

April 14, 2023

Assistant Deputy Minister Afsana Qureshi  
Ministry of Mines  
cc: [MiningActAmendments@ontario.ca](mailto:MiningActAmendments@ontario.ca)

**Building More Mines Act 2023 Request for comments: ERO: 019-6715**

On behalf of Vale, its 123-year history in the Province, and the 4,432 direct jobs that Vale sustains in the Province of Ontario, we welcome the opportunity to provide comments on the proposed Building More Mines Act 2023 that has been tabled in Provincial Parliament.

It is important that we acknowledge that we are operating within traditional Indigenous lands in the Sudbury Basin and many other Indigenous communities near our operations across Canada and around the world. Vale's Sudbury Operations are within the traditional lands of Atikameksheng Anishnawbek First Nation, Wahnapiatae First Nation, Sagamok Anishnawbek First Nation and Whitefish River First Nation. We also operate within the traditional territory of the Métis Nation of Ontario – Region 5. In keeping with Vale's global commitment to Indigenous Peoples we are committed to continuously taking actions that advance our relationship with Indigenous communities near our operations.

Over the past fourteen years, Vale has invested over \$32.8 billion to sustain and grow our Ontario operations. We are proud to be an anchor industry and employment generator in the Sudbury, Mississauga, and Port Colborne communities and we look forward to continued decades of employment and shared benefits with our Indigenous rightsholders and stakeholders.

Vale has a substantial profile in the production of identified critical minerals throughout its Ontario and Canadian portfolio. We are the only fully integrated nickel producer in North America – and we are excited about what the future holds for our operations in Ontario and throughout the country. In 2022, Vale produced 93,433 tons of nickel in Canada representing roughly 74% of the country's nickel output and 82,700 tons of copper, which represents roughly 18% of Canada's copper output. 58,870 tons of Ni and 66,105 tons of Cu came from our Ontario operations.

Vale has identified multiple areas within the proposed Act where there is alignment with the Government of Ontario and Vale's purpose and our shared ambitions to *improve life and transform the future*.

**Alignment on the important role critical minerals play in the development of an Electric Vehicle Supply Chain**

COVID-19 has presented significant challenges and opportunities to global supply chains and every economy; however, new opportunities are emerging. One of the exciting developments and opportunities that is rapidly generating momentum involves the development and building-out of an Electric Vehicle (EV) and battery supply chain within the Province.

Minerals such as nickel, copper and cobalt will play a very important role in the ongoing development of this ecosystem and our base metals products are already at the heart of many clean energy solutions - powering renewable battery storage solutions and electric cars. Regarding the importance of nickel, copper and cobalt, PGMs as key enablers for the low-carbon EV battery industry, many external experts are predicting a supply deficit will emerge for these critical minerals. Industry is already starting to see that now, and potentially more prominently in

2026. Having policy and regulatory frameworks that recognize and adapt to this new reality will ensure that Ontario is at the leading edge of the energy revolution underway.

With this in mind – Vale and the mining industry would like to emphasize the importance of enabling the mining industry to bring replacement and ‘new tonnages’ of critical minerals to the marketplace to support the ecosystem that is being developed in-Province and across the country. While many consumers are focused on the diversified choices of hybrid and fully electric vehicles – we must not lose sight on the importance of addressing the major supply-demand gaps and collectively enable additional low-carbon, sustainably mined copper, nickel and cobalt to the marketplace.

### **Observations and recommendations on the *Building More Mines Act*:**

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#### **Amendments to the Mining Act: Recovery of Minerals and Decision-making Authorities**

*Through Bill 71, Building More Mines Act, 2023, the Ministry of Mines is proposing amendments to the Mining Act that would: (1) amend one of the requirements for obtaining a “recovery permit” and (2) provide the Minister with statutory decision-making authorities in respect of exploration and mine rehabilitation.*

#### **Proposed amendment:**

- *Recovery of minerals framework - To obtain a permit to undertake this activity (a “recovery permit”), an applicant is required to demonstrate in its application that it will remediate the land such that the condition of the land, with respect to one or more of: (i) public health and safety or (ii) the environment, is improved following the recovery and remediation activities.*

#### **Vale comment:**

Vale supports amendments addressing the emerging circular mining opportunities. Furthermore, Vale supports an approach whereby a permit would be available to recover minerals from waste materials. The implications to legacy mining waste sites could be significant. In most cases, processing wastes of this nature would result in a reduction of environmental risk and would follow that a full closure plan would not be necessary so long as the end result is an improvement in environmental conditions. This amendment would significantly shorten the timeframe to complete a project of this nature.

#### **Minister’s decision-making authority**

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#### **Proposed amendment:**

- *Remove the statutory role of the Director of Mine Rehabilitation and transfer this position’s decision-making authority to the Minister. This would provide the Minister with the direct ability to make statutory decisions related to matters under Part VII or delegate authority to ministry employees as needed (mine rehabilitation and remediation).*

Vale is supportive of moving the statutory role from the Director of Mine Rehabilitation to the Minister, and we expect that decisions would be made in close consultation with the Director of Mine Rehabilitation, with whom the technical evaluation, industry expertise would reside. This is especially important on issues requiring site-specific knowledge and history.

**Proposed amendment:**

- *Allow the Minister to exercise any power or perform any duty of the Director of Exploration, allowing the Minister to make early exploratoin decisions where the Director has not yet made a decision.*

Vale welcomes the proposed amendment which would allow the Minister to exercise the power or perform the duty of the Director of Exploration where the Director has not yet rendered a decision. The proposed amendment could be helpful in facilitating and simplifying dispute resolutions where interpretations of legislative requirements related to early exploration activities are contentious. Vale trusts that due respect for stakeholder and rightsholder consultation and engagement would be considered through this decision-making process.

**Proposed Amendment within the Building More Mines Act, 2023**

*Through Bill 71, the Ministry of Mines is proposing to make amendments to the Mining Act that are intended to ensure Ontario has a modern and competitive regime for mineral exploration and development. The proposed amendments aim to reduce administrative burden, clarify requirements for rehabilitation and create regulatory efficiencies.*

**Proposed amendment:**

- *Lay the necessary groundwork for anticipated regulatory amendments that would strengthen qualified persons' certifications provided with closure plans, including establishing the concept of qualified persons in the Mining Act; this would eliminate the need for a ministry technical review as they would be fully certified by qualified persons.*

Vale strongly supports this amendment. Certifications are currently required in Closure Plans to support the regulator but with little benefit to either the Ministry or the Company as multiple reviews persist, resulting in significant resourcing. Recognition of certifications will streamline the process and will enable better allocation of resources to support closure activities. Vale anticipates a potential higher cost of obtaining certifications up-front but this new process will ultimately use fewer resources.

**Proposed amendment:**

- *Allow the Minister to issue an order, on request from a proponent, that allows the deferral of at least one of the required elements of the closure plan, which may include terms and conditions determined by the Minister. This would be called a "conditional filing order". In all cases there would be a condition in the order to meet the prescribed requirements at a time specified by the Minister. The intent is to prevent the delay of mining projects where these studies / elements can reasonably be deferred without compromising the integrity of the closure plan.*

Vale supports the concept of a conditional filing order. This amendment is in keeping with a process that we are familiar with whereby certain studies, for example, are committed to completion at a later date. Formalizing this process adds flexibility and shortens timeframes, especially for new mine or new mining facility development.

**Proposed amendment:**

- *Eliminate the need for a Notice of Material Change for minor site alterations (non-material) and allow certain administrative changes (e.g. the form of financial assurance or change in ownership) to be made to closure plans without requiring a closure plan amendment (i.e. deemed amendments).*

Vale supports this amendment. Currently, Notices of Material Change (NMC's) are expected for far too many non-material changes. Greater efficiency would be achieved with fewer amendments to the Closure Plan. Vale recommends, however, that materiality be better defined by the Ministry to provide clarity on which changes would require the submission of a NMC.

**Proposed amendment:**

- *Codify the practice of allowing phased Financial Assurance in the legislative framework to create a simpler and clearer mechanism for proponents to submit Financial Assurance in incremental amounts (phases) on a schedule tied to the construction of new mine features.*

Vale supports. This is consistent with other jurisdictions Vale operates in Canada. A phased approach is welcome as it makes sense to provide financial assurance for features that are built and not for features that may not be constructed. This amendment will be helpful to facilitate expansion projects at existing sites and developing new mine projects.

**Proposed amendments:**

- *Amend the definition of "rehabilitate" and the related definition of "protective measures" to support the Minister's ability to allow an alternate use or condition or feature to remain on-site post-closure (e.g., infrastructure) and give greater flexibility and certainty to industry by allowing alternate rehabilitation measures and post-closure land uses; and*
- *Determining Compatibility with Adjacent Land or Alternative Future Uses*

Vale supports these amendments. Vale supports the development of a mechanism to define acceptable, alternative use of mining lands upon closure. This is especially important for mining communities such as Timmins and Sudbury where multi-generational mining, processing and refining operations have had impacts on potential future land use. We welcome the opportunity to discuss alternative site uses with stakeholders, rightsholders and government.

Vale's recognizes closure goals should be focused on restoring lands to pre-mining conditions, however the establishment of permanent mining features may preclude this as a viable option and alternative land uses are required.

**Proposed amendment:**

- *Changes to the Mine Rehabilitation Code – Amend the Regulation to move the Code to policy and incorporate it by reference in the Regulation. This would help respond to changes in rehabilitation best practices and technological advances in a more timely manner. This is consistent with approaches in other jurisdictions. Updates to the Code would still require Ministerial approval and would be posted on the Environmental Registry of public comment and the Crown will satisfy its Duty to Consult where it arises.*

Vale supports this proposal. The proposed amendment should allow the Government to be more nimble with respect to rehabilitation requirements. Amendments to rehabilitation requirements often create consequent financial assurance obligations. A balance needs to be struck between nimbleness to adopt best practices with adequate lead time so consequent financial assurance obligations can be properly identified, planned and budgeted.

**Proposed amendment:**

- *Stages of Closure: Sections 22, 23 and 24 of the Regulation*

Vale welcomes additional clarity on these mining stages.

**Proposed amendment:**

- *Delayed Delivery of Baseline Studies*

Vale supports this amendment, which allows for shortened project development timelines and, in the case of environmental monitoring studies, allows for appropriate rigour over multi-year sampling campaigns.

**Proposed amendment:**

- *Adding a Class of Facilities Exemption for Battery Mineral Concentrates*

Vale supports adding this new category to works and premises excluded from the definition of a mine. Many existing surface facilities, such as refineries and associated infrastructure, are well suited to be adapted for battery material recycling or concentrating. An exemption to facilitate the utilization of such existing sites and infrastructure will help the Province efficiently achieve its energy transition objectives. Given the global energy transition underway and the importance of critical minerals – having a separate class of facilities exemption is beneficial to ensuring Ontario can move at the speed of the global marketplace to secure these exciting opportunities that will provide generational opportunities for the Province.

**Proposed amendment:**

- *Transitional Regulation*

Vale understands that the Ministry is focused on ensuring that the changes to closure plan filing requirements do not prejudice proponents who have already submitted closure plan amendments, or who have closure plans in draft status that have been submitted to the Ministry for advance review and comment.

Vale is indeed engaged in an active phase of closure plan updates, with final milestones being clearly achieved. We are understanding that this update process will continue, as defined and scoped without having to achieve new closure planning targets for these submissions.

## Conclusion

In conclusion, Vale appreciates the opportunity to submit comments on the *Building More Mines Act* and looks forward to participating in future engagement and discussions on the issues mentioned in this submission. We are highly encouraged and supportive of the long-term goals outlined in the Province's framework and look forward to being actively involved as this process moves forward.

We greatly welcome further dialogue and engagement on this exciting initiative and for any further information or requests, please contact:

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