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Sent: Friday, 15 July 2022 5:51 PM
To: s.73 irrelevant information
Cc: Corro DES EPP DDG; Corro DES ESR DDG; DES Director General
Subject: DUE 3 AUG: Post Transition Review Discussion Paper and Phase 1 Consultation Summary - Financial Provisioning Scheme

Hi s.73 irrelevant information

For your (your team's) review. If you have any feedback please send to our office by 3 August so we can consolidate and get DG approval by the 5 August deadline.

Thanks
s.73 irrelevant information



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From: s.73 irrelevant information <[redacted]@treasury.qld.gov.au>
Sent: Friday, 15 July 2022 3:55 PM
To: s.73 irrelevant information
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Cc: s.73 irrelevant information
Subject: FW: Post Transition Review Discussion Paper and Phase 1 Consultation Summary - Financial Provisioning Scheme

Hi all

Please find below and attached a copy of an email and Discussion Paper I have released this afternoon as a Phase 2 step in the consultation process to support the post transition review of the FPS. Please note this has been issued in my capacity as Scheme Manager and in it I take pains to inform the reader that this does not represent any part of the Government and that indeed there may or may not be change but should I make any recommendations for change it would be subject to Government consideration.

I would invite you to similarly review the paper and to provide feedback on the issues raised – both from the functional / departmental accountabilities you hold and the way the FPS interacts with your agency (including the burden we place on you) and as individuals engaged with some of the broader thinking in this space.

Happy to discuss as required.

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Scheme Manager
Financial Provisioning Scheme

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Subject: Post Transition Review Discussion Paper and Phase 1 Consultation Summary - Financial Provisioning Scheme

Post Transition Review of Financial Provisioning Scheme

As noted in my email to you on 20 June 2022, I have commenced a post transition review of the Scheme. This email seeks to update you on this process and to issue a Discussion Paper addressing a number of areas for possible refinement and improvement in Scheme operation and the achievement of its objectives.

Phase 1: Open feedback

Thank you to those who provided feedback during Phase 1 of consultation. We received 20 responses and a number of suggestions on how to improve the Scheme. The attached Discussion Paper provides a summary of feedback received and how it has been incorporated for further consideration. A specific summary of the feedback is included at Appendix 1 of the Discussion Paper.

Phase 2: Discussion Paper

Today I am pleased to share the **attached Discussion Paper**, which reflects both your feedback and identifies some areas for potential Scheme improvement. Within the Discussion Paper there is a list of key questions for your consideration and feedback. Note: You are not required to answer all the questions and may provide comments on any additional matters related to the Scheme. You can submit your responses via email (to sch4p4(6) P@kpmg.com.au) or by requesting a meeting to discuss your feedback (via sch4p4(6) P@kpmg.com.au).

Stakeholders, industry, and other interested parties are invited to consider the changes presented in this Discussion Paper and to provide feedback by **5pm, Friday 5 August 2022**.

Townhall information sessions

In the next fortnight I will be hosting three virtual townhalls to respond to feedback received in Phase 1, to share additional background on the Discussion Paper and my suggestions for improvement to the Scheme as well as to answer any questions you may have. I value this opportunity for direct engagement and the opportunity for both stakeholders and myself to add more colour to considerations. Three sessions have been set up to enable you to attend at least one as commitments permit.

Session 1: Tuesday 26 July, 10am – 11.30am (virtual)

Session 2: Tuesday 26 July, 2pm – 3.30pm (virtual)

Session 3: Wednesday 27 July, 10am – 11.30am (virtual)

To register your attendance, please email sch4p4(6) P@kpmg.com.au. Dial in details will be separately provided.

Phase 3: Scheme Manager Recommendations Report

Following feedback and engagement with you, I will then develop a set of specific recommendations and aim to present a report to Cabinet by the end of the year. There may be a mix of simple changes that can be accommodated within Scheme guidelines, in addition to some more complex matters that would require legislative change, should Cabinet support my recommendations.

Should amendments to the Scheme ultimately be made, I will meet with impacted stakeholders as soon as possible to discuss any changes in detail. Should you have any questions regarding the above process or would like to request a one-on-one meeting with

KPMG to provide feedback in person, please reach out to sch4p4(6) Personal information [@kpmg.com.au](mailto:sch4p4(6) Personal information@kpmg.com.au) directly.

Thank you

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Post Transition Review

Discussion Paper

The Scheme Manager welcomes input from stakeholders, industry, and other interested parties to help improve the Scheme and consider the potential changes presented in this Discussion Paper.

Stakeholders are invited to submit their responses via email (to [Section 78B@kpmg.com.au](mailto:Section78B@kpmg.com.au)) or by requesting a meeting to discuss their feedback (via [Section 78B@kpmg.com.au](mailto:Section78B@kpmg.com.au)), prior to **5pm, Friday 5 August 2022**.

For further information about the Scheme, please visit:
www.business.qld.gov.au/running-business/environment/licences-permits/rehabilitation/financial-provisioning-scheme

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Context

The *Mineral and Energy Resources (Financial Provisioning) Act 2018 (the Act)* came into effect in November 2018 replacing the prior FA for resource activities under the *Environmental Protection Act 1994 (EP Act)*. Extensive analysis and stakeholder engagement highlighted a number of key failings of the then FA arrangements. These findings led to a broad package of rehabilitation reforms being implemented including implementation of the Act and the Financial Provisioning Scheme (**FPS or the Scheme**).

Key objectives of the rehabilitation reform package were to

- Promote good environmental outcomes,
- Reduce the financial burden for industry,
- Manage financial risk to the State of Queensland (**the State**).

The central objective of the Scheme was to manage the financial risk to the State. To facilitate a workable set of transition arrangements, an initial three-year transition in period was defined. This period is now complete, with all applicable environmental authorities (**EAs**) having successfully transitioned by March 2022.

As at 30 June 2022, approximately 385 EA's were assessable under the Scheme with an aggregate estimated rehabilitation cost (**ERC**) of approximately \$12.2 billion.

Following the successful completion of the initial transition in period, the Scheme Manager has identified the benefits of undertaking a review of the Scheme and capturing learned experience in consultation with stakeholders. The Scheme Manager has engaged the Scheme's external risk advice consortium (KPMG, Advisian and Australia Ratings) to assist in this review. The review hopes to identify options to refine and improve the efficiency and robustness of the Scheme.

This Discussion Paper has been developed to explore opportunities for improvement. Nine specific matters of interest areas, incorporating the issues identified by stakeholders in the Phase 1 consultation, are detailed in this Phase 2 Discussion Paper:

Items for Discussion		Overarching concept
1	Prescribed Estimated Rehabilitation Cost (ERC)	Scheme Construct
2	Scheme Administration Processes	
3	Financial Soundness Assessment (FSA) Methodology	
4	Resource Project Characteristic Assessment (RPCA) Methodology	
5	Risk Category Allocation (RCA) Optimisation	
6	Fund Threshold Level	
7	Energy Transformation	Emerging Trends
8	Surety Accessibility	
9	Risk Assessment Process Redesign	N/A

Stakeholders, industry, and other interested parties are invited to consider the information raised and questions asked in this Discussion Paper and to provide feedback.

Stakeholders are invited to answer the questions by submitting their responses via email (to [sch4p4\(6\)Pe@kpmg.com.au](mailto:sch4p4(6)Pe@kpmg.com.au)) or by requesting a meeting to discuss their feedback (via [sch4p4\(6\)P@kpmg.com.au](mailto:sch4p4(6)P@kpmg.com.au)), prior to **5pm, Friday 5 August 2022**.

Following this feedback, the Scheme Manager will develop a set of recommendations which will be submitted to Cabinet for review and endorsement. These recommendations will be shared with stakeholders for their information.

1.0 About the Financial Provisioning Scheme

Operation of the Scheme is established in the provisions of the Act. The Scheme is administered by the Scheme Manager, a statutory officer appointed by the Governor-in-Council. Decisions of the Scheme Manager, pursuant to the relevant provisions of the Act, are the decisions of the State and are appealable only by Judicial Review. The Scheme Manager is supported by a small team of Queensland Treasury (**Treasury**) staff however, the Scheme Manager and the function of the Scheme, do not reside with Treasury.

The Scheme Manager is responsible for administering all SSMT and EA Holders' financial provisioning on behalf of the State. To enable this, all EA Holders and SSMT financial assurances (called surety in the Act) held by the Department of Environment and Science and the Department of Natural Resources and Mines were transferred to the Scheme on 1 April 2019.

Thereafter, eligible EAs were scheduled to transition to the risk-based assessment process over a period of three years (also referred to as the initial transition period). The initial three-year transition period was completed successfully by the intended date of 31 March 2022.

The following two publicly available documents contain detailed information about the risk assessment process and are referenced throughout this Discussion Paper.

- **Scheme Manager Guideline 1** – Forming the Scheme Manager's Opinion
- **Scheme Manager Information Sheet 1** – Risk Category Allocation.

These document and additional information about the Scheme can be found online at:

www.business.qld.gov.au/running-business/environment/licences-permits/rehabilitation/financial-provisioning-scheme

1.1 Scheme Risk Assessment Process

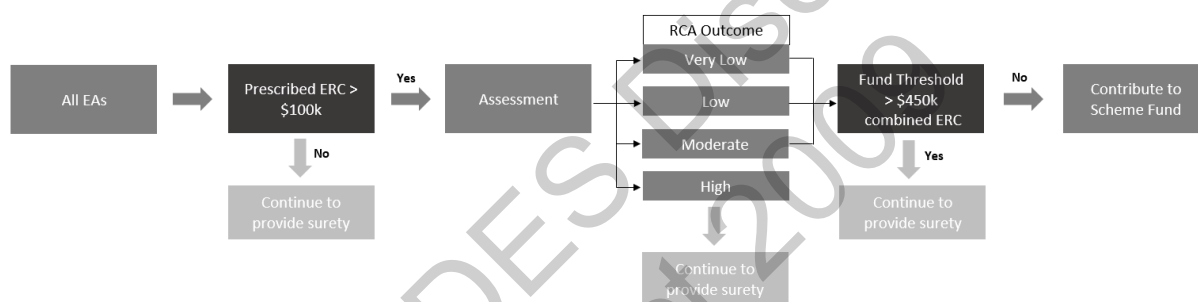
The Scheme was designed using a risk assessment model which introduces a pooled fund approach towards meeting rehabilitation costs for relatively lower risk EAs, while maintaining surety obligations for relatively higher risk EAs.

Under the Scheme, resource companies are assessed individually for financial soundness (Financial Soundness Assessment (**FSA**)) and strength of resource (if operating) (Resource Project Characteristics Assessment (**RPCA**)), to assist in determining a Risk Category Allocation (**RCA**).

There are four RCA categories within the Scheme, being Very Low, Low, Moderate and High. EAs determined to be Very Low, Low and Moderate are required to contribute to the Scheme Fund up to a maximum threshold limit (set at \$450 million for any single assessed entity) and any surety previously held by the State is returned to the EA holder after the contribution is received.

Any EA allocated a High-risk category must provide the Scheme with surety for 100% of their ERC as well as those assessed entities with aggregate ERC exposure in excess of \$450 million.

The following graphic represents the simplified end-to-end risk assessment process that each assessable EA is subjected to under the Scheme.



As at 30 June 2022, approximately 385 EA's were assessable under the Scheme.

Note: Assessed Entity selection

The Scheme Manager will ultimately select the entity which is to be assessed for financial soundness (the **Assessed Entity**). The Assessed Entity should be the point of risk at which the State will have the most likely opportunity for successful recourse for recovery of rehabilitation costs.

Selection of a Relevant Holder forms the basis of Assessed Entity selection, where the Relevant Holder can be the sole EA Holder, or one of the EA Holders in the case of multiple holders. Typically, shareholders of the EA with a minimum 20% holding, the operator of the site and preferably a locally domiciled entity will be selected as the Relevant Holder. While the Scheme Manager has discretion in regard to the ownership structure, the absence of case law history and the scope of possible protections for parent entities in respect to the actions of subsidiaries and or minority holdings is also taken into account. The Scheme Manager may look to additional considerations when selecting the Assessed Entity to determine the State's potential recourse. These include ultimate share ownership within the EA, country of domicile, sovereign risks, and character. Character is observed through consideration of the entity's standing in the State and beyond, and the entity's track record of corporate citizenship including its rehabilitation track record.

In summary, in determining the Assessed Entity the general rule of thumb is:

- The Relevant Holder will be selected as the Assessed Entity in the event that there is no clear parent entity or controlling shareholder,
- A parent entity will be selected as the Assessed Entity if it is deemed to have control over the Relevant Holder (i.e., hold more than 50% shares, able to cast more than 50% of votes and/or control of the Board),

- Where a parent entity (which is deemed to have control over the Relevant Holder) is a controlled subsidiary of another entity, the ultimate parent entity can also be considered as the Assessed Entity.

1.2 Scheme Outcomes to date

The 2020-2021 Annual Report issued by the Financial Provisioning Scheme, provides details of the Scheme performance and outcomes. This section provides an overview of Scheme performance and outcomes as at 30 June 2022 (it should be noted that these data points, while presented with a high level of confidence, are unaudited as at the date of this Paper).

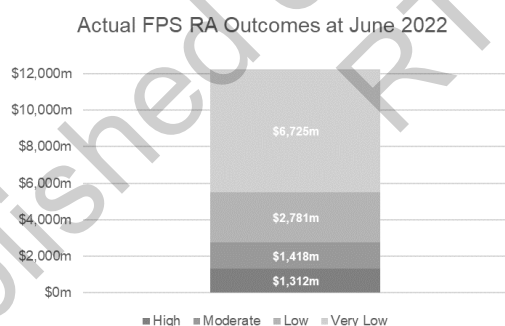
Aggregate Exposure Profile

The absolute quantum of risk presented to the Scheme has increased significantly in the three years of operation. Aggregate ERC value for eligible EAs, has increased from \$8.4 billion in April 2019 to \$12.2 billion as at 30 June 2022, representing a 45% increase (which is in line with the original expectations when the Scheme was created). Analysis of current assessable EAs indicates that the significant increase in ERC is attributable to several factors, including:

- Changes to mine plans and additional disturbance on existing EAs,
- The introduction of a new ERC calculator,
- Removal of any prior discount arrangements,
- New rates,
- Contingency inclusions,
- The balancing effect of EA amalgamations, de-amalgamations, EAs with an ERC falling below the Prescribed ERC, new EAs with an ERC above the Prescribed ERC and existing EAs whose ERC has increased above the Prescribed ERC since Scheme commencement.

In observing the risk category allocations determined to date, notable observations regarding the 'quality' of the State's rehabilitation counterparty risk include:

- In terms of ERC, the RCAs are skewed towards 'Low' and 'Very Low' outcomes, with 77% of aggregate ERC accounted for in these two categories,
- Moderate RCAs account for 12% of aggregate ERC,
- High RCAs account for 11% of aggregate ERC.



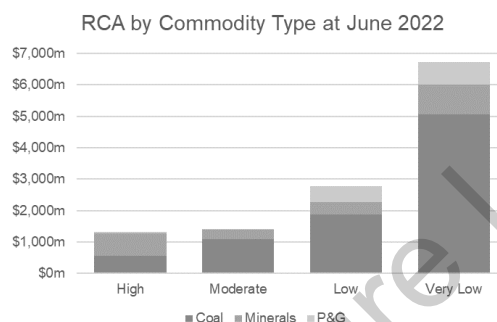
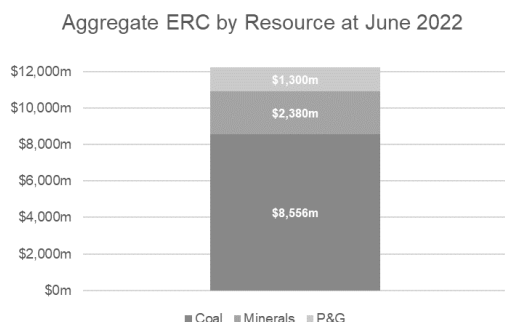
The overall perspective is that the risk profile of rehabilitation counterparties at this time appears relatively sound though it should be noted that the profile is subject to change, in particular because of the higher concentration of ERC in the ownership of a limited number of entities.

Commodity Exposure Profile

Assessing the spread of RCA outcomes against commodity type reveals the significance of the Scheme's exposure to coal mining. Notable inferences regarding commodity-based outcomes include:

- Coal mines dominate ERC exposure, accounting for approximately 70% of total ERC exposure, 75% of 'Very Low' and 67% of 'Low' exposure in terms of ERC,

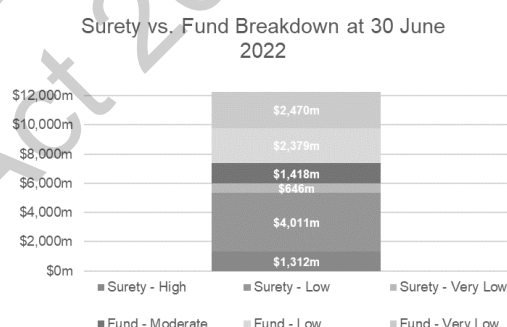
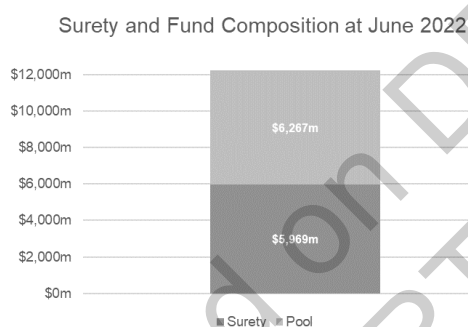
- Mineral exposures remain significantly higher across the 'Moderate' and 'High' risk categories, accounting for 22% and 53% of each category's ERC, respectively,
- Petroleum and Gas exposure is most prevalent across the 'Low' and 'Very Low' categories but are of vastly lower individual and aggregate exposure.



Provisioning Outcomes

As at 30 June 2022, \$6.3 billion of the State's total ERC exposure is provisioned by contribution to the Scheme Fund, representing approximately 51% of aggregate ERC.

The remaining \$6.0 billion of the State's ERC exposure is currently provisioned by surety. Only \$1.3 billion of this amount is associated with EAs allocated a High-risk category. The balance comprises ERC exposure held by entities who have exceeded the \$450 million Fund Threshold. The Fund Threshold offers the Scheme Fund, and subsequently the State, significant protections. As at 30 June 2022, EAs that were assessed at 'Low' or 'Very Low' account for approximately 78% – or \$4.6 billion – of surety held by the Scheme.



Fund Growth

The Scheme Fund has grown consistently and in line with original modelled expectations. This suggests some robustness against the range of claims scenarios and sensitivities examined in the original analysis of likely Scheme Fund sufficiency.

As at 30 June 2022, the balance of the Scheme Fund was \$128 million. This balance is slightly higher than forecast as at Scheme commencement, despite lower than anticipated interest earnings, largely because there have been no claims on the Scheme Fund since inception.

While growth in the Scheme Fund is pleasing, it is important to remember that it will not be possible to assess Scheme sufficiency for decades, given the long tail nature of exposure and the high severity of low probability events.

Surety Balance

At commencement of the Scheme, \$8.3 billion was held in surety instruments (including where held, cash). Through the risk assessment process and resultant risk category allocations, there has been a reduction in surety held. However, for individual EAs required to provide surety, ERC increases have resulted in higher surety levels.

As at 30 June 2022, \$6.0 billion continued to be held in surety. Since the Scheme's commencement there have been \$7.347 million in claims on surety held.

Judicial Review Outcomes

Despite undertaking a number of complex determinations, where the impact on the EA Holder is often significant, the FPS has recorded zero judicial review applications as at 30 June 2022. There has been one formal Statement of Reasons Request (under the provisions of the Judicial Review Act) which was resolved without a change in risk category allocation determination and no further action being taken.

The outcomes are reflective of the robustness of the FPS assessment process and the quality of the work completed by the Scheme and its Risk Advisor.

2.0 Post Transition Review

Following the successful completion of the initial transition in period, the Scheme Manager has identified the benefits of undertaking a review of the Scheme and capturing learned experience in consultation with stakeholders. The Scheme Manager has engaged the Scheme's external risk advice consortium (KPMG, Advisian and Australia Ratings) to assist in this review. The review hopes to identify options to refine and improve the efficiency and robustness of the Scheme without increasing the financial risk to the State.

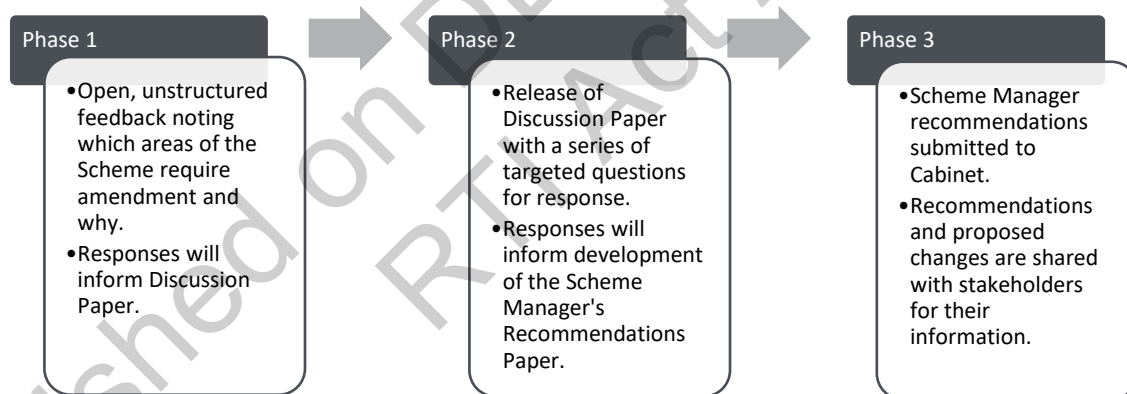
In particular, the review seeks to understand:

- If the key objectives of the Scheme have been met and if these remain relevant,
- Whether the current design continues to achieve the desired outcomes appropriately and effectively in light of lessons learned and emerging trends (such as Energy Transformation / Decarbonisation (and the impact this is having on counterparty risk profile composition) and Surety Accessibility),
- And, from an operational perspective, what has worked well, what hasn't and what could be improved for both EA holders and the Scheme.

In addition to the Post Transition Review (PTR), EY have also been engaged to undertake an independent actuarial review. This review aims to understand if the Scheme outcomes to date are consistent with expectations and to test for Scheme Fund sustainability under various methodology refinements and scenarios.

It is important to note that the Scheme is based on a long-term actuarial model, and as a result it will be decades before claims experience and adequacy of the Scheme construct is truly understood.

Regardless of the Scheme's long-term nature, the completion of the initial three-year transition period is a timely opportunity to explore potential improvements and identify changes that may protect and further support the intent and objectives of the Scheme. The review includes three phases of consultation with stakeholders, as noted in the below graphic.



Phase Consultation

For three weeks across June and July 2022, the Scheme Manager invited stakeholders to share feedback on which areas of the Scheme they believe need amendment and why. In this first round of consultation, 20 responses were received.

A feedback summary with key themes is available below in Section [2.1 Phase 1 consultation feedback](#) (refer Appendix 1 for further details). The feedback has been used to inform this Discussion Paper.

Phase 2 consultation: Release of Discussion Paper

Potential areas of improvement are outlined in this paper as discussion points. These have been identified through:

- Three years of operational experience, including regular engagement with stakeholders and other relevant stakeholders,

- The actuarial review, and
- The stakeholder feedback collated in Phase 1 of consultation.

The objective of Phase 2 consultation is to gather further, more detailed insights on these key areas and to ensure stakeholders' perspectives have been provided and explored before changes can be considered and proposed (where applicable) to Cabinet.

Phase 3 consultation and beyond

In Phase 3 of this consultation process, the Scheme Manager will aim to table a Recommendation Paper to Cabinet by the end of the year to ensure that the operation of the Scheme continues to meet the Government's risk appetite and that it continues to execute the purposes of the Government's policies and legislation.

Stakeholders will be advised of any changes prior to their implementation.

2.1 Phase 1 consultation feedback

As noted above, 20 responses (equivalent to 13% of industry stakeholders) were received during Phase 1 consultation. The below table outlines key feedback themes and how this feedback has been addressed within this Discussion Paper.

Feedback theme	How this feedback has been addressed in the Discussion Paper	Discussion Paper reference
<p>Scheme objectives:</p> <ul style="list-style-type: none"> Perception that financial burden to industry has not reduced under the Scheme, Perception that the Scheme is tailored to benefit only 'large mining' companies, Perception that the Scheme does not reward good environment behaviour. 	<p>A number of the concerns raised in respect to the Scheme objectives will be addressed by the Scheme Manager in consultation forum and via direct engagement with respondents where appropriate.</p> <p>Within the Discussion Paper, of relevance to the issues raised, the Scheme are considering suggestions to:</p> <ul style="list-style-type: none"> Increase the prescribed ERC to optimise efficiency, Revise the FSA and RPCA methodologies, and/or potentially redesign the risk assessment methodology to address concerns raised and other learning identified to date, Explore if additional RCAs are required, Increase the Fund Threshold level or have varying Fund Threshold levels for each RCA. 	<p>Section 3.1 Section 3.3 Section 3.4 Section 3.5 Section 3.6 Section 3.9</p>
<p>Administrative and financial burden of annual risk reviews</p> <ul style="list-style-type: none"> Perception that annual assessments create unnecessary cost and time invested for Scheme and companies, Requests for annual assessments to be streamlined, including what and when information is provided. 	<p>Within the Discussion Paper, the Scheme are considering suggestions to:</p> <ul style="list-style-type: none"> Streamline the information request process, including frequency of reviews, Improve the quality of information requested and therefore received, to support robust risk assessment outcomes, Reduce information required for simple assessments, and increase information required for more complex assessments, Potentially redesign the risk assessment methodology including how industry is consulted and the associated timing. 	<p>Section 3.2 Section 3.9</p>
<p>Perception that the risk assessment and allocation processes lack transparency, and that:</p> <ul style="list-style-type: none"> RCAs should be revised, FSA and RPCA methodologies should be revised to add flexibility to the risk assessment, The Assessed Entity selection process should be revised. 	<p>Within the Discussion Paper, the Scheme are considering suggestions to:</p> <ul style="list-style-type: none"> Explore if additional RCAs are required, including consideration of a transitional approach, Refine the FSA and RPCA methodologies, For stakeholders to provide more detailed product quality, infrastructure, and market competitiveness information to allow more comprehensive and informed risk assessments, Re-examine the current framework for undertaking risk assessments. 	<p>Section 3.2 Section 3.3 Section 3.4 Section 3.5 Section 3.9</p>
<p>Increasing difficulty in securing approved forms of non-cash surety</p> <ul style="list-style-type: none"> Respondents noted the declining availability of permitted non-cash surety by traditional providers and the corresponding impacts. 	<p>The Scheme acknowledges that surety accessibility is becoming increasingly difficult given ESG considerations and the increase in scrutiny surrounding fossil fuel resources. Within the Discussion Paper, the Scheme are considering suggestions to:</p> <ul style="list-style-type: none"> Explore alternative instruments accessible to the resources industry, to be used instead of current forms of surety, Explore if additional RCAs are required. 	<p>Section 3.5 Section 3.8</p>

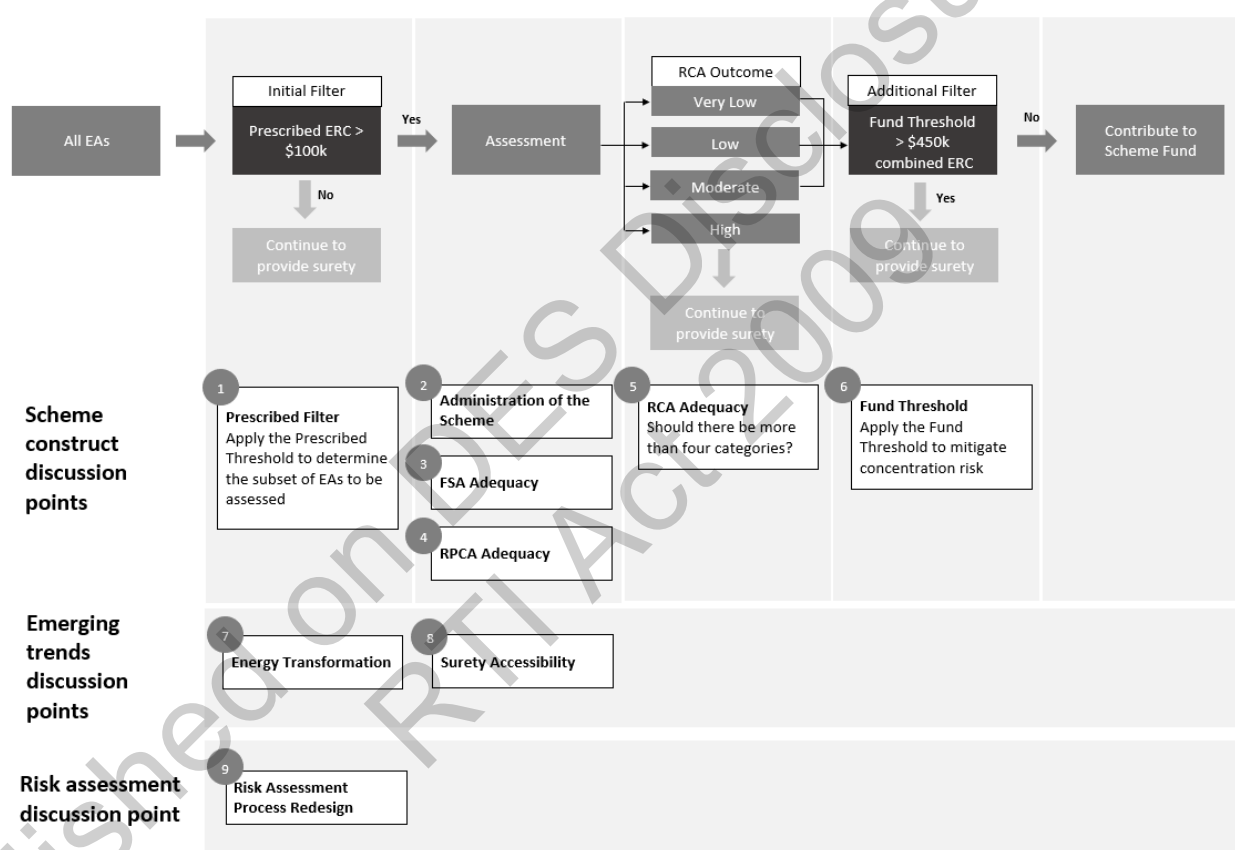
The Scheme Manager values all feedback provided and has endeavoured to address concerns and suggestions throughout this Discussion Paper, as appropriate.

3.0 Areas for feedback

There are nine areas that have been identified for potential improvement:

Items for Discussion		Overarching concept
1	Prescribed Estimated Rehabilitation Cost (ERC)	Scheme Construct
2	Scheme Administration Processes	
3	Financial Soundness Assessment (FSA) Methodology	
4	Resource Project Characteristic Assessment (RPCA) Methodology	
5	Risk Category Allocation (RCA) Optimisation	
6	Fund Threshold Level	Emerging Trends
7	Energy Transformation	
8	Surety Accessibility	
9	Risk Assessment Process Redesign	N/A

The following diagram outlines the discussion points at the different stages of the assessment process.



For each area discussion area identified, the following sections of this document include:

- Background on each discussion point,
- Preliminary findings and areas for consideration,
- Stakeholder questions.

Stakeholders are invited to answer the questions by submitting their responses via email (to [sch4p4\(6\)Pe@kpmg.com.au](mailto:sch4p4(6)Pe@kpmg.com.au)) or by requesting a meeting to discuss their feedback (via [sch4p4\(6\)Pe@kpmg.com.au](mailto:sch4p4(6)Pe@kpmg.com.au)), prior to 5pm, Friday 5 August 2022. Noting the detail discussed in the Discussion Paper, a meeting with key members of your organisation together with Scheme representatives including the external risk advice consortium may assist you to efficiently gather and discuss your feedback.

Note: Stakeholders are not required to answer all the questions and may provide comments on any additional matters related to the Scheme.

3.1 Prescribed Estimated Rehabilitation Cost (ERC)

Background

In the initial phase of redesigning the FA, the resource companies operating in Queensland were grouped into four categories:

1. Representative resource entities (companies that are an acceptable risk based on financial strength and total ERC),
2. Significant resource entities (companies that represent 5% or more of the total rehabilitation liability in Queensland,
3. High risk of default resource entities,
4. Small operators (companies that have a total ERC across all of their EAs of less than \$50k).

The small operator category (from which the Prescribed ERC was established) is generally considered to have more well-known environmental risks that can be managed or mitigated through standard conditions with a lower level of assessment required than those activities that must apply through the site-specific application process.

The Prescribed ERC was set at \$100k when the FPS was established. A threshold of \$100k was seen to balance Scheme efficiency and maximise the potential for EA holders to be risk assessed.

Following three years of operation, and a significantly deeper understanding of the risk characteristics of all EAs above \$100k ERC, several observations can be drawn as to the appropriateness of this threshold. The main observation is that small value ERC EAs are predominately held by holders with a more limited financial standing and resource quality outcome than higher value ERC EAs, with a consequently higher risk profile to the State.

As such, the majority of these holders have been assessed at a High-risk category and are therefore obliged to continue to provide full surety (as they were under the EP Act). These holders have therefore had no change in their provisioning obligation, and in considering the risk appetite of the State and the Scheme's risk assessment processes, are unlikely to be assessed at anything other than High (absent a transformational event).

There are of course EAs with a relatively low value ERC that are held by holders assessed at a Moderate, Low or Very Low category. In considering any higher ERC threshold amount, the implications for holders of those EAs potentially being subject to a change in provisioning obligation from contribution to Fund to provision of full surety will also need to be assessed and considered.

The following table provides a breakdown of current RCA outcomes by placing EAs into 4 buckets: ERC \$100k to \$1m, ERC \$100k to \$5m, ERC \$100k to \$10m and ERC more than \$10m.

	ERC >100k to \$1M				ERC \$100k to \$5M				ERC \$100k to \$10M				ERC more than \$10M				All in-force EAs			
	#	ERC			#	ERC			#	ERC			#	ERC			#	ERC		
Total	168	44%	60.8m	0%	243	63%	232.6m	2%	275	71%	447.7m	4%	110	29%	11,788.3m	96%	385	100%	12,236.0m	100%
Pool Contribution			33.8m	0%			137.6m	1%			235.7m	2%			6,031.6m	49%			6,267.3m	51%
Above \$450m Surety			1.0m	0%			1.0m	0%			8.8m	0%			4,647.9m	38%			4,656.7m	38%
High Surety	83	51%	26.0m	0%	117	72%	94.0m	1%	134	83%	203.2m	2%	28	17%	1,108.8m	9%	162	42%	1,312.0m	11%

Some observations:

- ERC for all EAs under \$10 million account for 4% of the State's total exposure to assessable EAs,
- 162 or 42% of assessable EAs have been allocated a High RCA and 134 or 83% of these also have an ERC below \$10 million,
- EAs with a High RCA account for \$1.3 billion or 11% of total assessable ERCs, and only \$203.2 million of this is from EAs with an ERC of less than \$10 million.

Given the above points, a large number of EAs who would have been required to provide surety before introduction of the FPS, have been required to maintain surety given their risk assessment outcome under the Scheme and would again be required to provide surety under a higher minimum ERC Scheme threshold.

For consideration

An increase in the Prescribed ERC is being considered to achieve optimal efficiency for the Scheme and for industry, while balancing the opportunity to contribute to Fund, the reality of likely outcomes and efficient administrative costs for EA Holders.

Initial thoughts are to increase the threshold, however feedback from consultation and further investigations (including actuarial modelling of Fund sufficiency) is required before establishing a new threshold.

Increasing the Prescribed ERC would significantly reduce the number of EAs being assessed and the corresponding administrative tasks, meaning less time spent by both FPS and industry collating required materials. Time savings could be used to better assess EAs with greater/ more complex ERC risk exposure. It would also ensure those EAs that are of High risk and fall below the revised threshold do not need to continue to provide annual information requirements to the Scheme for the purposes of assessment.

One effect of increasing the Prescribed ERC would be that some EAs would no longer meet the requirement to be assessable (as they would fall under the new Prescribed ERC) and would therefore have to revert back to providing surety to cover their ERC. The accessibility of surety instruments will be separately considered within this review and any decision in respect to the minimum Scheme Threshold would take account of any such findings and recommendations. It is noted that there will be cost differentials for most holders between providing surety or contribution to Fund. Anecdotal evidence and Scheme analysis suggests that for the majority of holders, such a change would be positive.

Consultation questions



- 1 What would your considerations be if the current prescribed ERC level was increased?
- 2 What is your view on the Prescribed ERC increasing to a level over \$1 million, perhaps as high as \$10 million?
- 3 Would the cost impact on your organisation be favourable or unfavourable if you were obliged to revert to the provision of full surety?

3.2 Scheme Administration Process

Background

Under the current Scheme construct, an Initial Assessment is conducted for each assessable EA to derive the initial RCA. Following the Initial Assessment, each EA must complete Annual Assessments to review their RCA. Given the initial transition of all EAs was completed in March 2022, only minimal Initial Assessments are expected going forward (for new EAs).

To undertake an assessment (Initial or Annual), the Scheme issues an information request to the EA Holder requesting:

- a) completion of a questionnaire,
- b) updated external credit rating (if available) or 3 years of audited financials,
- c) corporate structure and company profile, and
- d) if the asset is in production: reserves data (usually supported by a JORC report if applicable), historical and forecast production rates, total area disturbed, self-reported rehabilitation completed to date, plan of operations, etc.

For Annual Reviews, similar (but simplified) information is requested to ensure risk assessments continue to be as accurate and informed as possible, and to ensure that the State's management of its risk position is as contemporaneous as is possible.

The Scheme Manager has asked the Risk Advisor to review the assessment process including each component and the relevant information required to assess these components. In particular, the impact each component has had on the RCA is being reviewed to determine the extent to which it has contributed to the robustness of the analysis and the determination of risk. Whilst each component will be discussed separately and in detail in later discussion points, this discussion point will focus on the information requested in general.

Approximately 900 assessments have been completed since the commencement of the Scheme. The number of assessments is considered high volume and has been incremental, with the second year of Scheme operation including Annual Assessments in addition to the Initial Assessments, and the third year of Scheme operations including all assessable EAs. As a result, approximately 380 assessments were conducted in the last year alone. Efficiency in the way the Scheme is operated is therefore key to avoid creating delays and additional work for all involved, and to minimise the cost burden on the Scheme or industry.

For consideration

From the Scheme Manager's perspective, two issues have been identified that have impacted the efficiency of the Scheme:

- There have been occasions where the information relied upon has not been provided, or was unfit for purpose, both for the FSA and/or the RPCA. This has had an impact on the assessment efficiency (where clarification and/or additional information has been required) and requires significant follow up work for both Scheme and industry.

Examples include: financial accounts which are more than nine months old, financial accounts which are not audited and are unsigned, reserves information that pertain to the whole group of companies instead of an individual EA, reported reserves that are not 2P reserves (e.g. resources as opposed to reserves), production rates that are not representative of ore mined (i.e. run of mine), reserves and or production forecasts in units which are incorrect.

- Incorrect, incomplete or delayed information provision can impact the Scheme Manager's assessment of risk and may bias outcomes towards a more conservative assessment and consequent higher costs for the EA holders.

Changes to the way the FPS conducts its assessments are being explored and will have an impact on the information required. For example, the FPS is considering reducing the information required for those

assessments which are simple, while increasing the information required for those assessments which are more complex. The aim is to reduce burden to industry whilst improving the quality of information received and therefore the consequent robustness of the risk assessment outcome.

Consultation questions



- 4 On a scale of 1 – 5 (1 = easy, 5 = difficult), how would you rank your experiences with providing the requested information? Is there other information that is more readily available that could be assessed instead? Is there certain information that is a burden to provide?
- 5 What is the approximate time/cost currently incurred to provide the information requested?
- 6 Is there a better way to streamline the information request process, including frequency of reviews?
- 7 Is there anything that the FPS could change in their process to ensure the information being provided is fit for purpose (noting the examples noted above)?
- 8 Is there information that does not change year on year and could therefore be provided every second year or third year?

3.3 Financial Soundness Assessment (FSA) Methodology

Background

Per the Scheme Manager Information Sheet 1, in forming an opinion of the financial risk to the State, the Scheme Manager must consider the financial soundness of the holder (or one of the holders in the case of multiple EA Holders). The Scheme Manager will select the entity which is to be assessed (see Section 1.1) for financial soundness (the Assessed Entity).

Under the current process, where the Assessed Entity has a long-term public credit rating (or a private credit rating no more than 12 months old) from a credit rating agency approved by the State, the Scheme Manager assesses the financial soundness of this entity based on this rating (using the weakest one if multiple ratings are available).

Where the Assessed Entity does not have an acceptable external credit rating, the Scheme Manager assesses the financial soundness of the Assessed Entity by undertaking an FSA which has regard to three years of audited financial statements in addition to other factors such as global / sectoral size relativity, relevant industry sector information and the country of domicile. A wide range of measures and metrics are examined for each Assessed Entity, both stand alone and relative to sectoral comparisons. The FSA is intended to deliver a view on the probability of default of the organisation to inform the risk presented to the State.

Where the requested information has been provided consistent with requirements, the FSA is considered to have produced accurate and reliable outcomes and have underpinned all risk outcomes to date. However, some key issues have been identified as follows:

- The key difference between an external credit rating and an FSA is that the FSA only considers audited financials, and therefore limits the assessment to historical information (point in time assessment). In addition, when undertaking an FSA, the analyst does not have access to management to ask questions and understand all relevant matters.
- There have been occasions where the information relied upon was unfit for purpose (such as financial accounts which are more than nine months old, and/or financial accounts which are unaudited and unsigned). This pertains to the quality of information provided by the holder and where an outcome might have been different if better quality information had been obtained.
- The extreme current volatility in commodity prices highlights the risks posed by changing trends to assessments that are point in time. If an assessment is conducted after a reporting period of unusually strong or weak commodity prices, that assessment may be correspondingly stronger or weaker than if forecasts are considered. This stronger or weaker FSA may be less indicative of the company's ability to fund site rehabilitation costs over time, which is arguably better for matching long-term viability with long term rehabilitation liabilities.
- The prospect for recovery of the ERC where the holder fails or enters financial difficulty reduces in line with the depletion of resource towards the end of the asset's economic life. This is in particular relevant for single mine operations.

For consideration

As a result of the issues outlined above, improvements to the way the FSA is conducted are being considered such as:

- Understanding what is driving the poor quality of information (where applicable) and to look for ways to solve the issue by assisting industry in providing the right information that will deliver the correct RCA.
- Undertaking a comprehensive assessment on selected entities, including forward looking elements such as forecasts and access to management for questioning. This type of assessment would only be considered in certain circumstances such as the size of the ERC, borderline RCA assessment outcome, and/or where there is a significant, specific, risk exposure.

It is noted that some of these improvements to the way we determine the financial soundness of a holder might also be applied to holders who provide an external credit rating. For example, access to management for questioning with the aim to gain insights that complement the credit rating and that are relevant in terms of assessing the risk to the State.

Whilst the changes would require (in some circumstances) additional information to be provided by industry, these changes would enable the Scheme to undertake an assessment that is more informed, and therefore deliver a risk category that is more reflective of actual risk.

Consultation questions



- 9 Would you consider providing additional information to allow for a comprehensive risk assessment to inform a more appropriate allocation of risk to be derived? If not, why?
- 10 What is your view of the Scheme, in certain instances, seeking to undertake a more comprehensive risk assessment so that a more appropriate allocation of risk can be determined? Examples of additional information could include forecasts, insights on portfolio of assets, relevant strategic financial insights, expected capital allocations to develop resource projects and/or increase reserves, etc.
- 11 Would you be willing to provide forecasts and access to management for further questions should a comprehensive assessment be required, e.g., for larger and more complex sites?
- 12 Why are financials sometimes not available to be provided to the FPS when these would have had to be provided to ASIC for reporting purposes?
- 13 Is there anything that the FPS could change in their process to improve the quality of information being provided or to make it easier for respondents?

3.4 Resource Project Characteristics Assessment (RPCA) Methodology

Background

In forming an opinion of the risk to the State, the Scheme Manager has a discretion to consider the resource and operational characteristics of the underlying asset to which the authority relates (see Scheme Manager Information Sheet 1). The Scheme Manager will not ordinarily consider any resource project characteristics for a project that is not in production and will instead take a risk averse approach and form an opinion primarily based on the financial soundness of the holder.

For projects which are in production, the Scheme Manager *may* consider (but is not obliged to) assessing resource project characteristics that impact the likelihood of the resource project being sold in the event of insolvency of the EA Holder.

The current RPCA assessment includes the following weighted resource characteristics:

- Project Strength 80% - based on the Remaining Economic Life (REL) of the resources project. The REL is calculated based on proven and probable reserves and average annual rate of production (historical and forecast). A bonus mechanism is also in place for eligible offtake agreement/s that meet the required criteria.
- Progressive Rehabilitation 15% - rehabilitation certification status and amount of progressive rehabilitation undertaken is assessed. It also provides visibility of rehabilitation which is a matter of importance to the Scheme (given improved environmental outcomes is a key objective of the Scheme).
- Compliance 5% - included on the basis that a significant compliance issue can be material to the sale of the asset if it is a risk or liability to the new owner (e.g., issues relating to approvals and prosecutions, repeated environmental license breaches or unresolved safety or liability issues).

The RPCA was designed to be an efficient and cost-effective assessment process. To date, approximately 29% of assessments have required a full RPCA assessment to be complete. The number is relatively small because of the high number of EAs in exploration, care and maintenance, pipelines or other 'non-producing' infrastructure. That said, that 29% of assessments accounts for approximately 85% of the State's total ERC exposure.

Of the EAs where an RPCA has been conducted, approximately 50% have seen an impact on the RCA outcome (meaning the allocation of the risk category is different to that which would have applied if the EA was assessed on a financial soundness basis only). In the majority, the outcome has been to reduce the allocated risk category. This has allowed more EAs to contribute to the Scheme (by achieving an RCA outcome other than High) and some EAs to contribute less (by achieving a better RCA outcome). For those which were adversely impacted, the RPCA was proven to be a useful tool, particularly in uncertain or borderline cases, to identify sites which pose a higher risk to the State (in terms of saleability should the EA Holder default).

For consideration

Whilst the current RPCA design has proven to be successful, some key areas of improvement have been identified as follows:

- Rehabilitation certification does not fully reflect the extent of rehabilitation being progressively undertaken, and nor does it adequately reflect the impact rehabilitation obligation has on saleability,
- Compliance has negligible impact on RPCA assessment outcomes yet is labour intensive to assess,
- Bonus mechanism for offtake agreement has had little impact on the Scheme as almost all EAs have not been eligible as the requirements are extremely strict,
- Consideration of other site saleability factors,
- Improving the quality and reliability of information used.

As a result, some key areas of improvement have been identified and are being explored including:

- A comprehensive analysis for RPCA assessments that have outcomes that are borderline between risk categories or large ERC,
- Assessment of relative size of ERC to improve assessment of Rehabilitation impact on saleability,
- Removal of Compliance from RPCA, other than consideration of significant compliance matters that would be material for resale,
- Removal of the Offtake Agreement consideration, or at least a significant review of the applicable criteria.

A comprehensive RPCA analysis would provide additional insights to better inform the risk of no site sale in the event of holder failure. This in turn would allow for a better determination of the risk presented to the State.

Consultation questions



- 14 Would you be willing to provide product quality, infrastructure and market competitiveness information should a comprehensive assessment be required? (Noting that the Scheme Manager is aware of the sensitive nature of this information and reinforces that any information provided would continue to be treated confidentially by the FPS and the Risk Advisor).
- 15 What is your view of reducing or eliminating consideration of rehabilitation, and compliance as inputs into the RPCA assessment?
- 16 Are there any alternative aspects of a sites saleability that should be considered in the RPCA assessment that can be robustly and consistency assessed?
- 17 Is there anything that the FPS could change in their process to improve the quality of information being provided or to make it easier for respondents?

3.5 Risk Category Allocation (RCA) Optimisation

Background

When the Scheme was designed, four RCAs were introduced (Very Low, Low, Moderate, High) to segment the portfolio of EAs. This was required given the resources sector is not standardised in terms of the size of operators, type of resource, level of risk or financial strength, so providing one level of contribution to the Scheme Fund would not have covered the risk appropriately. A key consideration in the establishment of four risk categories was that the Scheme be relatively simple and efficient. Having additional risk categories was seen as introducing complexity and inefficiency. With the benefit of actual data now available, it is appropriate to review if this determination has struck the right trade off or if there are compelling advantages in a different number of categories.

In reviewing the risk category allocation outcomes, it is evident that there is a strata of inter-category EA risk profiles. This is most evident in the Moderate category. Some Moderate outcomes present closer to the Low-risk category while others are demonstrably closer to a High-risk outcome. This is complicated by the large increase in contribution rate at the lower end (i.e., from 1.0% to 2.75%) and the exponential jump to full surety at the higher end. While introducing additional categories potentially increases the number of 'borderline' decisions (i.e., decisions that could go into either a lower or higher risk category) it might deliver greater consistency within each category and a more equitable pricing of risks across the different risk profiles. It may also allow for an easier transition in terms of affordability for holders if they face a deteriorating risk profile over time. The introduction of a transitional approach is also being considered which could allow a holder to do a proportionate split between contribution and surety for a short period of time, to help ease the transition from Moderate to High. For example, in the first year the holder could be allowed to provide 50% of their ERC value in surety, and a contribution to pool for the remainder 50% of ERC. The provision of surety could then be increased over a period of say three years until full surety is held to cover the ERC. The proportion of surety versus contribution and length of arrangement would be dependent on the risk assessment outcome. This is currently not allowed under the Act and would require legislation change.

For consideration

The FPS, Risk Advisor and EY (as the engaged actuarial expert) are working to understand if additional categories might yield a more efficient Scheme and enable it to better achieve its objectives. New contribution rates would be required for the new categories, noting that should such change be proposed, it would be subject to legislative change and would require additional time for implementation.

Consultation questions



- 18 Should any additional categories of risk allocation be introduced?
- 19 What is your view of the current three categories for contribution?
- 20 Do you have a view of where new risk categories might be required?
- 21 What are your views on the inclusion of a transitional provisioning category between Moderate and High?

3.6 Fund Threshold Level

Background

The \$450 million cumulative ERC Threshold (**Fund Threshold**) for any single Assessed Entity was established as an additional filter in the Scheme risk category allocation process to limit the State's exposure to any one Assessed Entity. That is, beyond \$450 million, the EA (in full or partially) is unable to contribute to the Scheme Fund and must provide a surety to cover 100% of the portion that cumulatively lands over and above \$450 million (regardless of whether a particular EA has been allocated a risk category other than High).

When the Scheme was established, the Fund Threshold represented approximately 5% of the aggregate ERC in Queensland (which stood at \$8.4 billion). This amount has since increased to \$12.2 billion. If the Fund Threshold was to be re-calculated at 5% of the current total liability, it would increase from the current \$450 million to circa \$600 million. It should also be noted that evidence to date suggests that the aggregate ERC will continue to increase, which may suggest a requirement to further increase this cap over time while retaining a 5% of aggregate ERC single entity exposure limit.

Currently, the Fund Threshold is uniform across all RCAs and therefore fails to distinguish between the risk of exposure to companies with different risk profiles. That is, a \$450 million aggregate exposure to an EA allocated a Very Low risk category is not the same as a \$450 million exposure to an EA allocated a Moderate risk category. As a result, different thresholds could be explored for the different RCAs and/or the different risk profiles to be better aligned with the different risk levels.

For consideration

The FPS is considering changing the Fund Threshold by either increasing the current level, applying different levels depending on risk, or a mix of both. Initial thoughts are to increase the threshold and / or to introduce a system of thresholds by credit rating / FSA assessment across all RCAs and risk profiles. However further investigation is required before establishing a new threshold.

Increasing the Fund Threshold would not change the number of EAs assessed, but it would impact those EAs which have an RCA other than High, but that do not contribute to the Scheme given their aggregate ERC is over and above the Fund Threshold. This would allow more EAs to contribute to the Scheme thus growing the Fund quicker. It would also reduce the need for surety requirement for those impacted which may have advantage given the increasing difficulty in accessing surety instruments.

On the other hand, should the FPS decide to apply different thresholds to different risk levels, some EAs which currently contribute to the Scheme Fund, might need to provide partial surety for amount of ERC above any new proposed threshold. It is also recognised that there may be a negative cost impact on some entities where costs of surety are lower than cost of contribution.

Consultation questions



- 22 If there was variation to the current Fund Threshold, what should that include?
- 23 What is your view on the Fund Threshold increasing above \$450 million?
- 24 What is your view of the Fund Threshold level being different for each RCA or risk profile (to be determined using either a CRA or FSA)?
- 25 What is your view on the frequency with which the Fund Threshold should be reset?

3.7 Energy Transformation / Decarbonisation

Background

The Paris Agreement¹, which Australia is party to, aims to limit global warming by 1.5°C which equates to achieving roughly net zero CO₂ emissions by 2050. A range of global decarbonisation scenarios have been explored by the International Energy Agency (IEA) including conservative scenarios that project a 20-25% reduction in fossil fuel use by 2050. However, there has been significant increase in global commitments to achieve net zero in the last 12 months, and as a result, it is likely that more aggressive scenarios will play out. The most aggressive IEA scenario is the NZE2050 scenario which outlines a “narrow but achievable” pathway to achieving net zero emissions by 2050. This scenario projects global thermal coal reduction of roughly 50% by 2030, oil reduction of 50% by 2037, coking coal reduction of 50% by 2040 and gas reduction of 50% by 2050.

Decarbonisation is also being driven by the strong uptake of other technologies such as wind and solar PV power generation which have become cheaper in recent times and are now competing directly with energy from fossil fuel combustion.

Energy transformation and decarbonisation trends are expected to impact the demand for all fossil fuels: thermal and coking coal as well as oil and gas. The extent of this change, the timeframe over which it will occur, and the potential impact on the FPS is very dynamic and thus difficult to predict.

By ERC value, EAs associated with fossil fuels make up 85% of the FPS. Any change in global policy positions in respect to fossil fuel commodities will therefore present considerations for the Scheme, the manner in which it operates and how it assesses risk. Currently there is no differentiation of fossil fuel commodities in the way the Scheme attributes risk category allocations.

Energy transformation policy outcomes and market forces could result in fossil fuel related environmental authorities having reduced market appetite for their product, and therefore reduced economic lives. This may also impact their financial viability in the medium to long term, although we note there are likely to be winners and losers from the likely range of global decarbonisation scenarios.

For consideration

An increase in both the probability of default and the probability of no site sale given default as a consequence of energy transformation and decarbonisation pressures could result in an increase in claims on the Scheme Fund, thus impacting viability. Understanding the potential impact energy transformation may have on the EAs which have been transitioned (and those to be transitioned) is therefore key to ensure Scheme Fund viability.

Another threat to the Scheme arising from these global pressures is the shift of assets from more financially sound entities to less so which could impact the likely future claims experience of the Fund and its sustainability.

To protect the State's interests, should any of the above considerations present themselves, it seems appropriate to explore these potential impacts and to better capture the emergent risks to manage the State's position appropriately.

Consultation questions



- 26 From your perspective, does energy transformation present a risk to the operation of the Scheme?
- 27 In terms of the probability of default and the probability of no site sale given default, how could the FPS better capture the impact energy transformation might have on the EA Holder's financial strength and the economic life of the resource?

¹ The Paris Agreement is a legally binding international treaty on climate change. It was adopted by 196 parties at 21st Conference of the Parties in Paris, on 12 December 2015 and entered into force on 4 November 2016.

- 28 What is your view on consideration of energy transformation and other saleability factors into the RPCA assessment?
- 29 What do you see as the risks of energy transformation and investor decarbonisation on the likely profile of risk into the future – that is, do you see the financial soundness of the State’s counterparties, on aggregate, strengthening or weakening in response to these trends?

3.8 Surety Accessibility

Background

EA Holders deemed to be 'High risk' or those above the Fund Threshold must provide the Scheme with surety to cover the ERC of their EA.

The surety instrument is intended to limit the transfer of risk to the State's balance sheet by minimising the State's potential rehabilitation expenditure. As such, the surety instrument held would be called upon if the operator enters default, is unable to meet their environmental obligations and the EA is unable to be sold to a different operator.

Surety is currently provided in three forms, including (i) bank guarantees, (ii) insurance bonds and (iii) cash surety (cash provided to State). Surety providers are required to meet certain State Government requirements, including an A- minimum (or equivalent) credit rating from an approved credit rating agency and a domestic operating licence (i.e., being an APRA authorised deposit-taking institution or APRA authorised insurer).

It is our understanding that surety accessibility is increasingly becoming more difficult given ESG considerations and the increase in scrutiny surrounding fossil fuels resources. Pressure from institutional investors and climate activists, along with scrutiny and revised capital requirements from regulators, has prompted Australian financial institutions to reconsider their climate-related lending policies. This has resulted in an increasing number of banks and insurers implementing fossil fuel policies, whereby their institution may not lend to or insure new fossil fuel projects or that they will stop doing business with specific resource types (e.g. Macquarie is committed to zero thermal coal exposure by 2024).

As a result, EA Holders that operate fossil fuel ventures (i.e., thermal or metallurgical coal mining, oil and gas production) may be finding it increasingly challenging to access forms of approved surety. Anecdotal evidence presented to the Scheme Manager indicates that even metalliferous and industrial commodities are facing increased accessibility difficulties simply because of the 'mining' association.

By design, the Scheme is reliant on readily accessible surety instruments of acceptable quality (i.e., APRA regulated A- or better providers). This brings the Scheme in line with the State's financial and prudential management standards in respect to risk appetites for such arrangements.

For consideration

Any limitation on accessibility presents a significant concern for the operation of the Scheme over the long term. For this reason, the Scheme Manager has commissioned research by Queensland Treasury Corporation to investigate alternative forms of protecting the State's interests while providing an efficient and readily accessible form of industry solution.

Consultation questions



- 30 What has been your recent experience with accessing surety or other forms of bank guarantees/insurance bonds (if applicable)? And what is your view of being able to continue accessing these types of instruments in the future if required?
- 31 Are you aware of any alternative instruments that could be accessible to the resources industry to be used instead of current forms of surety?
- 32 If assessed and found to be High, what is your view on paying a contribution to a fund/pool like alternative (possibly at a substantially higher rate) instead of providing surety?
- 33 If you have a site in one of the identified early energy transformation resource types (e.g. thermal coal) would you prefer to seek and provide a bank guarantee now (at

your timing) if you had the option to provide surety instead of contributing to the scheme fund?

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3.9 Risk Assessment Process Redesign

Background

The preceding items in this document examine the current framework for undertaking risk assessments. Each discussion point has examined a specific component of the assessment process and has identified issues, potential areas for improvement and sought stakeholder feedback.

The purpose of the consultation process is to genuinely elicit stakeholder feedback to inform the Scheme Manager's considerations prior to any final determination. The very nature of the process however is that many of the elements of the current approach are interactive. Any change to a specific element is difficult to quantify without an understanding of what the whole framework might look like.

The current approach was designed to be simple and cost efficient in order to cater for a large number of assessments as each EA is considered individually. It is possible, that when looking at all possible design options, that the preferable outcome that emerges shifts the risk assessment process from a relatively simple, high volume approach to a lower volume, more comprehensive approach.

Increasing the Scheme threshold to say \$10 million would significantly reduce the number of EAs required to be assessed. This would create the capacity to undertake a more comprehensive assessment – not for the sake of simply being more comprehensive, but to ensure that the Scheme can best evaluate the risks presented by the EAs that dominate the State's risk profile. It may also enable the Scheme Manager to adopt a less conservative position on complex or borderline risk allocation decisions. This may, in some instances, see a risk category outcome different than otherwise might be determined.

For consideration

If there is an argument to mature the approach of the Scheme's risk assessment process arising from this review, it is recognised that this would be a more significant change than would be the case if only a few design elements were to be altered.

A comprehensive assessment would allow a better understanding of each Assessed Entity, its portfolio of assets, and a true understanding of the risk to the State. In particular, it would seek to better understand its priority and intent on rehabilitation to improve and protect outcomes for the State around not accepting an ever-increasing ERC risk. This could potentially allow the Scheme to reward those entities who are being good corporate citizens.

A comprehensive assessment could include:

- a) meetings with management,
- b) assessment of portfolios of EAs and their combined risk to the State,
- c) better understanding of the EA holders and their stakeholders' priorities for the portfolio of EAs,
- d) potentially site visits to larger ERC risk sites,
- e) consideration of future development plans and how these might be funded,
- f) additional insights into site saleability considerations of a site.

It is recognised that moving to this approach may require a redesign of how industry is consulted, such as timing of when assessments are conducted and timing of when industry is engaged. For instance, benefits could include that industry could be approached only once per year to cover both financial soundness and the resource characteristics for all EAs in their portfolio.

Such a significant redesign of the current risk assessment approach would only be pursued if:

- a) it has merit to industry and the State,
- b) it improves the determination of risk assessments for the Scheme thus providing more certainty around Scheme Fund viability whilst ensuring fairness on the apportionment of risk across industry, and
- c) it delivers cost and value for money outcomes for the State/Scheme.

Consultation questions



- 34 What is your view on such an approach? Are there any merits or concerns you wish to raise?
- 35 Do you believe the effort would be worth the benefits of a more informed risk category assessment?
- 36 How do you feel about providing some of the information noted above (consistent with the Scheme's confidentiality obligations) to allow for a more comprehensive risk category assessment?

4.0 Have your say

Stakeholder feedback on this Discussion Paper will inform the development of a preferred Discussion Paper. The preferred Discussion Paper will outline proposed changes to the Scheme and will be submitted to Cabinet for their review and endorsement.

4.1 Summary of consultation questions

Prescribed Estimated Rehabilitation Cost (ERC) Threshold Amount

1. What would your considerations be if the current prescribed ERC level was increased?
2. What is your view on the Prescribed ERC increasing to a level over \$1 million, perhaps as high as \$10 million?
3. Would the cost impact on your organisation be favourable or unfavourable if you were obliged to revert to the provision of full surety?

Scheme Administration Processes

4. On a scale of 1 – 5 (1 = easy, 5 = difficult), how would you rank your experiences with providing the requested information? Is there other information that is more readily available that could be assessed instead? Is there certain information that is a burden to provide?
5. What is the approximate time/cost currently incurred to provide the information requested?
6. Is there a better way to streamline the information request process, including frequency of reviews?
7. Is there anything that the FPS could change in their process to ensure the information being provided is fit for purpose? (noting the examples noted above)?
8. Is there information that does not change year on year and could therefore be provided every second year or third year?

Financial Soundness Assessment (FSA) Methodology

9. Would you consider providing additional information to allow for a comprehensive risk assessment to inform a more appropriate allocation of risk to be derived? If not, why?
10. What is your view of the Scheme, in certain instances, seeking to undertake a more comprehensive risk assessment so that a more appropriate allocation of risk can be determined? Examples of additional information could include forecasts, insights on portfolio of assets, relevant strategic financial insights, expected capital allocations to develop resource projects and/or increase reserves, etc.
11. Would you be willing to provide forecasts and access to management for further questions should a comprehensive assessment be required, e.g., for larger and more complex sites?
12. Why are financials sometimes not available to be provided to the FPS when these would have had to be provided to ASIC for reporting purposes?
13. Is there anything that the FPS could change in their process to improve the quality of information being provided or to make it easier for respondents?

Resource Project Characteristic Assessment (RPCA) Methodology

14. Would you be willing to provide product quality, infrastructure and market competitiveness information should a comprehensive assessment be required? (Noting that the Scheme Manager is aware of the sensitive nature of this information and reinforces that any information provided would continue to be treated confidentially by the FPS and the Risk Advisor)
15. What is your view of reducing or eliminating consideration of rehabilitation, and compliance as inputs into the RPCA assessment?
16. Are there any alternative aspects of a sites saleability that should be considered in the RPCA assessment that can be robustly and consistency assessed?
17. Is there anything that the FPS could change in their process to improve the quality of information being provided or to make it easier for respondents?

Risk Category Allocation (RCA) Optimisation

18. Should any additional categories of risk allocation be introduced?
19. What is your view of the current three categories for contribution?
20. Do you have a view of where new risk categories might be required?
21. What are your views on the inclusion of a transitional provisioning category between Moderate and High?

Fund Threshold Level

22. If there was variation to the current Fund Threshold, what should that include?
23. What is your view on the Fund Threshold increasing above \$450 million?
24. What is your view of the Fund Threshold level being different for each RCA or risk profile (to be determined using either a CRA or FSA)?
25. What is your view on the frequency with which the Fund Threshold should be reset?

Emerging Trends: Energy Transformation

26. From your perspective, does energy transformation present a risk to the operation of the Scheme?
27. In terms of the probability of default and the probability of no site sale given default, how could the FPS better capture the impact Energy Transformation might have on the EA Holder's financial strength and the economic life of the resource?
28. What is your view on consideration of Energy Transformation and other saleability factors into the RPCA assessment?
29. What do you see as the risks of energy transformation and investor decarbonisation on the likely profile of risk into the future – that is, do you see the financial soundness of the State's counterparties, on aggregate, strengthening or weakening in response to these trends?

Emerging Trends: Surety Accessibility

30. What has been your recent experience with accessing surety or other forms of bank guarantees/insurance bonds (if applicable)? And what is your view of being able to continue accessing these types of instruments in the future if required?
31. Are you aware of any alternative instruments that could be accessible to the resources industry to be used instead of current forms of surety?
32. If assessed and found to be High, what is your view on paying a contribution to a fund/pool like alternative (possibly at a substantially higher rate) instead of providing surety?
33. If you have a site in one of the identified early energy transformation resource types (e.g. thermal coal) would you prefer to seek and provide a bank guarantee now (at your timing) if you had the option to provide surety instead of contributing to the scheme fund?

Scheme Redesign

34. What is your view on such an approach? Are there any merits or concerns you wish to raise?
35. Do you believe the effort would be worth the benefits of a more informed risk category assessment?
36. How do you feel about providing some of the information noted above (consistent with the Scheme's confidentiality obligations) to allow for a more comprehensive risk category assessment?

4.2 Contact us

The Scheme Manager welcomes input from stakeholders, industry, and other interested parties to help improve the Scheme and consider the changes presented in this Discussion Paper.

Stakeholders are invited to submit their responses via email (to [sch4p4\(6\)@kpmg.com.au](mailto:sch4p4(6)@kpmg.com.au)) or by requesting a meeting to discuss their feedback (via [sch4p4\(6\)@kpmg.com.au](mailto:sch4p4(6)@kpmg.com.au)), prior to **5pm, Friday 5 August 2022**. Noting the detail discussed in the Discussion Paper, a meeting with key members of your organisation together with Scheme representatives including the external risk advice consortium may assist you to efficiently gather and discuss your feedback.

Glossary

Acronym	Term
The Act	Mineral and Energy Resources (Financial Provisioning) Act 2018
APRA	Australian Prudential Regulation Authority
Assessed Entity	The entity which is to be assessed for financial soundness
EAs	Environmental Authorities
EA holders	Holders of a resource activity environmental authority
EP Act	Environmental Protection Act 1994
FA	Financial Assurance Framework
FPS or 'the Scheme'	Financial Provisioning Scheme
FSA	Financial Soundness Assessment
Fund Threshold	A \$450 million cumulative ERC threshold
IEA	International Energy Agency
Prescribed ERC	Prescribed Estimated Rehabilitation Cost
Treasury	Queensland Treasury
RPCA	Resource Project Characteristics Assessment
RCA	Risk Category Allocation
SSMT	Small-scale mining tenure
The State	State of Queensland

Appendix 1

Post Transition Review

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Stakeholder feedback – Phase 1

Financial Provisioning Scheme

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July 2022

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Feedback themes	4

This document provides a summary of consultation findings during the course of work undertaken for the Financial Provisioning Scheme.

Phase 1 consultation

Phase 1 consultation ran for three weeks across June and July 2022. The Scheme Manager invited stakeholders to share feedback on which areas of the Scheme they believe need amendment and why.

In this first round of consultation, 20 responses were received.

The following themes emerged from the responses:

	Theme	Number of comments
1	Scheme objectives Sub themes: <ul style="list-style-type: none"> • Perception that financial burden to industry has not reduced under the Scheme, • Perception that the Scheme is tailored to benefit only 'large mining' companies, • Perception that the Scheme does not reward good environment behaviour. 	20
2	Administrative and financial burden of annual risk reviews <ul style="list-style-type: none"> • Perception that annual assessments create unnecessary cost and time invested by the Scheme and companies, • Requests for annual assessments to be streamlined, including what and when information is provided. 	14
3	Perception that the risk assessment and allocation processes lack transparency, and that: <ul style="list-style-type: none"> • Risk Category Allocations (RCAs) should be revised, • Financial Soundness Assessment (FSA) and Resource Project Characteristics Assessment (RPCA) methodologies should be revised to add flexibility to the risk assessment, • The Assessed Entity selection process should be revised. 	14
4	Increasing difficulty securing approved forms of non-cash surety	5

These themes, as well as how the feedback has been incorporated within the Phase 2 Discussion Paper (as relevant), are explained in detail on the following slides.

Scheme objectives

Feedback summary

Almost all respondents commented on the Scheme objectives, with the overwhelming sentiment and perception that:

- financial burden to industry has not reduced under the Scheme,
- the Scheme is tailored to benefit only 'large mining' companies,
- the Scheme does not reward good environment behaviour.

Suggestions raised

1 To reduce the financial burden to industry, respondents suggested rates are levied quarterly or allowed to be paid off over 12 months (instead of all at once). Additionally, many respondents noted that reducing the levy amount (specifically in the moderate risk category) would create a 'more level playing field' for different companies.

2 Respondents feel that good environmental outcomes should be rewarded, via discounts or money back from the Scheme. One respondent noted "placing a greater emphasis on environmental or rehabilitation performance would promote better environmental outcomes". It was noted that this took place under the previous FA framework and respondents requested it is reintroduced.

3 Respondents noted that the cost of current annual fees are unreasonable for many companies, and suggested "the Department visit sites and work with miners on the ground to implement solutions that reduce costs."



"Paying 140% of rehabilitation costs doesn't make sense; companies should be rewarded for achieving good environmental outcomes."



"Our costs have increased by over 400% under the Scheme".

How this feedback has been addressed in the Discussion Paper

A number of the concerns raised in respect to the Scheme objectives will be addressed by the Scheme Manager in consultation forum and via direct engagement with respondents where appropriate.

Within the Discussion Paper, the Scheme are considering suggestions to:

- Increase the prescribed ERC to optimise efficiency,
- Revise the FSA and RPCA methodologies, and/or potentially redesign the risk assessment methodology redesign to address concerns raised and other learnings identified to date,
- Increase the Fund Threshold level, or have varying Fund Threshold levels for each RCA.

As part of Phase 2 consultation, stakeholders are invited to share their feedback on the above suggestions as noted in the Discussion Paper.

Discussion Paper reference

Section 3.1
Section 3.3
Section 3.4
Section 3.5
Section 3.6
Section 3.9

Administrative and financial burden of annual risk reviews

Feedback summary

The majority of respondents noted the annual assessments create unnecessary cost and time invested by the Scheme and companies.

Suggestions have been made to gain efficiencies for both the Scheme and for stakeholders.

Suggestions raised

- 1 Introduce self-assessment where there has been little to no change to financial standing, to decrease time and expense of applications.
- 2 Allow assessments to last multiple years (at least three years) for low-risk EAs.
- 3 Create an online portal (or leverage DES and DoR portal), for lodgement of applications and documents.
- 4 Simplify RFI forms by copying over previous years where information remains the same and/ or add tick boxes to speed up form completion.

“We were surprised that the assessment fee increased from \$1,250 to \$5,000.”

“The annual risk review process is repetitive and should be streamlined. Rather than an annual review, a risk rating should be issued for a set period (e.g., three years).”

How this feedback has been addressed in the Discussion Paper

Within the Discussion Paper, the Scheme are considering suggestions to:

- Streamline the information request process, including frequency of reviews,
- Improve the quality of information requested and therefore received, to support robust risk assessment outcomes,
- Reduce information required for simple assessments, and increase information required for more complex assessments,
- Potentially redesign the risk assessment methodology including how industry is consulted and the associated timing.

As part of Phase 2 consultation, stakeholders are invited to share their feedback on the above suggestions as noted in the Discussion Paper.

Discussion Paper reference

Section 3.2

Section 3.9

Perception that risk assessment and allocation processes lack transparency

Feedback summary

Respondents noted that while the Scheme Manager is supportive and helpful, they feel the risk assessment and allocation processes lack transparency, and that:

- RCAs should be revised,
- FSA and RPCA methodologies should be revised to add flexibility to the risk assessment,
- The Assessed Entity selection process should be revised.

Suggestions raised

- 1 Provide greater detail about RCAs, FSAs, RPCAs, and how decisions are made for each criteria (e.g. provide a decision matrix).
- 2 Both Risk Categories and Risk Scores should be made available to companies, to inform their business planning.
- 3 More flexibility for risk rating assessments, with better balancing between the financial and asset weighting metrics. In addition, more transparency around the financial standing assessment – “Does the Scheme look at the underlying commodity and take a position which is based on external information about price, supply and demand?”
- 4 Change the risk rating bands to add new categories, for example:

Very Low:	0.5%
Low:	1.0%
Low-medium:	2.0%
Medium:	3.0%
Medium-high:	5.0%
High:	Bank Guarantee/Financial Security/“Green” bond

”

“When a Risk Category decision is made, the Assessable Entity should receive the Risk Category as well as the Risk Score (broken down by element) within that category as that way the Assessable Entity knows if they are trending up or down towards the next Risk Category and can then implement corrective measures.”

”

“When the Scheme was introduced we had an expectation that there would be a genuine assessment of risk when determining the risk allocation for individual entities. However, this has not been our experience.”

How this feedback has been addressed in the Discussion Paper

Within the Discussion Paper, the Scheme are considering suggestions to:

- Explore if additional RCAs are required, including consideration of a transitional approach,
- Refine the FSA and RPCA methodologies,
- For stakeholders to provide more detailed product quality, infrastructure, and market competitiveness information to allow more comprehensive and informed risk assessments,
- Re-examine the current framework for undertaking risk assessments.

As part of Phase 2 consultation, stakeholders are invited to share their feedback on the above suggestions as noted in the Discussion Paper.

Discussion Paper reference

Section 3.2
Section 3.3
Section 3.4
Section 3.5
Section 3.9

Increasing difficulty in securing approved forms of non-cash surety

Feedback summary

Many respondents acknowledged difficulty obtaining the types of surety currently permitted by the Scheme and are eager to work with the Scheme to explore alternate forms of non-cash surety without increasing risk to the State.

Suggestions raised

- 1 Respondents would like the scheme to explore alternate options of non-cash surety.
- 2 A small number of respondents would like the Scheme to be open to Bond providers and insurers outside Australia, noting some of these providers are not APRA registered.
- 3 One respondent suggested that very low risk EA holders could provide a writ or deed underwriting its obligations against a parent entity or suitably credit worthy subsidiary, noting “if the risk is assessed as very low, presumably the credit worthiness is high therefore the risk to the State should not materially change with this form of surety.”



“Australian banks aren’t interested in this market – mortgages are all they care about.”



“There is a shrinking pool of Financial Institutions who will provide financial securities to the sector, so more thought needs to be given to the pool of acceptable Financial Security providers.”

How this feedback has been addressed in the Discussion Paper

The Scheme acknowledges that surety accessibility is becoming increasingly difficult given ESG considerations and the increase in scrutiny surrounding fossil fuel resources. Within the Discussion Paper, the Scheme are considering suggestions to:

- Explore alternative instruments accessible to the resources industry, to be used instead of current forms of surety,
- Explore if additional RCAs are required.

As part of Phase 2 consultation, stakeholders are invited to share their feedback on the above suggestions as noted in the Discussion Paper.

Discussion Paper reference

Section 3.5
Section 3.8