



COMMENTS ON THE DRAFT TAILORED IMPACT STATEMENT GUIDELINES

**Comments submitted to
Impact Assessment Agency of Canada (IAAC)**

By

Long Point First Nation
Natural Resources Department

March 31th, 2022

1. PRESENTATION

Long Point First Nation (LPFN) is located on the Anishinabe Aki unceded territory. LPFN has approximately 800 members, about half of whom live in the community of Winneway, located in the Abitibi-Témiscamingue region of western Quebec. Our territory is a place of scenic beauty, vibrant culture and warm hospitality that exudes pride in being Anishinabeg.

The Council of LPFN and its members are the holders of Aboriginal rights recognized and protected by section 35 of the Constitution Act, 1982. These aboriginal rights relate to our territory as well as to the activities we practice.

The Council of LPFN recognizes that development and exploitation projects of the territory and "natural resources" directly affect our way of life, our culture, our traditions and our identity, not only for trappers and forest users, but for all our members. We also recognize that a sound management of the territory and resources that takes into account our rights, our interests and our aspirations can ultimately contribute to offering better living conditions for our members.

2. INTRODUCTION

This document gathers Long Point First Nation's comments on the draft Tailored Impact Statement Guidelines (TISG) issued by the Impact Assessment Agency of Canada (IAAC) on January 31, 2022. The submission of these comments by LPFN should not be taken as an acceptance of the current legislative framework. While we are welcoming recent improvements to the law regarding impact assessments, allowing for increased Indigenous involvement, we consider that Canadian state law alone does not determine the legitimacy of the Project

We thank the Agency for allowing us to submit these comments after the initial deadline. These comments will not be exhaustive, due to time and workload constraints. They are largely based on the great work that Kebaowek First Nation (KFN) did reviewing the TISG. It just goes to show once again the pressure that is constantly being put on our territory and our Aboriginal rights. We therefore reserve the right to participate at any later stage in the process by adding items that may have been missed in this summary review.

By submitting these comments, LPFN wishes to express its support to other First Nations whose traditional territory is potentially directly or indirectly impacted by the Upper Beaver Project. We stress the importance of integrating meaningfully their comments, concerns and suggestions in the impact assessment process. We also emphasize on the importance of providing each Indigenous community with the opportunity and resources to participate at their desired level of involvement.

We share our sister Anishinabeg communities' concerns about any advanced exploration activities that would be undertaken by the Proponent before the completion of the Impact Assessment. Issued and in progress permits and approvals should be put on hold until an Impact Assessment is complete if they have the potential to cause adverse effects to the following components outlined in Section 7 of the *Impact Assessment Act*.

3. LPFN'S OWN IMPACT ASSESSMENT

Facing the multiplication of the natural resources exploitation projects on our unceded ancestral territory, the Council of LPFN wishes to conduct its own indigenous-led impact assessments. While not yet committing to engage in further phases of the Upper Beaver Project's impact assessment at this point, LPFN is stating that conducting our own assessments is what we are moving towards.

LPFN therefore requests to have access to the opportunities and to the necessary financial resources to establish its own assessment process regarding potential impacts on our territory and on our ancestral rights. This indigenous-led impact assessment must have a determining weight in the decision to authorize or not the Project.

This request is not isolated as it has been addressed to the provincial and federal government before for other projects, by LPFN as well as by other Anishinabeg nations. The development of this expertise and structure among LPFN is essential to allow the impact assessments to really reflect our knowledge and our realities.

4. TECHNICAL COMMENTS

The following pages present LPFN's comments on the Tailored Impact Statement Guidelines (TISG). As stated above, these comments might be complemented further in the Impact Assessment process.

Table 1 – Comments on the draft Tailored Impact Statement Guidelines by Long Point First Nation

Section of the Draft TISG	LPFN's comments
Section 2.0 Proponent information (p. 10)	<p>LPFN recommends that the TISG require the Proponent to provide :</p> <ul style="list-style-type: none"> • A description of all their mining operations in Canada; • A list of all violations and the nature of the offence under federal or provincial laws; • A list and summary of all proceedings brought against Agnico Eagle on matters of environmental concern; • A list of the various mining and exploration programs in the region related to the Project. <p>Those inclusion will, among other things, help identify the need for any further cumulative impact study.</p>
Section 3.1 Project Overview (p. 11)	<p>LPFN recommends that the Project overview in the TISG must :</p> <ul style="list-style-type: none"> • Ensure that the Proponent includes information about the other Proponents who participated in the Project in the last decade; • Ensure that the Proponent describes the larger context in which the Project takes place; • Expressly prohibit any artificial division of a whole Project into separate entities (which we have seen several times with other projects before);
Section 3.2. Project Location, (p.11)	<p>LPFN reiterates recommendation to add the following to section 3.2 of the TISG:</p> <ul style="list-style-type: none"> • “Archaeological features • Culturally important features of the landscape to Indigenous communities”

Section 3.3 Regulatory Framework and Role of Government (p. 12)	The Regulatory Framework should include Indigenous law. Indigenous governments should be engaged in the regulatory framework as are the Municipal, Provincial and Federal levels.
Section 3.4. Project Components and Activities, (p. 13)	<p>LPFN recommends that Impact Statement not only focus on “activities with the <u>greatest</u> potential to have environmental, health, social and economic effects, or impacts on Indigenous people and their rights. “</p> <p>All potential impacts must be disclosed, and First Nation must be able to participate in assessing those impacts on their rights.</p>
Section 3. 5 Workforce Requirements, (p. 14)	LPFN agrees that all measures to consider vulnerable or underrepresented groups (including Indigenous communities’ subgroups) in the workforce requirements must be presented in details.
Section 4.0 Project Purpose and Alternatives, (p.15)	<p>LPFN considers that the analysis of the purpose, need and alternatives must be studied with the perspective of the seven generations.</p> <p>Indigenous co-drafting of those sections should be considered to value Indigenous communities’ perspective of needs and alternatives alongside those of the Proponent.</p>
Section 4.2 Need for the Project (p. 16)	<p>The identification of the “need” for the Project should not be based only on the current need. It should consider the potential evolution of that need in the future, over the next generations, prioritizing scenarios where society choices have shifted to sustainability. The future evolution of a “need” should be assessed with the perspective of Indigenous communities as to how they want their ancestral territory to evolve.</p> <p>Furthermore, the current need for the Project should not be based solely on the market’s demands for a resource. It should include, among other things, the contribution of the Project to public interest, its perceived current need by the Indigenous communities, and the fostering of sustainability.</p> <p>LPFN remains to be convinced that another gold mine is needed.</p>
Section 4.3 Alternatives to the Project (p. 16)	As currently provided for in the draft TISG, the Proponent must provide alternatives that are “technically and economically feasible to meet the Project need and achieve the Project purpose, from the perspective of the Proponent”. This raises some concerns for LPFN.

	<p>The TISG must require the Proponent to set out the alternatives that maximize overall positive benefits without being restricted to technically and economically feasible options “from the perspective of the Proponent”. The preferred alternative must apply the precautionary principle and must favour the preservation of ecological interconnectedness, and the well-being of present and future generations.</p> <p>The assessment of alternatives to the Project and of alternative means of carrying out the Project should include the views of affected First Nations on each alternative.</p>
Section 6.1 Indigenous knowledge considerations (p. 23)	<p>LPFN stresses that the TISG should current phrasing of the requirement to “collect available Indigenous knowledge and expertise and integrate it into its Impact Statement” diminishes the value of traditional knowledge as if it could simply be collected and gathered. To meaningfully integrate Indigenous knowledge in its Impact Statement, the Proponent must allow the Indigenous communities to conduct their own studies, using their own knowledge.</p> <p>While some First Nations may be more advanced in the documentation of Indigenous knowledge and occupation of their ancestral territory, this work would require an important amount of time and resources for some First Nations such as LPFN in order to meaningfully engage in the Impact Statement. The Proponent must facilitate those First Nation’s work to study our entire territory to ensure that all potential impacts are identified.</p> <p>The timeline for completion of the Impact Statement should be set out collaboratively with First Nations</p> <p>Indigenous knowledge should inform not only the establishment of baseline conditions but also the determination of anticipated environmental changes. Complementarity of scientific and Indigenous knowledge should be a priority in the impact assessment process.</p> <p>Particularly, LPFN supports that the Impact assessment process should value Indigenous-led studies, giving a determining weight to those studies in all decisions concerning the Project.</p> <p>We support KFN’s requests concerning the impact studies that they suggest carrying out (wetlands, fish and fish habitat, hydrology, etc.)</p>
Section 6.2 Record of engagement	<p>The Impact Statement should detail the resources and supports offered for Indigenous engagement, to ensure that the efforts are not overstated by the Proponent. Each affected</p>

(p. 24)	<p>First Nation should also be given the opportunity to review the information included in the record of engagement and the Impact Statement, to ensure it is accurate and sufficient.</p> <p>LPFN also submits that the TISG should explain how the Proponent's accommodation measures contribute to the Crown's duty to consult and accommodate.</p>
<p>Section 6.3 Analysis and response to questions, comments, and issues raised (p. 25)</p>	<p>LPFN considers that the Proponent should not only describe how Indigenous knowledge, perspectives and input were integrated in the Project, but also describe how that integration was presented to concerned First Nation, and how the Proponent collaborated with those First Nations to ensure that the integration was satisfying.</p>
<p>Section 6.4. Collaboration with Indigenous peoples following the submission of the Impact Statement (p. 28)</p>	<p>LPFN recommends that the TISG require the Proponent to describe clear commitments about integrating Indigenous knowledge and avoiding impacts on ancestral rights all the way until the complete decommissioning of the proposed mine.</p>
<p>Section 7.1 Baseline methodology (p. 28)</p>	<p>LPFN agrees that the Indigenous knowledge must provide input on the "baseline data". However, this approach implies important precautions since we should not be satisfied with "baselines conditions". Indeed, those existing conditions come from decades of prior human activity and mining developments. The cumulative effects of historical changes to the various components of the territory should be considered into the assessment.</p> <p>A proposed Project should seek to globally <i>improve</i> baseline conditions.</p>
<p>Section 7.2 Selection of valued components (p. 30)</p>	<p>LPFN agrees with the idea of allowing for the selection of holistic valued components.</p> <p>LPFN also agrees with KFN's recommendation about key valued components such as:</p> <ul style="list-style-type: none"> • "the impact on aquifers and waterways, including the inevitable risk of diversion, drainage, contamination from construction activities or materials; maintenance; leaks; and, as a worst-case scenario, catastrophic failures due to climate change. • the resultant impacts on aquatic and terrestrial ecosystems and environments, including water systems and boreal forests within our traditional territory; and • the resultant impacts on our activities, rights and cultural practices, including our inherent rights to hunt, fish, gather and travel freely within our traditional territory."

Section 7.3 Spatial and temporal boundaries (p. 32)	<p>LPFN submits that the Study areas (PA, LSA, RSA) must not be set by legal boundaries but rather be based on watershed and ecosystem considerations. The assessment should adopt an ecosystem approach and transcend colonial socio-political boundaries. This implies, notably, a detailed study of the cumulative impacts on water from the Misema River all the way to the Saint-Lawrence River.</p> <p>Temporal boundaries should be based on natural process such as seasonal cycles, ecological succession, and environmental response rates.</p>
Section 7.5 Mitigation and enhancement measures (p. 35)	<p>The TISG should require the Proponent to describe where and how Indigenous and community knowledge were considered and incorporated in the development of mitigation measures.</p>
Section 8 Biophysical Environment (p. 42)	<p>LPFN recommends that impacts to the Biophysical environment should be studied with a system wide approach, allowing for a better analysis of the changes and disturbance.</p> <p>We also agree that the Proponent should identify and budget possible corrective and compensation measures in in case of a deterioration in the quality or quantity of drinking water affected by mining ctivities.</p> <p>We stress the importance that the Proponent provide up-to-date information on endangered species, and to announce if any exemption from prohibitions to harm, harass, kill or destroy a species at risk or their habitat is sought. We are concern with the Proponent's statement that "no species at risk have been identified on the Project site" and recommend that counter verification be conducted.</p>
Section 9.1 Baseline conditions (p. 86)	<p>LPFN supports KFN's recommendation that the Proponent : "provide baseline concentrations of contaminants in ambient air, drinking water, soil and tissues of country foods (traditional foods) consumed by Indigenous Peoples' and local communities. For collection of samples, including but not limited to game and plants, the Proponent should work with local Indigenous Peoples' where appropriate."</p> <p>Furthermore, when information is not readily available about baseline conditions, the Proponent should be required to collaborate with First Nations to support their own community driven studies.</p>

Section 9.2.2 Effects on social conditions (p. 95)	LPFN submits that the elements listed among the effects to community well-being should include potential changes in the access to traditional foods and activities, not only through the “recreation activities” lens.
Section 10 Indigenous Peoples (p. 105)	The TISG should indicate more clearly how and by who the necessary Indigenous-led studies will be funded.
Section 10.3.2. Impacts on rights of Indigenous peoples (p. 114)	<p>The sharing of all available studies and information by the Proponent with Indigenous communities should be compulsory (and not only be encouraged) before assessing the impact of the Project on our rights and interests.</p> <p>Furthermore, the Proponent should be required to present any food safety concerns from indigenous communities resulting from potential exposure to contaminants.</p>
Section 13 Canada’s Ability to Meet its Environmental Obligations and its Climate Change Commitments (p. 123)	<p>LPFN reiterates that “it is critical that the Proponent demonstrate how considerations of climate change have been incorporated throughout the development of the IS and not identified as a single component or as a standalone valued component.”</p> <p>LPFN submits that the Proponent should be required to demonstrate how their Project will contribute to the goal of net zero emissions by 2050 or to any reduction of GHG.</p>