

Ministers' Reasons for Decision

MT. POLLEY COPPER/GOLD PROJECT'S 987 M RAISE CONSENT FOR MATERIAL ALTERATION

JULY 9, 2026

1.0 CONTEXT

The Mt. Polley Copper/Gold Project (Mt. Polley Mine) is an open pit copper/gold mine located in the Cariboo region of central British Columbia, approximately 56 kilometres northeast of Williams Lake. On October 6, 1992, a Mine Development Certificate (MDC) was issued to Imperial Metals Corporation (now the Mount Polley Mining Corporation or "MPMC") for the Mt. Polley Mine. The MDC continued in effect as a Project Approval Certificate #M96-07 under the first *Environmental Assessment Act* (1994) and then as an Environmental Assessment Certificate (EAC) under the *Environmental Assessment Act* (2002) and later the *Environmental Assessment Act* (2018) (the Act) (EAC M96-07). Following the initial certification, permits were issued to MPMC under the *Mines Act*, *Environmental Management Act*, and other required authorizations.

In December 2025, MPMC submitted a *Mines Act* permit amendment application to raise the Tailings Storage Facility (TSF) dam by 13 metres (m), from its permitted elevation of 974 m above sea level (masl) to an elevation of 987 masl; from the ground surface, this would be an increase from 64 m to 77 m. This change, also called the "987 m Raise" is needed to enable storage of the tailings for the approved life of mine to 2033. On February 24, 2026, the Minister of Mining and Critical Minerals (MCM) determined that the proposed 987 m Raise is a material alteration to the Development.

Typically, where a Holder wishes to carry out its project in a way that is not authorized in its EAC, it must request an amendment under Section 32 of the Act. However, as an older style of EAC, Mt. Polley's EAC M96-07 contains Condition #2, which requires that MPMC must obtain the written consent of the Ministers of MCM and Environment and Parks (ENV) prior to any material alterations to the Development as described in the EAC¹ ('Consent for Material Alteration') and that the determination of what may constitute a material alteration is made by the Minister of MCM.² On August 6, 2025, the Supreme Court of British Columbia confirmed that MPMC's MDC is deemed to be an EAC pursuant to the transitional provisions in the versions of the *Environmental Assessment Act* described in the paragraph above, and that the Legislature intended Condition #2 to remain in full force and be applied. Unless the EAC is cancelled or suspended, it remains in effect for the life of the Mt. Polley Mine.

Condition #2 does not spell out a process leading to the Ministers' decision concerning their consent. The Environmental Assessment Office (EAO) determined, with the input of First Nations, MPMC, and other interested parties, the process to be followed. The EAO heard from First Nations of their interest in following a process that closely followed a Section 32 assessment and the importance of consensus-seeking activities. Therefore, while not required under legislation, the EAO proposed a process that incorporated two key aspects of the Section 32 review: consideration of matters under Section 25 of the Act and consensus-seeking with First Nations on process steps and the recommendation to us, as Ministers' responsible for the decision. The EAO sought input from First Nations and MPMC on the proposed process before implementing it for the 987 m Raise.

In accordance with Condition #2, MCM reviewed MPMC's proposed 987 m Raise to consider whether the change was material. On February 24, 2026, the Honourable Jagrup Brar, Minister of MCM, determined that the 987 m Raise is a "material alteration" as described in Condition #2. Our consent is therefore required for MPMC to proceed with the 987 m Raise.

¹ The EAC describes the Development as consisting of an open pit copper/gold mine, waste dumps, tailings storage site, transmission line, water collection structure and access roads, and will exclude any other off site-infrastructure.

² We note that the 987 m Raise does not require any changes to the EAC itself, and therefore no amendment process under Section 32 of the Act was required. As noted, condition #2 concerns "material alteration[s] of the Development as described in the Application". This is distinct from amendments to the EAC itself, such as the amendments to conditions 3 and 4 made in May 2016 (Amendment #2). Where the EAC itself is amended, the EAO would follow the process in Section 32.

As described above, the EAO conducted a process to review the request from MPMC for the 987 m Raise, assessed the effects of the 987 m Raise under Section 25 of the Act, where relevant, and sought consensus with Williams Lake First Nation and Xatśúll First Nation on the review process and assessment. At the completion of this process, the EAO prepared a report entitled 'EAO's Recommendation Regarding Consent for Material Alteration' (the EAO Report) summarizing MPMC's application to EAO, the EAO's review and consultation process with First Nations, the interaction of this Material Alteration process with the technical review concurrently undertaken by the Major Mines Office of MCM, the key issues and effects identified by review participants, and the EAO's conclusions regarding matters that may be pertinent to our decision.

On July 9, 2026, we provided consent for the material alteration. These are the reasons for our decision.

2.0 CONSIDERATIONS

We considered all of the information provided in the EAO Report, including the submissions and correspondence from Xatśúll First Nation and Williams Lake First Nation referenced therein, the EAO's assessment of Section 25 matters, and the EAO's consultation processes with Williams Lake First Nation and Xatśúll First Nation. These materials have been posted to the EAO's Project Information Centre (EPIC) [website](#).

We understand that MPMC was also required to submit a *Mines Act* permit amendment application to MCM, and that EAO's assessment of the potential effects of the 987 m Raise was informed by the issues and findings of that permitting technical review. The assessment of the potential effects of and associated mitigation measures for the 987 m Raise was conducted by MCM which led the Mine Review Committee (MRC) to conduct a thorough review of MPMC's application and consulted with Williams Lake First Nation and Xatśúll First Nation. Concerns raised by MRC reviewers and First Nations during the permit application review, including technical concerns, effects of the proposed changes, mitigations, and impacts to asserted or established Aboriginal rights and title, recognized and affirmed by Section 35 of the *Constitution Act (1982)* ("Section 35 rights") were addressed through technical discussions and/or permit conditions.

We have reviewed the concerns of Xatśúll First Nation and Williams Lake First Nations regarding MPMC's assessment of potential effects on water quality, aquatic health, fish and fish habitat, and closure and reclamation. We understand that Xatśúll First Nation was of the view there were information gaps in MPMC's *Mines Act* permit amendment application because receiving environment water quality modeling and updated closure planning would be required through permit conditions, at a future date, rather than in the amendment application for the 987 m Raise. We noted that Xatśúll First Nation expressed their views that relying on future, undefined studies does not provide the province with the information needed at the time of decision-making to assess impacts on Xatśúll First Nation's Section 35 rights or determine appropriate accommodation. We understand that detailed closure planning, including groundwater and surface water components, is a legal requirement of the Health, Safety and Reclamation Code and MPMC's permit, and will be further refined through the scheduled 2027 Reclamation and Closure Plan update which will incorporate updated end land use objectives informed by ongoing engagement with First Nations. We also understand that ENV, who holds the statutory responsibility for oversight of *Environmental Management Act* (EMA) permit requirements, is satisfied with MPMC providing water quality modelling on specific timelines as per the EMA permit. We note that failure to meet permit conditions would be subject to compliance and enforcement measures under the robust compliance framework for mines in B.C. We are satisfied that these regulatory mechanisms provide appropriate oversight of information related to project uncertainties and that MCM and ENV, as the primary regulators that set and enforce detailed permitting requirements, have adequately responded to the issues raised by Xatśúll First Nation.

We understand that First Nations and MRC reviewers raised concerns regarding dam safety during the review. First Nations submitted comments respecting the impacts of the dam breach at this site in 2014. We share the view that ensuring dam safety is integral in this decision. We have reviewed the information considered in the permitting process and are of the view that concerns regarding dam safety were comprehensively considered as part of the 987 m Raise *Mines Act* permit amendment application. We understand that dam safety is managed through conservative design

consistent with the Health, Safety and Reclamation Code, ongoing Failure Modes and Effects Analysis, oversight by the Engineer of Record and Independent Engineering Review Panel, and regulatory review under the *Mines Act*. The permit would require that an Engineer of Record define the maximum allowable height of water within the TSF, and the permit would require pre-established actions to return the facility to normal operating pond conditions if there are any exceedances. We are satisfied that this issue has been reasonably considered and addressed.

We note that the EAO assessed the positive and negative direct and indirect effects of the 987 m Raise, including environmental, economic, social, cultural and health effects and adverse cumulative effects. We have reviewed the EAO's conclusions that the 987 m Raise could have minor adverse and cumulative effects to air quality, water quality, fish and fish habitat, terrestrial resources, heritage resources, and health, and that these impacts would be effectively managed under the *Mines Act* or current EMA requirements and regulations. We are satisfied that the EAO also considered how the 987 m Raise could impact other assessment matters under Section 25(2)(b)-(k) of the Act, including but not limited to risk of malfunction or accidents and greenhouse gas emissions. We also note that the 987 m Raise would have positive socio-economic impacts, by enabling the approved life of mine extension to 2033 and thereby providing continued employment and regional economic development.

We have considered the EAO's analysis of the impacts of the 987 m Raise on First Nations. We are aware that Xat'sull First Nation emphasized the continued risks they perceive, including the possibility of another breach, which they fear would again affect their Section 35 rights, through impacts to harvesting, hunting and fishing due to concerns related to contamination. We have reviewed the EAO's conclusions that, while the new disturbance is within the Permitted Mine Area, the 987 m Raise may result in minor impacts on Xat'sull First Nation's and Williams Lake First Nation's Section 35 rights. We appreciate that this is the third material consent decision within 18 months and that engagement on this series of material alterations has been challenging for First Nations' capacity.

We understand that Xat'sull First Nation raised concerns about the process for the Consent for Material Alteration review. While certain process matters were determined to be reasonable by the courts as described above, we acknowledge that Xat'sull First Nation has appealed this decision, remains concerned about the use of this process while the appeal is ongoing, and views the Consent for Material Alteration review process as inadequate and inconsistent with the United Nations Declaration on the Rights of Indigenous Peoples (including as interpreted in the *Gitxaala* decision). Xat'sull First Nation's view is that it does not seek their free, prior, and informed consent or enable meaningful, collaborative decision-making. They are of the view that a full EAC amendment is required to address broader issues. Although there is no statutory requirement for consensus-seeking with First Nations for this Consent for Material Alteration process under Condition #2 of the EAC, we are aware that the EAO undertook a consultation process with the potentially affected First Nations grounded in the principles of consensus-seeking. It is our view that the EAO made reasonable efforts to support the reconciliation purpose of the Act and to seek consensus with First Nations by inviting review and comment on the proposed process, as well as on documents that assess effects of the 987 m Raise and has offered meetings to support this engagement. We are aware that Xat'sull First Nation preferred to engage in written correspondence and via the MRC process rather than through meetings with the EAO. We understand the EAO also consulted with First Nations on a draft of the EAO's Report and that the EAO and provincial agencies made best efforts to provide comprehensive responses to the issues and concerns raised by First Nations.

We also considered that the Consent for Material Alteration process intentionally drew from the detailed technical assessments that are required in the *Mines Act* permit application and permitting review process. We understand that MCM has conducted a thorough permit amendment process, which included two rounds of review, two meetings and an additional third round of comments from Xat'sull First Nation. We are aware that MCM made meaningful changes to permits to address Xat'sull First Nation's and Williams Lake First Nation's comments. MCM indicated that key issues regarding environmental effects, dam safety, and potential impacts to Section 35 rights were examined through the MRC review and are being managed through existing scheduled requirements on the permittee, proposed new and updated permit conditions, and continuing consultation.

We note that Williams Lake First Nation concluded that, while formal consensus was not declared, it was satisfied that the majority of Williams Lake First Nation's concerns had been reasonably addressed within the existing and proposed changes to the permitting framework. Although consensus was not reached with Xat'sūll First Nation, based on these steps carried out by the EAO, in addition to the engagement carried out by MCM during the permitting process, we are satisfied that the process followed by the EAO was of appropriate depth and scope for the proposed 987 m Raise and we are satisfied that EAO's consultation efforts with First Nations are sufficient to inform our decision on consent for the 987 m Raise. We agree with the EAO's conclusions that any potential impacts on Xat'sūll First Nation's and Williams Lake First Nation's Section 35 rights from the proposed 987 m Raise are being appropriately mitigated through *Mines Act* and existing EMA permit requirements and regulations. We also note that the province continues to work closely with Xat'sūll First Nation to discuss its overarching concerns about mining within its traditional territory through other forums, including a government-to-government negotiation table in relation to mining and minerals matters. We look forward to working with Xat'sūll First Nation to advance our relationship.

Based on the assessment and information in the EAO Report, we are satisfied that the potential effects of the proposed 987 m Raise were adequately identified and assessed by the EAO, with supporting information from the MCM permitting process. We agree that any changes to the effects from the proposed 987 m Raise assessed under Section 25 of the Act would not be significant. We agree with the conclusions reached by the EAO in the bullets in Section 6.0 of the EAO Report, for the reasons detailed therein, in particular that:

- The effects of the proposed 987 m Raise on First Nations and their Section 35 rights have been appropriately assessed and have been addressed to the satisfaction of the EAO;
- The review undertaken by the MRC and the permitting conditions applied by MCM to the issues raised was comprehensive, addressed technical issues raised by First Nations on permits, and did not result in gaps;
- The matters described in Section 25 of the Act have been considered and there would not be any significant changes in these effects as a result of the proposed 987 m Raise;
- Efforts to seek consensus on concerns that the First Nations raised with the proposed 987 m Raise and these conclusions were undertaken; and
- The EAO has fulfilled its constitutional obligations owed to First Nations relating to the Consent for Material Alteration Review for the proposed 987 m Raise.

3.0 CONCLUSION

After consideration of the EAO Report and the consultation process with First Nations, we grant consent for the 987 m Raise under EAC M96-07 Condition #2.



Tamara Davidson
Minister of Environment and Parks



Jagrup Brar
Minister of Mining and Critical Minerals

Signed this 9th day of July 2026