asked what they would recommend for improving data management systems and tools.

4.9.1 Improving Data Management Systems and Tools – Written Submissions

All industry associations, companies, environmental organizations and the First Nations Energy and Mining Council expressed support for data management systems and tools that are up to date, frequently reviewed or audited, and publicly accessible. One organization referenced annual mine liability reports as an example of useful metrics for monitoring and evaluating environmental cleanup and reclamation liabilities as well as providing transparency for how financial assurance is determined.

4.9.2 Improving Data Management Systems and Tools – Online Feedback Form Responses

Fewer than half of feedback form respondents provided a comment with respect to improving data management systems and tools. However, most of the comments made were aligned with the results from the written submissions including:

- Data is publicized, transparent (mentioned by 38% of those providing a comment including members of the public, and individuals associated with mining);
- Ensure data is evidence based and follows best practices (mentioned by 29% of those providing a comment who were members of the public);
- Ensure updates of data/information systems and practices are done regularly (mentioned by 27% of those providing a comment including members of the public, and individuals associated with industry, and Indigenous communities or organizations); and

- Use of an independent third party to monitor data (mentioned by 14% of those providing a comment who were members of the public).

4.10 Additional Comments to Improve the Province’s Approach to Financial Assurance

Engagement participants were asked if they had any additional comments on how to improve the Province’s approach to financial assurance.

4.10.1 Additional Comments to Improve the Province’s Approach to Financial Assurance – Written Submissions

As mentioned previously, industry associations and companies are supportive of the Public Interest Bonding Strategy. They request that the Province work to develop financial assurance processes that reduce the burden on their industries via a principles-based assessment framework that can be fairly applied across all industrial sectors. They also recommend consideration for the formation of a special advisory group to provide input on the development of the Public Interest Bonding Strategy.

Environmental organizations were also supportive of the Public Interest Bonding Strategy and recommend that all industrial projects have a closure plan and be fully bonded via hard financial assurance mechanisms (i.e., any financial instruments that cannot fluctuate in value or become suddenly unavailable). They also recommended the formation of a special advisory group comprised of industry, relevant experts and professionals, local residents, and Indigenous Nations.

The First Nations Energy and Mining Council stated that they have long advocated for the establishment of closure plans and funding to accurately address reclamation costs. While they commend the efforts of the Public Interest Bonding Strategy, they reminded the Province that it is legally bound to respect Indigenous rights and implement the standards of the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration). They note that while the first phase of the strategy intends to ensure the implementation of the UN Declaration with any updates to legislation or policy, they also state that it is urgent for the Province to move to the next phase of the strategy to reduce further infringement of Indigenous rights and risks to their territories.

4.10.2 Additional Comments to Improve the Province’s Approach to Financial Assurance – Online Feedback Form Responses

A total of 42 online respondents provided additional feedback on the Public Interest Bonding Strategy. Approximately 20% of comments expressed general support of the strategy. Many respondents re-iterated comments they provided earlier when responding to specific questions, including:

- Stricter regulations and enforcement;
- Prioritize the environment;
- Pooled funds;
- Use of experts, professionals, and Indigenous Nations and/or community involvement;
- Publicly transparency; and
- Businesses must cover the costs.

5 SUMMARY

5.1 How do British Columbians feel about the legal framework proposed for the Public Interest Bonding Strategy?

Industry associations and companies were generally supportive of the Public Interest Bonding Strategy and its Guiding Principles. Many felt that existing regulations and Acts ensured that industry fulfilled their statutory obligations and thus provided a strong legal framework for the strategy. While they agree that a principles-based framework is needed, they advocated for the Province to consider a broad definition for environmental cleanup and reclamation requirements that considers not only the environmental risks but a company's financial health and performance records when determining the need for a closure plan and financial assurance. Most industry associations and companies providing formal written submission were hesitant on pooled funds. In particular, they expressed concern about pooled funds placing undue burdens on responsible owners.

NGOs, those associated with Indigenous communities/organizations and local government, and most members of the public providing feedback felt that closure plans should be required for all industrial projects. Further, most felt that the owners of industrial projects should be required to restore impacted areas to their original state or as close to original state as possible. Most were in favour of strict regulations, and third-party monitoring and oversight to ensure that industry is held accountable, and decisions are transparent. While many were in favour of pooled funds to support the cleanup and reclamation of high-risk areas and abandoned sites, some shared similar opinions to those of industry associations and companies in that pooled funds could pose a higher risk to taxpayers should the funds not be sufficient to cover cleanup and reclamation costs. In general, many of the respondents in this group stated that the financial health of companies should not be considered when establishing financial assurance requirements.

5.2 How do British Columbians feel about the proposed statutory liability tools for the Public Interest Bonding Strategy?

Feedback suggests that there is strong support for stricter financial assurance standards to be developed and put into regulation. Many industry associations, along with NGOs, Indigenous Nation organizations and most online respondents called for policies such as the Major Mines Reclamation Security Policy (Interim) be formalized into legislation.

There was also general agreement that financial assurance calculations and closure plans should be reviewed on a regular basis; however, the frequency of updates varied among respondents. Industry associations and companies favoured regular five-year updates, while NGOs, local government, and most members of the public felt that reviews and updates should occur on a more regular basis (suggested range of a few months to three years). Indigenous communities/organizations felt that financial assurance and closure plans should be assessed and reassessed both on a short timeframe and using a longer timeframe of 100+ years.

Additionally, most respondents felt that changes in company ownership, financial capacity, project activities or scope, and catastrophic events such as climate disasters should be considered as conditions for reviews and updates of financial assurance.

5.3 How do British Columbians feel about the financial assurance mechanisms proposed for the Public Interest Bonding Strategy?

Engagement participants were overwhelmingly in support of transparent mechanisms for determining project risk level and assessing project liability and financial assurance requirements. All agreed that annual reporting on financial assurance should be made publicly available and include details related to estimated liability costs, financial assurance amounts collected, remaining liability, and progress on cleanup and reclamation. One common theme across all feedback forms and written submissions was the recommendation for a multidisciplinary team of experts including Indigenous Nations and local communities to design a risk assessment framework, identify appropriate mechanisms for financial assurance, estimate liabilities, and define environmental cleanup and reclamation requirements.

Industry associations and companies agreed that a risk-based approach is the best method for prioritizing projects with the highest potential for risks, stressing the need for consistency in assessing risk and liability costs. While agreeing that tools and mechanisms for determining financial assurance should be standard across all industries, they also called for a framework decision matrix that allowed for tiered levels of risk and financial assessment calculations that considered both the financial health of a company and the potential impacts to the environment. Industry further advocated that cost schedules should be established that assigned specific values for specific environmental cleanup and reclamation tasks.

By contrast, NGOs, those associated with Indigenous communities/organizations and local government, and many members of the public felt that risk criteria should include the potential cumulative impacts on the environment, risks to nearby communities, and the prevalence for climate events such as floods or wildfires. They called for all industrial projects to be fully bonded via hard financial assurance mechanisms that would not lose their value or become unavailable.

APPENDIX A: FEEDBACK FORM

Public Interest Bonding Strategy Feedback Form

The discussion paper includes questions that relate to each of the nine desired outcomes. These questions are designed to promote dialogue and encourage feedback. As you read through the paper, please think about the questions asked, any issues, concerns, ideas or solutions you think we should be aware of, and anything you wish to share on the topic of how to improve the Province's approach to financial assurance.

1. In defining environmental cleanup and reclamation, what key elements are most important to you, your industry or your organization?
2. What do you think are the most important considerations when determining which industrial projects should require a closure plan?
3. What is your feedback on how to support transparent and accountable financial assurance decisions?
4. How could pooled funds be used as a tool to support the Guiding Principles of the Public Interest Bonding Strategy?
5. In determining the required frequency of updates and/or triggers for updating financial assurance, what considerations are most important to you, your industry or your organization?
6. Do you have any recommendations for strengthening the Province's ability to collect financial assurance that is required but has not yet been received, and/or is required but the responsible party has become insolvent?
7. In defining risk criteria, what key elements are most important to you, your industry or your organization?
8. What type of tools or guidance would you, your industry or your organization like to see to support transparent and accountable financial assurance decisions?
9. What are your recommendations for how the Public Interest Bonding Strategy can ensure financial assurance mechanisms meet the polluter pays principle, while limiting the negative financial impacts on industry and on the economy?
10. What are your recommendations for improving environmental cleanup and reclamation cost estimates to ensure they accurately reflect liability?
11. What are your recommendations for specific improvements to data management systems and tools that are a priority for you, your industry or your organization?
12. Is there anything else you wish to share on the topic of how to improve the Province's approach to financial assurance?

The following information will help us understand who is responding to the feedback form. Please help us by answering the following questions:

What best describes your connection to/interest in the Public Interest Bonding Strategy? (Select one)

- Represent an Indigenous community
- Represent an Indigenous Organization
- Industry – Mining sector
- Industry – Pulp and Paper sector
- Industry – Waste sector
- Industry – Forestry
- Industry - other
- NGOs
- Local Government
- Concerned citizen
- Other: please specify

What region of B.C. do you live in?

- Vancouver Island / Coast
- Lower Mainland / Southwest
- Kootenay
- Thompson-Okanagan
- Caribou
- North Coast
- Nechako
- Northeast
- Do not live in B.C.

APPENDIX B: CODING FRAMEWORK

Coding Framework

The following table presents code groupings for the open response questions from the online feedback form for the Public Interest Bonding Strategy.

Code	Theme	Description
Question 1	In defining environmental clean-up and reclamation, what key elements are most important to you, your industry or your organization?	
1.1	Restoring/protecting ecosystems, wildlife	Restoring or protecting ecosystems and wildlife (e.g. biodiversity, habitats, species)
1.2	Input/review from qualified individuals and Indigenous leaders	Plans for cleanup and reclamation include input and/or review from qualified experts such as scientists, Indigenous leaders, and professionals
1.3	Clean-up plan and funds prior to project approval	Cleanup plans and funds should be established prior to project approval
1.4	Business held responsible for all cleanup	Businesses should be responsible for all cleanup, reclamation, and associated costs, with no additional cost to taxpayers
1.5	Broad legislation/definitions	Legislation/definitions should be broad to apply to many industries and land uses
1.6	Water quality	Water treatment and restoring or protecting water quality (e.g., in streams and lakes, clean water run-off, drainage)
1.7	Regulations and enforcement/monitoring	Standards/regulations should be in place, with enforcement and monitoring of cleanup
2	What do you think are the most important considerations when determining which industrial projects should require a closure plan?	
2.1	All projects should require a closure plan	All projects should require a closure plan and/or financial assurance; includes mentions of periodical review of closure plans
2.2	Adequate funds are available / set aside	Adequate funds for cleanup/reclamation should be available or set aside (either by the business or government)
2.3	Use or production of contaminants / pollutants	The project's use or production of contaminants/pollutants should be considered when assessing the need for a closure plan; plan must list production and use of all pollutants
2.4	Potential of risk/damage to environment or communities	The potential risk or damage the project may have on the environment or communities should be considered when assessing the need for a closure plan (e.g., short- vs long-term impacts, effects on wildlife, effects on natural resources used by wildlife or communities)

Code	Theme	Description
2.5	Input/review from qualified individuals and Indigenous leaders	Closure plans should receive input and/or review from qualified experts such as scientists, Indigenous leaders, and professionals
2.6	Monitoring/oversight/enforcement of clean up and plans	Monitoring, oversight, and enforcement of cleanup and cleanup/closure plans should be necessary; ongoing monitoring to lessen/eliminate need for cleanup upon closure of project/site.
3	What is your feedback on how to support transparent and accountable financial assurance decisions?	
3.1	Publicly available information; transparency	Information on financial records and financial assurance decisions should be publicly available; free freedom of information requests
3.2	Involvement of government/regulations	Government should create financial assurance regulations and legislation; includes mentions of meaningful, clear guidelines
3.3	Regular communications/reporting	Communication and/or reporting about financial assurances should occur at regular intervals
3.4	Project has sufficient funds before starting	Sufficient funds for cleanup and reclamation should be available before a project is approved or started
3.5	Monitoring and enforcement of financial assurance	Financial assurance plans and/or decisions should be overseen, monitored, and enforced (either by government or a third party)
4	How could pooled funds be used as a tool to support the Guiding Principles of the Public Interest Bonding Strategy?	
4.1	Does not support pooled funding	Response does not support pooled funding to support the PIBS
4.2	Support reclamation/cleanup	Funds could be used to support reclamation or cleanup of existing pollution or unforeseen expenses
4.3	Generally supports pooled funding	Response expresses general support for pooled funding to support the PIBS
4.4	Helps circumvent businesses avoiding cleanup	Funds could be used to cover the cleanup costs of businesses that abandon their projects or when company declares bankruptcy
4.5	Using interest from funds	Interest from pooled funds should be utilized (e.g., to cover unexpected cleanup costs, repay taxpayers, pay administration fees)
4.6	Alternative tool/approach recommended	Response recommends another tool/approach as an alternative to pooled funding
4.7	To support vetting and monitoring	Funds could be used to support vetting of companies/projects, monitoring, administration
5	In determining the required frequency of updates and/or triggers for updating financial assurance, what considerations are most important to you, your industry or your organization?	

Code	Theme	Description
5.1	Specific timeframe suggested for re-evaluations	Response suggests a specific timeframe/interval for updating financial assurance
5.2	Transparency and public availability	Financial assurance information should be transparent, and updates should be publicly available
5.3	The industry or business should not be involved	Financial assurance updates should be done by government or third parties, and the industry or business should not be involved
5.4	Other triggers/non-time specific criteria	Response suggests a trigger/non-time specific criteria for updating financial assurance
5.5	Stricter monitoring and enforcement of financial assurance process	Response raises concerns about ensuring sufficient monitoring and enforcement of financial assurance
5.6	Input/review from qualified individuals and Indigenous leaders	Input and/or review should be sought from qualified experts such as scientists, Indigenous leaders, and professionals
5.7	Important that taxpayers, community interests are protected	Response stresses the importance of protecting taxpayers and community interests
6	Do you have any recommendations for strengthening the Province's ability to collect financial assurance that is required but has not yet been received, and/or is required but the responsible party has become insolvent?	
6.1	Restrict ability of the business to operate	The Province should restrict the ability of the business to operate
6.2	Ensure adequate funds before project start/approval	The Province should ensure that adequate assurance funds are available before project approval/start
6.3	Changes to legislation/regulations	The Province should implement legislation/regulations to improve compliance, enforcement, and close loopholes
6.4	Oversight/involvement from third party	Independent third parties should be involved in financial assurance processes
6.5	Pooled funding	The Province should use pooled funding
6.6	Hold corporations and their directors responsible	The Province should hold businesses and directors responsible for financial assurance; fines and/or jail time should be used to enforce insolvents
7	In defining risk criteria, what key elements are most important to you, your industry or your organization?	
7.1	Environmental risk or impacts	Extent of risk or potential impacts on the environment
7.2	Risk to people	Degree of risk to people in nearby communities, public health

Code	Theme	Description
7.3	Identification of high-risk businesses/projects and historical actions of business	Identification of high-risk businesses/projects and those more likely to become insolvent Likelihood of business to take responsibility (and/or become insolvent); Stricter risk assessment, high risk projects not allowed
7.4	Other specific criteria	Response raises other specific criteria as most important for defining risk
7.5	Plans and funds for clean-up are available	Whether adequate plans and funds are in place for cleanup
8	What type of tools or guidance would you, your industry or your organization like to see to support transparent and accountable financial assurance decisions?	
8.1	Publicize information	Regular reporting and decisions made available to the public
8.2	Strong regulations and enforcement	Regulations and penalties should be clear and strongly enforced; accountability
8.3	Independent oversight, monitoring	There should be sufficient oversight and monitoring from government or an independent party
8.4	Clearly articulated payment requirements and bond calculation	Clearly articulated payment requirements and bond calculation methods applicable to all industries
9	What are your recommendations for how the Public Interest Bonding Strategy can ensure financial assurance mechanisms meet the polluter pays principle, while limiting the negative financial impacts on industry and on the economy?	
9.1	Ensure adequate funds before project approval	Ensuring that businesses can pay for cleanup costs before project is approved
9.2	Negative financial impacts to industry should not be prioritized over impact on environment and people	Response expresses that financial impacts to industry should not be considered or prioritized over the environment or public interests
9.3	Stronger enforcement	Strick enforcement to ensure adherence to policy/regulations
9.4	Hold companies and executives responsible	Businesses and executives should be held responsible for financial assurance and cleanup
9.5	Stricter risk assessment, high risk projects not allowed	Risk assessment of businesses and projects should be strict; high risk projects not allowed
9.6	Pooled funding	Response recommends pooled funding
9.7	Incentive or benefit	Use of an incentive or benefit for those who perform well/better than planned/use greener initiatives
10	What are your recommendations for improving environmental clean-up and reclamation cost estimates to ensure they accurately reflect liability?	
10.1	Input/review from qualified individuals and Indigenous leaders	Input and/or review should be sought from qualified experts such as scientists, Indigenous leaders, and professionals

Code	Theme	Description
10.2	Refer to historical costs of cleanup	Cost estimates should use historical costs of cleanup
10.3	Account for increases in costs over time	Cost estimates should account for increases in costs over time
10.4	Estimate sufficient reclamation costs	Ensure funds assessed are more than sufficient to cover potential cost increases or damages
10.5	Develop industry specific costing plans, true cost estimates	Cost plans and true cost estimates should be updated often and will require dedicated experts (industry or government)
11	What are your recommendations for specific improvements to data management systems and tools that are a priority for you, your industry or your organization?	
11.1	Use of independent third party	An independent third party should be responsible for data management/collection
11.2	Data is publicized, transparent	Data and/or reporting should be publicly available
11.3	Regular updates of data/data systems	Data and data systems should be updated regularly
11.4	Evidence based data required	Ensure data is evidence based and follows best practices
12	Is there anything else you wish to share on the topic of how to improve the Province's approach to financial assurance?	
10.1	Stricter regulations and enforcement	Regulations and penalties for non-compliance should be strengthened and enforced
10.2	Businesses must cover the costs	Businesses should be able to meet and cover all assurance costs
10.3	Prioritize the environment	The environment should be prioritized over costs to businesses
10.4	Pooled funding	Pooled funding should be utilized to cover cleanup costs of insolvent businesses
10.5	General support	Response expresses general support for the PIBS